

WSR 09-10-087
EXPEDITED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket TV-090400—Filed May 6, 2009, 9:59 a.m.]

Title of Rule and Other Identifying Information: Chapter 480-14 WAC, Motor carriers, excluding household goods carriers and common carrier brokers, this rule making would repeal all safety rules and clarify language without changing the intent of the rules to several sections of chapter 480-14 WAC.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Executive Director and Secretary, Docket TV-090400, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, AND RECEIVED BY July 6, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 480-14 WAC contains rules for motor carriers of property other than household goods carriers. The rules cover intrastate common carriers and armored car service carriers, as well as interstate common carriers. The rules set out requirements for permits and registrations, liability insurance and safety.

In 1995, the state legislature transferred all safety regulation for motor carriers of property other than household goods to the state patrol. Specifically, RCW 81.80.300 states, in part: The Washington state patrol shall perform all motor carrier safety inspections required by this chapter, including terminal safety audits, except for (1) those carriers subject to the economic regulation of the commission, or (2) a vehicle owned or operated by a carrier affiliated with a solid waste company subject to economic regulation by the commission.

Because the state patrol has sole responsibility for safety for these carriers, many rules in chapter 480-14 WAC are no longer necessary. The proposal would repeal those rules or portion of rules that are no longer necessary. In addition, a number of nonsubstantive changes are made to clarify current language without changing the intent of the rules.

Reasons Supporting Proposal: Portions of the rule are no longer necessary due to changed circumstances surrounding motor carrier regulation in Washington. In addition, some revisions clarify the language of the rule without changing its effect.

Statutory Authority for Adoption: RCW 80.01.040 and 34.05.350.

Statute Being Implemented: RCW 81.80.300.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Betty Young, Compliance Specialist, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1202; Implementation and Enforcement: David W. Danner, Executive Director and Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1208.

May 6, 2009

David W. Danner

Executive Director and Secretary

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-010 Purpose and application. (~~The federal government has preempted state economic regulation of motor carriers effective January 1, 1995, except for carriers of household goods and common carrier brokers. These rules are established to comply with federal law. This chapter supersedes chapter 480-12 WAC for all common and contract carriers previously regulated in that chapter except carriers of household goods and common carrier brokers, who continue to be regulated by that chapter.~~) These rules require intrastate common carriers of property by motor vehicle to obtain and maintain intrastate common carrier operating permits, to file reports and pay regulatory fees, and to file and maintain evidence of required insurance coverage. The rules also require interstate carriers to secure appropriate authority from the United States Department of Transportation (USDOT) and to register with the commission and pay fees as required by the Uniform Carrier Registration (UCR) program or any successor program.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-020 Rules, general application of rules(~~—How changed~~). (1) No rule contained in this chapter can be changed, altered or revised except by general order of the commission pursuant to the Washington State Administrative Procedure Act.

(2) The rules in this chapter are for general application only, and are subject to such changes and modifications as the commission may deem advisable from time to time, and also to such exceptions as may be considered just and reasonable in individual cases.

(3) (~~Application for exception to~~) A person requesting an exemption from any of ((the)) these rules ((and regulations of the commission shall be made in accordance with the following instructions:

~~(a) Application should be directed~~) must direct his or her request to the commission at its Olympia headquarters office. ((The application should be typewritten on 8-1/2 x 11 inch paper, on one side of the sheet only.

~~(b))~~) (a) The ((applicant)) person must identify the rule from which exemption is sought and give a full explanation ((as to)) of the reason(s) the ((exception)) exemption is desired.

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

WAC 480-14-040 Definitions. As used in this chapter, the following definitions shall apply:

(1) ~~((The term "motor carrier" means "common carrier," "private carrier" and "exempt carrier," as herein defined.~~

(2)) The term "common carrier" means any person who undertakes to transport property, including general commodities, materials transported by armored car service, and/or hazardous materials, for the general public by motor vehicle for compensation, including under individual contracts or agreements, and including motor vehicle operations of other carriers by rail or water and of express or forwarding companies. ~~((For the purposes of chapter 480-15 WAC, the term "common carrier" also includes persons engaged in the business of transporting household goods as common carriers or of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.~~

(3) The term "private carrier" means a person who, in its own vehicle, transports only property owned or being bought or sold by it in good faith and only when such transportation is purely an incidental adjunct to some established private business owned or operated by it in good faith.

(4)) The term does not include household goods carriers, as defined by WAC 480-15-020, solid waste collection companies, as defined by WAC 480-70-041, or "exempt carriers."

(2) The term "exempt carrier" means any person operating a vehicle exempted from certain regulatory provisions ~~((of the act))~~ under RCW 81.80.040.

