

[Service Date August 15, 2005]

August 15, 2005

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By Thursday, September 15, 2005)**

RE: Passenger Transportation Companies, Rulemaking Review of Chapters 480-30 WAC and Chapter 480-40 WAC, in Docket No. TC-020497

TO ALL INTERESTED PERSONS:

This notice is to inform you of the status of the Commission's rulemaking in Docket No. TC-020497, relating to Passenger Transportation Companies, and to provide you the opportunity to file additional written comments.

Staff has completed an updated discussion draft of rules for Passenger Transportation Companies that is available for inspection on the Commission's web site at www.wutc.wa.gov/020497. The Commission will send a copy of the draft rules by mail or via electronic mail, if requested.

This updated discussion draft incorporates revisions to items discussed and resolved at the last stakeholder meeting, as well as other revisions. Some of the other revisions in this draft include:

- Ticketing requirements,
- Public notices,
- Free and reduced rates,
- Promotional fares,
- Refunds,
- Checked baggage – defined,
- Passenger facilities – defined,
- Implementation of SSB 5105 allowing for temporary certificates and eliminating mandatory hearings for uncontested cases, and
- Affiliated interest reporting (agency standard).

Staff proposes draft rules on the following items that, in our analysis, properly resolve those issues. We identify them separately because Staff's conclusions and recommendations are different than the industry proposals and we expect that the industry will submit additional comments on them.

- Insurance minimums. Staff proposes draft rules that would increase insurance minimums to a level consistent with those established in federal rule for interstate passenger motor carriers and not to a level that exceeds those minimums. (WAC 480-30-191(2), Bodily Injury and Property Damage Liability Insurance)
- Owner-Operators / Independent Contractors / Subcontracting¹. Staff proposes draft rules that would codify the current interpretation of how regulated companies must conduct business. (WAC 480-30-213, Drivers and Vehicles and WAC 480-30-036, Definitions - "Subcontracting - Auto Transportation Company" and "Subcontracting - Charter and Excursion Carrier"). A company raised these issues with Staff subsequent to the last stakeholder meeting. Staff has conducted extensive discussions with the company, reviewed company proposed operating structures, researched other state jurisdictions, and conducted a thorough review of Washington State statutes and UTC decisions. Legal staff advise that the statutes allow the following:
 - Subcontracting agreements between certificated auto transportation companies, (WAC 480-30-166, Certificates, service agreements, auto transportation company). Subcontracts with anyone that does not hold an auto transportation company certificate are not allowed under the provisions of Chapter 81.68 RCW.
 - Owner-operator arrangements (company leases the vehicle and the owner is an employee of the company) (WAC 480-30-236, Leasing vehicles.)

¹ Staff found these terms are generally misunderstood, misused, and frequently used interchangeably, so the proposed draft rules do not use them.

- Security. This issue was raised since our last stakeholder meeting. Staff proposes draft rules that would allow the company to inspect baggage to ensure the safety of its customers. (WAC 480-30-216(2) Inspection of baggage and other materials passengers wish to be carried in or on a motor vehicle). If the industry has specific recommendations in addition to this proposal, please provide that information in your comments.

The following issues remain unresolved and are not included in this draft:

- Rates and Rate Methodology. Staff and stakeholders have held several discussions, but have not reached a resolution on these issues. Staff believes these issues require a separate proceeding in order to fully explore the options, and develop a more complete record before attempting to draft rules.

WRITTEN COMMENTS

Your participation is welcome through your written comments. Written comments on the draft rules must be filed with the Commission no later than **Thursday, September 15, 2005**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the Commission's Records Center at <records@wutc.wa.gov>. Please include:

- The docket number of this proceeding (TC-020497)
- The commenting party's name
- The title and date of the comment or comments

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on the Commission's web site all comments that are provided in electronic format. The web site is located at <<http://www.wutc.wa.gov/020497>>.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document. Mail your written comments to the address below. When contacting the Commission, please be sure to refer to Docket No. TC-020497 to ensure that your comments are properly recorded.

The Commission's mailing address is:

Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

STAKEHOLDER WORKSHOP

Commission will consider scheduling another stakeholder workshop for a date to be determined, if the written comments require it.

If you have questions or need additional information please contact Ms. Bonnie Allen at (360) 664-1226 or e-mail at <ballen@wutc.wa.gov>.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary