

WAC 468-10-530 Brief adjudicative proceedings. (1) Pursuant to RCW 34.05.482, the department will use brief adjudicative proceedings where not violative of law and where protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties. The department may use brief adjudicative proceedings for the following matters:

(a) Actions taken by the department with respect to motorist information sign permit applications and revocations under WAC 468-70-070.

(b) Actions taken by the department with respect to hazardous structures or obstacles that obstruct the air space above ground or water level under RCW 47.68.340 and 47.68.350.

(c) Actions taken by the department after the state patrol has confiscated an overweight permit or overlength permit and the department has suspended or revoked the permit under RCW 46.44.105(9).

(d) Actions taken by the department with respect to its motor carrier service office's permit refund policy.

(2) For matters listed in subsection (1) of this section, the department's notice of action shall provide the name and address of the appropriate office at which an application for a brief adjudicative proceeding must be filed. An application for a brief adjudicative proceeding shall be served on the department by certified mail, registered mail, or personal service.

(3) An application for a brief adjudicative proceeding must be filed within twenty days from the date of service of the department's notice of action. Such application shall contain a written explanation of the party's view of the matter and may be supported by affidavits. Other parties may file a written response, including supporting affidavits, within ten days after receipt of the application for a brief adjudicative proceeding. Copies of the response shall be served on all parties.

(4) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the secretary. The presiding officer shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(5) The presiding officer may, in his or her discretion, entertain oral argument from the parties or their representatives, at a time and place designated by the presiding officer.

(6) No witnesses may appear to testify.

(7) In addition to the record, the presiding officer may employ agency expertise as a basis for decision.

(8) If the party is present at the time any unfavorable action is taken, the presiding officer shall make a brief oral statement of the reasons for the decision. The decision on an application shall be expressed in a written order which shall be served upon all parties within ten days after entry.

(9) The presiding officer's written decision is an initial order. An initial order shall become the final order within twenty-one days of the date of service.

(10) A petition for review of an initial order shall be served by certified mail, registered mail, or personal service upon the Office of the Secretary of the Washington State Department of Transportation, 3D25 Transportation, Olympia, WA 98504-7316, and copies shall be served on all parties. A petition for review of an initial order shall contain an explanation of the party's view of the matter and a statement of reasons why the initial order is incorrect. Responses to a pe-

tition for review of an initial order shall be served on the secretary at the above designated address and on all parties within ten days after receipt of the petition for review.

(11) The secretary or his or her designee shall act as the reviewing officer and shall conduct a review of an initial order upon the timely service of a petition for review or upon his or her own motion. The reviewing officer shall adopt, modify, or reject the initial order; but the reviewing officer shall not take any action on review less favorable to any party without giving that party notice and opportunity to explain the party's view of the matter.

(12) The order on review shall be in writing, shall include a brief statement of the reasons for the decision, and shall be entered within twenty days after the date of the initial order or the petition for review, whichever is later. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(13) The record in a brief adjudicative proceeding shall consist of any documents regarding the matters that were considered or prepared by the presiding officer for the brief adjudicative proceedings and/or by the reviewing officer for any review.

[Statutory Authority: Chapter 34.05 RCW and RCW 47.01.101(5). WSR 94-14-101 (Order 145), § 468-10-530, filed 7/6/94, effective 8/6/94.]