~~((5) The terms "registered carrier" and "registered exempt carrier" have the meanings set out in WAC 480-14-290.~~

(6)) (3) The term "carrier of hazardous materials" means any person who transports radioactive materials, hazardous waste, hazardous materials and hazardous substances as defined in Title 49 Code of Federal Regulations. Information about 49 CFR regarding the version currently in effect and where to obtain it is set out in WAC 480-14-999.

~~((7))~~ (4) The term "carrier of general commodities" means any person transporting the property of others for compensation, except persons performing the service of transporting household goods as defined in WAC 480-15-020.

~~((8))~~ (5) The term "armored car service" means carriers transporting property of very high value (gold, silver, currency, valuable securities, jewels and other property of very high value) using specially constructed armored trucks and providing policy protection to safeguard freight while it is being transported and delivered. It also means carriers which operate ordinary equipment in the carriage of high value commodities when guards are necessary to accompany the shipment.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-14-050 ~~((Reference to other chapters.))~~ Procedures and documents. (1) **Procedures.** ~~((Except as otherwise provided in this chapter, the commission's rules relating to procedure, chapter 480-07 WAC, shall govern the administrative practice and procedure in and before the commission in proceedings involving motor freight carriers.~~

(2) **Communications.** ~~Except as provided in chapter 480-04 WAC, all written communications and documents should be addressed to the secretary, Washington utilities and transportation commission, at the headquarters office of the commission at Olympia, Washington, and not to individual members of the commission staff.~~

(a) ~~Except as provided in chapter 480-04 WAC, all communications and documents are deemed to be officially received only when delivered at the office of the secretary.~~

(b) ~~In addressing communications to the commission each permit holder must use the name shown upon its permit and indicate permit number.~~

(e) ~~Except as provided in WAC 480-07-143, 480-07-145, and 480-14-420, receipt in the commission's telefacsimile machine does not constitute filing with the commission.~~

(3)) The commission's procedural rules are contained in chapter 480-07 WAC and apply to common carriers regulated under this chapter. If a rule in this chapter conflicts with a rule in chapter 480-07 WAC, the rule in this chapter applies.

(2) **Documents~~((When filed))~~.** ~~((Except as provided in chapter 480-04 WAC;))~~ All petitions, complaints, applications for common carrier permits or extensions, or any other matter required to be served upon or filed with the Washington utilities and transportation commission ((shall)) must be served or filed upon the commission at its headquarters office as shown in WAC ((480-04-030)) 480-04-035, upon the secretary of the commission. ((Except as provided in chapter 480-04 WAC;)) Any petition, complaint, application, or other matter required to be served upon or filed with the commission ((shall)) will not be considered served or filed until it is received at the headquarters office ((of the commission at Olympia, Washington)).

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-090 Permits. ~~((1) Location of original copy. Permits must be kept at the main office of the carrier.~~

(2) ~~Copies required on power units.~~ Permit holders must carry a copy of operating authority issued by the Washington utilities and transportation commission on each power unit operated in intrastate operations.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-100 Operations must be under permit name. Every common carrier ~~((shall))~~ must conduct its operations under ~~((the name;))~~ its corporate, trade~~((;))~~ or assumed~~((; that is))~~ name as described in its permit~~((; and))~~. No common carrier ((shall)) may perform any carrier service,

or hold itself out to perform such service, by advertisement or otherwise in any name other than ~~((that in which its permit is issued))~~ its corporate, trade or assumed name as described in its permit.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-110 Improper use of permit or registration receipt. ~~((The use of))~~ No person or firm may use a permit or registration receipt ((by any person or firm other than)) except the carrier to whom it was issued ((is unlawful)).

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-120 Change of address~~((, change of)).~~ A carrier must immediately report to the commission in writing any change in the address of its principal place of business.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-140 Fees. Fees for applications ~~((shall be))~~ are as follows:

Type of Application	Fee ((Applicable))
((Conversion of permits existing prior to January 1, 1995, to new permits	\$0))
Change of name or business structure	\$50
Permanent common carrier operating authority	
Hazardous materials	\$275
General commodities	\$275
Armored car service	\$275
Extension of common carrier permit authority	
Hazardous materials	\$100
General commodities	\$100
Armored car service	\$100
Reinstatement of authority (within 10 months of cancellation)	
Hazardous materials	\$100
General commodities	\$100
Armored car service	\$100

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-150 Periodic reports and regulatory fees. (1) ~~((Every common motor carrier operating in intrastate commerce shall, if requested by the commission, on or before the first day of May of each year, file with the commission with its periodic special report as defined in WAC 480-14-170, on a form provided by))~~ The commission~~((;))~~

may require, on an annual basis, a special report from each common carrier that operated within the state during the prior calendar year. The report must be filed on or before the first day of May, to cover the operations of the prior calendar year. The report must include a statement on oath showing ((its)) the common carrier's gross operating revenue from intrastate operations during the prior calendar year.

