

Draft Auto Transportation Rules – Chapter 480-30 WAC
Docket TC-121328
Summary of Changes from 1st Draft to 2nd Draft Rules
April 12, 2013

The following summarizes significant changes made from the 1st draft rule to the 2nd draft rule, but does not list every change made.

WAC 480-30-071 Reporting Requirements

The second draft of the rules proposal deletes the requirement for “operational” data but inserts a requirement that the companies provide the data necessary to conduct a review of the rules amendments under WAC 480-30-ZZZ.

The due date for the safety report required for charter and excursion companies is changed from December 31 to May 1.

WAC 480-30-096 Certificates, application filings, general.

The rule is clarified to require applicants to state that the proposed service will be either “door-to-door” service, “scheduled service,” or both. The terms are defined.

The second draft clarifies that while applicants may request flexible fare authority under 480-30-YYY, the commission will first determine that the initial tariff filed with the application is fair, just, reasonable and sufficient.

The second draft clarifies that a certificate holder applying for a name change or mortgage is not required to comply with WAC 480-30-096(3).

WAC 480-30-116 Certificates, application docket and objections, auto transportation company

The second draft deletes (2)(a)(v), which overlaps (2)(a)(iv), and clarifies that the objecting company must explain why it believes it is providing the same service.

The second draft removes language under (3) that created a two-step process for considering objections. Later in the draft (WAC 480-30-136(3)) it is made clear that the Commission will not issue a certificate to an applicant if the objecting company is providing the same service to the satisfaction of the Commission.

The second draft removes the exemption for temporary certificate applications from the docket and objection provisions of the rules.

WAC 480-30-126 Certificates, applications, auto transportation company

The second draft requires more than one witness statement, and clarifies that a single representative of a city, county or regional transportation planning organization may provide evidence of “need.”

WAC 480-30-136 Procedure for applications subject to objection, information required of applicant and objecting company

The second draft clarifies that the objecting company may provide independent witness statements to demonstrate that the traveling public will be harmed if the application is granted.

The second draft clarifies that the additional information to be provided by the applicant is to demonstrate that public convenience and necessity requires the proposed service.

The second draft clarifies that in the event the objecting company is providing the same service to the satisfaction of the Commission, the application will not be approved.

WAC 480-30-XXX Standards for determining “public convenience and necessity,” “territory already served by a certificate holder,” and “service to the satisfaction of the commission.

The second draft amends the definition of “public convenience and necessity” to change the focus from the company to the public, stating that the public should be “reasonably afforded” the opportunity to receive service.

The second draft adds to the factors to be considered in determining public convenience and necessity, to include the possible impact on sustainability of service.

Under “service to the satisfaction of the commission,” the second draft removes the phrase “continuously and vigorously” in front of the phrase “expand and improve its service.” The second draft also states that the Commission will “consider” witness statements, rather than rendering the statements “conclusive.” The requirement that the objecting company “demonstrate” certain facts is removed – the second draft rule simply identifies what the Commission considers to be “satisfactory.”

The second draft removes the “viability of the objecting company” standard. Instead the Commission will consider whether the public will be harmed and what impact the granting of the application will have on sustainability of service.

WAC 480-30-156 Certificates, temporary, auto transportation company

The second draft retains the option to issue temporary certificates, but proposes amendments to make the rule conform to the statute and Commission procedures, including:

- requiring that the application be published in the docket so that any certificate holder may file an objection;
- eliminating the Commission’s ability to issue a temporary certificate prior to the deadline for certificate holders filing an objection;
- requiring more than one witness statement;
- changing the deadline for objections from ten to twenty days; and
- basing the duration of the certificate on the expected time it will take to make a decision on the permanent certificate.

WAC 480-30-261 Tariffs and time schedules, definitions used in

The second draft uses the term “fare” rather than “rate.” The definition of “fare” is inserted in the rule, and the terms “fare” and “rate” are made interchangeable.

WAC 480-30-YYY Fare Flexibility

The second draft proposes an initial maximum fare of 25 percent above the base fare, and a 5 percent increase from the base fare annually thereafter. This means that in the first year, the maximum would be 25 percent above the base fare, in the second year, the maximum would be 30 percent above the base fare, and in the third year the maximum would be 35 percent above the base fare, and so on.

The second draft clarifies that a company may charge any amount under the maximum fare, including an amount lower than the base fare.

The second draft rule clarifies that a company authorized to charge flexible fares must file a tariff change on one business-day notice to add a new service option or a service level not previously included in the tariff.

The second draft rule clarifies that a tariff filing that changes the fare design that results in an increase in the effective base fare must be filed on at least thirty calendar days’ notice, and must comply with WAC 470-30-421 or 480-30-426, and gives an example. Companies may request an exemption from the rule.

The second draft rule clarifies that a company can continue to charge for “accessorial” services such as baggage, if the charges are in the current tariff.

The deadline for filing the annual tariff is changed from six days to thirty days.

WAC 480-30-276 Agency filings affecting this section

The second draft makes it clear that 480-30-YYY provides an exception to the tariff filing requirements.

WAC 480-30-ZZZ Review of the effects of rule amendments adopted (date)

The second draft rule calls for a review of the effects of the rule amendments, beginning five years from when the Commission expects the rule to be implemented.