(2) Each common carrier ~~((shall submit with its statement of gross operating revenue the carrier's))~~ must pay a regulatory fee~~((, calculated as))~~ at the time it files a report. The regulatory fee is 0.0025 times the stated gross operating revenue, unless that rate is reduced or waived by commission order.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-160 ((Procedures for contest of)) Contested fees. (1) A person may contest any fee imposed by ~~((the authority of chapter 81.80 RCW under RCW 81.80.115 by the procedure set out in this section))~~ these rules.

~~((Any person on whom a fee is imposed by the authority of chapter 81.80 RCW shall))~~ (a) The person must first pay the fee.

(b) Within six months of the date the fee is due, the payor may petition the commission for a refund of the fee paid~~((, in writing, filed no later than six months after the fee is first due and payable)).~~

(c) The petition ~~((shall state))~~ must be in writing and must include:

- (i) The name of the payor/petitioner~~((;))~~
- (ii) The date and the amount paid~~((, including))~~
- (iii) A copy of any receipt, if available~~((;))~~
- (iv) The nature of the fee paid~~((;))~~
- (v) The amount of the fee that is contested~~((;))~~
- (vi) The statute under which the fee is imposed, if known ~~((to the petitioner; and))~~
- (vii) Any reasons why the commission may not impose the fee.

(2) The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-180 Applications for intrastate authority. ~~((1) Intrastate authority.)~~ No person ~~((shall))~~ may conduct operations as a ~~((motor freight))~~ common carrier in Washington intrastate commerce without having first obtained a permit from the commission to do so.

~~((a) Applications))~~ (1) Common carriers must apply to the commission to acquire permanent common carrier authority, ((extension of)) to extend existing permanent common carrier authority, or to change ~~((of))~~ a carrier name or business structure ~~((shall be made)).~~ Common carriers must apply on forms furnished by the commission and ~~((shall contain))~~ must include all the information, documents~~((;))~~ and exhibits called for in the form or the form's instructions. The commission may refuse to accept any application until all required information is supplied.

~~((b) No application will be accepted for filing)) (2) The commission will not accept an application unless it is accompanied by the required fee as shown in WAC 480-14-140.~~

~~((e)) (3) The commission's acceptance of an application for filing does not indicate the commission's approval, nor is the commission precluded from finding that the information presented in the application is insufficient.~~

~~((2) **Interstate authority.** Each carrier operating in interstate commerce on the public roads of the state of Washington shall apply to register its insurance with the commission pursuant to WAC 480-14-250. Every such application shall be granted if it contains all necessary information and documentation, if the information provided is true and correct, and if the required fee is paid.~~

~~(3) All exhibits or papers submitted with an application must be legibly written or typed on one side only of 8 1/2 by 11 inch paper.~~

~~(4) Applications for permits and for registration shall require that the applicant certify the truth of all information submitted with the application, under penalties of perjury. False, misleading, or incomplete information may subject the applicant to prosecution, to civil penalties, or to revocation or suspension of authority.)~~

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-14-190 ((Permanent)) Common carrier permits. (1) ~~((For the purposes of this rule, applications for authority shall include applications for original or extended common carrier authority for general commodities (excluding household goods), materials transported by armored car, and/or hazardous materials.~~

~~(2)) The commission will issue a common carrier permit ((shall be issued)) to any applicant ((satisfying the following requirements:~~

~~(a) Filing an application satisfying the requirements of WAC 480-14-180.~~

~~(b) Filing, or causing to be filed, insurance in accordance with the requirements of WAC 480-14-250.~~

~~(c) Passing a safety fitness review of the applicant's knowledge and ability to conform with the motor carrier safety and/or hazardous materials regulations. The safety fitness review may be waived if the applicant can furnish a copy of a U.S. Department of Transportation "satisfactory" safety rating issued within twenty-four months before the date of the application. The commission may require an on-site safety compliance review to satisfy the safety fitness review requirements prior to issuing any permit.~~

~~(3) An application may be dismissed for failure to complete needed steps and it may be dismissed, denied, or granted in part based upon the satisfactory compliance with this chapter.) that files an application satisfying the requirements of WAC 480-14-180 and that files insurance in accordance with the requirements of WAC 480-14-250.~~

~~(2) The commission may dismiss an incomplete application. The applicant may request a review of dismissal ((or full or partial denial)) through a brief adjudicative proceeding, pursuant to WAC 480-07-610.~~

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-200 Armored car service. ~~((Motor))~~ Common carriers defined as providing "armored car service" under WAC 480-14-040(8), when transporting cash or coin with a value exceeding one hundred thousand dollars, are subject to the following provisions:

(1) The vehicle must be accompanied by at least two armed security guards qualified under chapter 18.170 RCW and chapter 308-18 WAC.

(2) When the vehicle is located in an unsecured area, one guard must remain within the area.

(3) Those portions of the vehicle surrounding the cargo and personnel must have a UL 752 Testing Certification to Level 1 Medium Powered Small Arms (MPSA); except that((s)) any vehicle owned by an armored car service and operated as an armored car prior to ~~((the effective date of this rule))~~ December 23, 1995, is exempt from this regulation.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-210 Change of carrier name and business structure. (1) ~~((For the purposes of this rule,))~~ An application~~((s))~~ to change carrier name or business structure ~~((means the following))~~ is required when:

(a) The carrier changes ~~((of the carrier's))~~ its registered name, with no change in ownership or business structure.

(b) The carrier changes ~~((of))~~ its business structure:

(i) From an individual to a corporation ~~((to incorporate an individual's business))~~, when the individual is the majority stockholder~~((, or by an))~~.

(ii) From an individual to a partnership, when the individual is the majority partner~~((, or))~~.

(iii) From a corporation to a proprietorship of the majority shareholder~~((, or by))~~.

(iv) From a partnership to a proprietorship of the majority partner.

(c) ~~((Change of))~~ The carrier changes its name ~~((resulting from))~~ because of a change in business structure from a partnership to a corporation ~~((established to incorporate the partnership business;))~~ when the partners are the majority stockholders in the same proportionate ownership.

(d) ~~((Change of))~~ The carrier changes its name resulting from a change in business structure from a corporation to another corporation where both corporations are wholly owned by the same stockholders in the same proportions.

(2) A carrier must file a new permanent common carrier application ~~((is required, rather than a change of name;))~~ when the resulting business entity does either more or less than assume all of the existing business.

~~((H))~~ (3) A carrier must file a new permanent common carrier application when the transaction involves the sale or acquisition of assets other than the property of the acquired or substituted business~~((;))~~ or ~~((the))~~ if the carrier conducts ~~((of))~~ different activities~~((, a new permit must be applied for))~~.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-220 (~~Permits, cancelled—New~~)
Application for reinstatement of a canceled permit.
 ((When a permit is cancelled by the commission either for cause, or on request of the carrier, the carrier may secure a new permit by correcting)) (1) A common carrier may apply to reinstate a canceled permit within ten months of the cancellation date provided the carrier:

(a) Corrects the cause of cancellation(~~(, satisfying)~~).

(b) Satisfies any outstanding fees or filings(~~(, and submitting)~~).

(c) Submits the appropriate application (~~(with the pertinent application)~~) and fee (~~(within ten months after date of cancellation)~~) as required in WAC 480-14-140.

(2) If the common carrier does not ((filed) file for reinstatement within ten months((, the application will be considered in all respects as)) of cancellation, it must submit a new application ((and must be accompanied by full fees and)) for a common carrier permit under WAC 480-14-190 subject to all provisions ((of)) in WAC 480-14-180.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-230 (~~Operation of equipment by a cancelled or suspended carrier; voluntary cancellation; involuntary suspension and cancellation.~~) **Suspension and cancellation of a permit.** ((1) The operation)) A common carrier may not operate any of its equipment ((in any manner by a carrier whose)) while its permit ((has been cancelled or)) is suspended ((is unlawful)) or canceled. ((Carrier permits may be suspended or cancelled by the commission under the following circumstances:

(2) **Voluntary cancellation.** A carrier may request that its permit be cancelled. Cancellation will be effective upon entry of an order of voluntary cancellation by the commission secretary. The commission will reinstate any permit that has been voluntarily cancelled by order of the secretary upon application of the carrier and payment of the required fee within ten months after the order of cancellation, provided the permit holder meets current entry requirements.

(3) **Policy regarding compliance activities; penalties; remediation; involuntary suspension or cancellation.** It is the policy of the commission that the purpose for the regulations implemented in this chapter is to secure compliance with laws and rules protecting the public health and safety, and that the commission shall direct its efforts toward education to the end that voluntary compliance is achieved.

(a) Penalties are intended as a tool of enforcement and remediation and may be assessed upon violations in the manner the commission believes will best assure future compliance by the responding carrier and other carriers.

(b) Involuntary suspension and cancellation are intended for circumstances in which the commission believes education and penalties have not been or will not be effective to secure compliance and for serious actions such as fraud, misrepresentation, and willful violation of legal requirements.

(4)) (1) **Involuntary suspension.**

(a) The commission may suspend a carrier permit (~~(for cause. Cause includes, but is not limited to, the following circumstances:~~

(i) ~~The carrier has failed to maintain evidence that it has the required level of insurance in effect for its operations.~~

(ii) ~~The carrier fails or refuses to participate in compliance education or conferences, or fails or refuses to comply with rules or other requirements protecting the public health or safety following commission staff instructions regarding compliance.~~

(iii) ~~The carrier commits or allows to exist an infraction of rule or law that poses an immediate danger to the public health or safety, when putting one or more vehicles out of service will not protect the public health or safety.~~

(b) ~~The commission will provide to the carrier such notice as is feasible of a commission action suspending a permit, weighing the potential threat to the public health, safety or welfare and the effect of the suspension on the carrier.~~

(i)) if the carrier fails to maintain evidence that it has the required level of insurance in effect for its operations.

(b) The commission will make a good faith effort to notify a carrier that its evidence of insurance is likely to become invalid(~~(, but)~~). The commission will suspend any carrier who fails to maintain evidence of current insurance (~~(on file with the commission)~~), whether or not it is able to provide advance notice.

((ii) ~~The commission may suspend a carrier permit, effective with the service of notice, when it believes that the carrier's continued operations pose an imminent danger to the public health, safety or welfare.~~

(e) ~~The commission may suspend a permit without prior hearing when the action is needed to protect the public health, safety or welfare and there is insufficient time for a suspension hearing. A carrier whose permit is suspended may secure reinstatement of the permit by correcting conditions leading to suspension. A carrier may contest suspension by requesting a brief adjudication or an adjudication.~~

(5)) (2) **Voluntary cancellation.** A carrier may request that its permit be canceled. The commission will enter an order canceling the permit. The commission will reinstate the permit, provided the carrier meets current entry requirements, if the carrier applies for reinstatement and pays the application fee within ten months of cancellation.

(3) **Involuntary cancellation ((for cause)).** The commission may cancel a permit (~~(for cause. Cause includes, but is not limited to, the following circumstances)) because the carrier fails to:~~

(a) ~~((Failure to pay the)) Pay~~ required regulatory (~~(fee or)~~) fees.

(b) ~~((Failure to)) Demonstrate~~ that the carrier has corrected the conditions leading to suspension within the time defined in the order of suspension.

(c) ~~((Committing or allowing to exist violations of pertinent requirements of law or rule affecting the public health or safety when the commission has reason to believe that the carrier would not comply following a period of suspension.~~

(d) ~~Repeated failure or refusal of the carrier to comply with regulatory requirements or to)) Provide information((,)) as required by the commission or ((the submission of)) submits false, misleading(~~(,)) or inaccurate information ((of a~~~~

sort that is necessary to the commission for performance of its functions)).

~~((6))~~ **(4) Cancellation hearing ((prior to))**. The commission will hold a hearing prior to canceling a carrier's authority, pursuant to RCW 81.80.280, except when cancellation results from failure to correct causes of a suspension in which an adjudication or brief adjudication was held or was available to the carrier. A carrier whose permit is cancelled may apply for reinstatement under WAC 480-14-220, or may apply for a new permit under WAC 480-14-180, if the carrier has corrected the causes of cancellation ((are corrected)).

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-240 Inactive status of permits during military service. (1) When the holder of a common carrier permit is called into or enters the military service of the United States and must cease its common carrier operations ((over the public highways, the commission will upon application place that carrier's permit in an inactive file for the period of military service.

((2) The carrier shall file with the commission a written, informal application which lists), the carrier may apply to the commission, at no charge, for inactive status. The written, informal application must include:

- (a) The applicant's name and permit number((:));
- (b) The branch of military service the applicant is to enter((:));
- (c) The date upon which the applicant requests the inactive status to begin((:));
- (d) A statement that the applicant will not permit its equipment to be operated under inactive status.

((2) Upon receipt of the properly completed application, the commission will place the permit in inactive status for the period of military service.

((3) ((Application for reinstatement of a)) The carrier must apply to reinstate its permit ((placed on inactive status during military service shall be made)) within six months after ((such)) military service has ((terminated)) ended. In its application, the carrier must state it will comply with the requirements of law governing its operations. The commission ((shall, at no charge,)) will grant reinstatement ((upon a showing of compliance with the requirements of the law governing operation over the public highways)) at no charge.

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

WAC 480-14-250 Insurance requirements((; cause for suspension or cancellation)). (1) **Required insurance coverage.** Each applicant for common carrier authority((:)) and each common carrier((; shall)) must file with the commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington, covering each motor vehicle as defined in RCW 81.80.010 used or to be used under the permit ((granted)).

(a) For vehicles with gross vehicle weight ratings of ten thousand pounds or more, filings ~~((shall))~~ must be for the amount shown on the following table:

Category of Carrier Operation	Filing Required
1. Property (nonhazardous)	\$750,000
2. Hazardous substances, as defined in 49 Code of Federal Regulations (CFR) 171.8 transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A or B explosives, poison gas (Poison A), liquified compressed gas or compressed gas; or highway route controlled quantity radioactive materials as defined in 49 CFR 173.455	\$5,000,000
3. Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in 2. above or in 4. below	\$1,000,000
4. Any quantity of Class A or B explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in 49 CFR 173.455	\$5,000,000

(b) For vehicles with gross vehicle weight ratings less than ten thousand pounds, filings shall be for the amounts shown on the following table:

Category of Carrier Operation	Filing Required
1. Property (nonhazardous)	\$300,000
2. Property (hazardous); any quantity of Class A or B explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in 49 CFR 173.455	\$5,000,000

~~((For))~~ **Insurance requirements do not apply to taxicabs** whose only operation subject to commission jurisdiction is the operation of small parcel general freight service under a permit issued pursuant to chapter 81.80 RCW ~~((shall))~~. Those taxicabs must comply with the provisions of RCW 46.72.040 and 46.72.050 in lieu of the above. ((Such)) However, all carriers must comply with the reporting requirements of this section.

~~((Carriers registering under WAC 480-14-300 as registered interstate carriers may provide evidence of insurance in the amount prescribed by the Interstate Commerce Commission or its successor agency written by a company authorized to write insurance in any state.~~

~~((Failure to file and keep))~~ The commission may dismiss an application or suspend or cancel a permit if a carrier does not file proof that such insurance is in full force and effect ((shall be cause for dismissal of an application or cancellation of a permit)).

~~((F))~~ (e) Carriers must submit evidence of insurance ((shall be submitted)) by either ((on)) a Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance((; filed in triplicate with the commission,)) (Form E) or a written binder ((issued by an insurance agent or insurance company)) evidencing the required coverage((s as required above)). ((H)) A binder ((is submitted, it shall)) may

not be effective for (~~not~~) longer than sixty days, during which time the carrier must file the (~~required evidence of insurance~~) Form E.

(2) Continuing proof of insurance(~~continuation of~~). (~~Proper~~) A carrier must file evidence of continued insurance (~~shall be filed~~) with the commission not less than ten days prior to the termination date of the current insurance (~~then on file in order that there shall be no question of continuous coverage as required by law~~).

(3) Insurance endorsement. All liability and property damage insurance policies issued to (~~motor freight~~) common carriers (~~shall~~) must carry a "uniform motor carrier bodily injury and property damage liability endorsement."

(4) Insurance termination. All insurance policies issued under the requirements of chapter 81.80 RCW (~~shall~~) must provide that the (~~same shall~~) coverage continues in full force and effect unless and until canceled by at least thirty days' written notice served on the insured and the (~~Washington utilities and transportation~~) commission by the insurance company(~~with~~). The thirty days' notice (~~to~~) must commence to run from the date notice is actually received by the commission(~~except for binders which may be cancelled on ten days' written notice~~).

(~~Notice of cancellation or expiration shall be submitted in duplicate~~) (a) An insurance binder may be canceled on ten days' written notice.

(b) The carrier or carrier's insurance company must notify the commission of cancellation or expiration on forms prescribed by the commission (~~and shall not be submitted~~).

(c) The carrier or carrier's insurance company must provide notice of cancellation or expiration not more than sixty days before the (~~desired~~) termination date, except binders which may be (~~cancelled by written notification from the insurance agency or the insurance company~~) canceled on ten days' written notice.

(~~No common carrier may operate upon the public highways of this state without insurance as required in this section. The permit of any common carrier who fails to maintain evidence on file that its insurance is in current force and effect as required herein shall be suspended by operation of law beginning with the time of the failure, until the permit is canceled or the cause of the suspension is cured and the permit is reinstated. The commission will make a good faith effort to notify carriers of impending suspension for failure to maintain evidence of insurance and will make a good faith effort to enter a timely order of suspension, but failure to do so shall not invalidate the suspension.~~)

(5) Information about 49 CFR regarding the version currently in effect and where to obtain it is set out in WAC 480-14-999.)

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-290 Interstate operations(~~requirements; definitions~~). (~~It shall be unlawful for any carrier to perform any~~) No person may perform interstate transportation service for compensation upon the public roads of this state without first having secured appropriate authority from the (~~Interstate Commerce Commission~~) United States

Department of Transportation (USDOT) or its successor agency(~~if that authority is required, and without possessing valid insurance and valid evidence that it has registered as specified in these rules.~~

(1) Registered carriers. Carriers operating in interstate or foreign commerce under authority issued by the Interstate Commerce Commission or its successor agency are "registered carriers."

(2) Registered exempt carriers. Carriers operating in interstate or foreign commerce under the exemptions of the Federal Motor Carrier Act without interstate authority issued by the Interstate Commerce Commission or its successor agency are "registered exempt carriers."

(3) Compliance required. Registered and registered exempt carriers in the conduct of interstate operations must comply with the laws and rules that apply to that activity and to equipment in which it is conducted. Interstate carriers conducting Washington intrastate operations must, as to the intrastate activity, comply with the laws and rules applicable to the activity and to equipment in which it is conducted).

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

WAC 480-14-300 ((Registered)) Interstate carrier(~~s~~) fees. (1) (~~It shall be unlawful for~~) A carrier operating under interstate authority issued by the (~~Interstate Commerce Commission or its successor agency to operate a vehicle in interstate commerce on the public roads of this state without having first secured valid insurance as required by the Interstate Commerce Commission or its successor agency, registered with a base state as required in 49 CFR Part 1023, paid the required Washington state registration fee for that vehicle, and without having in the vehicle a legible receipt showing base state registration. The receipt shall be subject to inspection at all times by the law enforcement agents and the commission's representatives.~~

(2) The registration fee for registered carriers in Washington state is ten dollars for each vehicle operated within the state.

(3) Washington-based carriers. Washington is a participant in the base state insurance registration program established in 49 USC § 11506 and 49 CFR Part 1023. Any carrier whose base state as defined in federal regulation is Washington state shall register for interstate operations as follows:

(a) Between August 1 and November 30 of each year, each such Washington-based interstate carrier shall apply to the commission to register for the following year.

(b) The registering carrier shall state the number of vehicles to be operated in each participating state, provide other required information, and submit the registration fee established by that state for each such vehicle.

(c) The commission within thirty days will provide to the carrier a receipt or receipts showing, at a minimum, the carrier's name and address, its Interstate Commerce Commission or successor agency permit number, and the names of the states for which it has registered.

(d) The carrier shall place a receipt or an authorized copy in each vehicle for which it has paid the required fee.

~~(e) Any Washington-based carrier that begins interstate operations in a state for which it has not registered may register for that state at any time, stating the number of vehicles to be operated in each state and submitting the required information and registration fee for each vehicle. The commission will provide a new receipt, if the carrier has not previously registered, or supplemental receipt, if it has registered, showing the states for which the carrier has registered.~~

~~(4) No carrier may operate a vehicle in Washington state that is not registered as specified in this rule unless it is registered for interstate exempt traffic under WAC 480-14-320)) United States Department of Transportation (USDOT) or its successor agency must register with the commission and pay fees as required by the Uniform Carrier Registration (UCR) program or any successor program as required by the laws and rules of USDOT.~~

AMENDATORY SECTION (Amending Docket A-081419, General Order R-554, filed 12/23/08, effective 1/23/09)

WAC 480-14-999 Adoption ((of) by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publication(s), effective dates, references within this chapter, and availability of the resource(s) are as follows:

~~(1) *North American Standard Out of Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).~~

~~(a) The commission adopts the version in effect on April 1, 2006.~~

~~(b) This publication is referenced in WAC 480-14-360 (Equipment—Inspection—Ordered out of service for repairs), WAC 480-14-370 (Equipment—Drivers—Safety), and WAC 480-14-390 (Hazardous materials regulations).~~

~~(c) The *North American Out of Service Criteria* is a copyrighted document. Copies are available from CVSA in Washington, D.C.~~

~~(2)) is within Title 49 Code of Federal Regulations((, cited as 49)) (CFR), including all appendices and amendments is published by the United States Government Printing Office.~~

~~((a)) (1) The commission adopts the version in effect on April 30, 2008, for 49 CFR Parts 171, 172 and 395.~~

~~((b)) (2) This publication is referenced in WAC 480-14-250 (Insurance requirements; cause for suspension or cancellation) ((and WAC 480-14-380 (Hours of service—On duty—Federal safety regulations))).~~

~~((c)) (3) Copies of Title 49 ((Code of Federal Regulations)) CFR are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-14-070	Federal regulations, 49 CFR, Part 390—General applicability and definitions.
WAC 480-14-080	Rule book fee—Updates—Notification of pending and adopted rule changes—Compliance with rules.
WAC 480-14-130	Remittances.
WAC 480-14-170	Periodic reporting requirements.
WAC 480-14-260	Leasing.
WAC 480-14-320	Registered exempt carriers.
WAC 480-14-340	Equipment—Identification.
WAC 480-14-350	Equipment, lawful operation of.
WAC 480-14-360	Equipment—Inspection—Ordered out-of-service for repairs.
WAC 480-14-370	Equipment—Drivers—Safety.
WAC 480-14-380	Hours of service—On duty—Federal safety regulations.
WAC 480-14-390	Hazardous materials regulations.
WAC 480-14-400	Transportation of radioactive materials—Driving and parking rules.
WAC 480-14-420	Optional provisions.
WAC 480-14-900	Appendix A.

WSR 09-10-095
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed May 6, 2009, 11:39 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-239 Sales to nonresidents of farm machinery or implements, and related services, this rule explains the retail sales tax exemption provided by RCW 82.08.0268 for sales to nonresidents purchasing farm machinery and implements, parts for farm machinery and implements, and related labor and services.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE

OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Gayle Carlson, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-0127, e-mail GayleC@dor.wa.gov, AND RECEIVED BY July 6, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing an amendment to WAC 458-20-239 to:

- Eliminate language in subsection (2)(b) explaining that prior to June 11, 1998, the exemption was limited to parts and did not include repair services. This information is no longer needed;
- Add the term "driver's license" in subsection (2)(c) as an example of what constitutes acceptable proof that a buyer is a nonresident;
- In subsection (2)(d): (1) Replace the reference to identify the "buyer's retail sales tax exemption certificate" with the "farmers' retail sales tax exemption certificate," which is the certificate currently used to document an exempt sales claim; and (2) update the explanation of how to obtain a blank exemption certificate.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.08.0268.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Carlson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6126; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Gilbert Brewer, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

May 6, 2009

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-09-092, filed 4/19/00, effective 5/20/00)

WAC 458-20-239 Sales to nonresidents of farm machinery or implements, and related services. (1) **Introduction.** This ~~(rule)~~ section explains the retail sales tax exemption provided by RCW 82.08.0268 for sales to nonresidents of farming machinery and implements, parts for farming machinery and implements, and related labor and services. ~~(The rule)~~ This section also explains the documents that must be preserved to substantiate a claim of exemption. Sellers should refer to WAC 458-20-193 (Inbound and out-bound interstate sales of tangible personal property) if they deliver farm machinery or implements to the purchaser at an out-of-state location.

(2) **Tax-reporting requirements.** Retailing B&O and retail sales taxes generally apply to all sales of tangible personal property, parts, and repair labor in Washington.

(a) RCW 82.08.0268 provides an exemption from retail sales tax for sales to nonresidents of the following when used in conducting a farm activity outside the state of Washington:

- Machinery and implements;
- Parts for machinery and implements; and
- Labor and services for repair of machinery, implements, and parts.

(b) To qualify for the exemption, the machinery, implements, or parts must be transported outside the state immediately after sale or completion of the repair or service. ~~(Prior to June 11, 1998, the exemption applied only to farm machinery and implements, and repair parts and components if attached to the machinery or implements. The exemption did not apply to labor and services.)~~

(c) This exemption is allowed even though the property sold or serviced is delivered to the purchaser in this state, but only when the seller receives from the buyer an exemption certificate, and examines acceptable proof such as a driver's license that the buyer is a resident of a state or country other than the state of Washington.

(d) The exempt nature of the transaction must be documented by using the department's ~~"(buyer's) Farmers' Retail Sales Tax Exemption Certificate,"~~ or another certificate with substantially the same information as it relates to the exemption provided by RCW 82.08.0268. The certificate must be completed in its entirety, and retained by the seller.

~~(A blank)~~ The "Farmers' Retail Sales Tax Exemption Certificate" can be obtained via the internet at <http://dor.wa.gov> ~~(, by facsimile by calling Fast Fax at (360) 786-6116 or (800) 647-7706 (using menu options), or by writing to Taxpayer Services, Washington State Department of Revenue, Post Office Box 47478, Olympia, Washington 98504-7478).~~ The form may also be obtained by contacting the department's telephone information center at 1-800-647-7706, or by writing the department at:

Taxpayer Information and Education
Department of Revenue
P.O. Box 47478
Olympia, WA 98504-7478

If, prior to completion of the sale, the seller becomes aware of any information inconsistent with the purchaser's claim of residency, such as a Washington address on a credit application, the seller should not accept an exemption certificate.