

WSR 22-14-107

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed July 6, 2022, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-10-092.

Title of Rule and Other Identifying Information: Chapter 308-94A WAC, Off-road and nonhighway vehicles.

Hearing Location(s): On September 9, 2022, at 2:00 p.m.

Topic: Public hearing - chapter 308-94A WAC, Off-road and non-highway vehicles. August 9, 2022, 2:00 p.m. Pacific Time (United States and Canada).

Join Zoom meeting [https://dol-wa.zoom.us/j/81274933015?pwd=Y3hmNlB2WnZEUHpjKlpweDV4VzlnZ09,MeetingID81274933015,Passcode597575;OneTapMobile+12532158782,,81274933015#,,,,*597575#US\(Tacoma\),+14086380968,,81274933015#,,,,*597575#US\(SanJose\);MeetingID81274933015,Passcode597575](https://dol-wa.zoom.us/j/81274933015?pwd=Y3hmNlB2WnZEUHpjKlpweDV4VzlnZ09,MeetingID81274933015,Passcode597575;OneTapMobile+12532158782,,81274933015#,,,,*597575#US(Tacoma),+14086380968,,81274933015#,,,,*597575#US(SanJose);MeetingID81274933015,Passcode597575). Find your local number [https://dol-wa.zoom.us/u/kegWdgLfow](https://dol-wa.zoom.us/j/81274933015?pwd=Y3hmNlB2WnZEUHpjKlpweDV4VzlnZ09,MeetingID81274933015,Passcode597575;OneTapMobile+12532158782,,81274933015#,,,,*597575#US(Tacoma),+14086380968,,81274933015#,,,,*597575#US(SanJose);MeetingID81274933015,Passcode597575).

In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of licensing (DOL) will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A telephonic public hearing, without a physical space, will be held instead. Presenters and staff will participate remotely. The public may call into the hearing using the information provided for the telephonic hearing.

Date of Intended Adoption: September 10, 2022.

Submit Written Comments to: Ellis Starrett, DOL, P.O. Box 9030, Olympia, WA 98507-9030, email rulescoordinator@dol.wa.gov, fax 360-570-7827.

Assistance for Persons with Disabilities: Contact Ellis Starrett, phone 360-902-3846, email estarrett@dol.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendment updates agency rules so that wheeled all-terrain vehicles no longer need to be retitled after being modified for on-road use, with the effect of easing compliance and reducing administrative burden. The proposal also enacts technical clean-ups in the affected section.

Reasons Supporting Proposal: This rule change is necessary to streamline and clarify the registration and titling process for wheel[ed] all-terrain vehicles, in accordance with stakeholder input and internal process reviews. Removing the retitling requirement aids owners of wheeled all-terrain vehicles by reducing the number of transactions required to stay in compliance.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Not applicable.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: DOL, governmental.

Name of Agency Personnel Responsible for Drafting: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3846; and Implementation: George Price, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-0120.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ellis Starrett, DOL, P.O. Box 9030, Olympia, WA 98507-9030, phone 360-902-3846.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Vehicle licensing subagents may experience a negligible decrease in business because a small number of transactions that would otherwise be required by rule will no longer be required. DOL data shows that approximately 1,3000 [1,300] of these transactions occurred in 2021, spread across approximately 180 subagent offices. The fee for a WATV title transaction of this nature is \$15. The aggregate reduction in collected fees for licensing subagents is estimated at \$19,500, or \$108.33 per office. This amount exceeds the threshold "minor cost" of \$100 but does not exceed either 0.3 percent of annual revenue or income, or one percent of annual payroll, for an average office.

For context, in 2021 statewide across all licensing partners, there were 758,088 original title transactions, 1,178,718 title transfers, and 585,739, with each being subject to the same \$15 fee. Additional registration work also provides further revenues to subagents or other licensing partners.

July 6, 2022
Ellis Starrett
Rules and Policy Manager

OTS-3880.1

AMENDATORY SECTION (Amending WSR 11-21-068, filed 10/17/11, effective 11/17/11)

WAC 308-94A-005 Certificates of title and registration. (1) **Is a certificate of title issued for off-road ((and)), nonhighway vehicles, and wheeled all-terrain vehicles?** Yes, a certificate of title is issued using the same laws, rules, and procedures for other classes of vehicles. The certificate of title will indicate the comment "not eligible for road use" if a vehicle is not manufactured for road use or "modified for on-road use" if an off-road motorcycle as defined in chapter 46.04 RCW has been modified for use on highways and roads.

(2) **What are the licensing options for off-road and nonhighway vehicles described in RCW 46.04.365?** If your vehicle:

- (a) Is licensed for road use under chapter 46.16A RCW:
 - (i) Your license plates will be valid for off-road use, but you may need an ORV license in designated areas;
 - (ii) You may purchase an annual or temporary off-road use permit.
- (b) Is not manufactured for road use, you may only purchase an annual or temporary off-road use permit;
- (c) Is an off-road motorcycle as defined in chapter 46.04 RCW, you can license it for road use by complying with chapter 46.61 RCW and filing a motorcycle highway use declaration with the department((=

~~(d) Is not going to be operated on public roadways or trails, you may title your vehicle without licensing it).~~

(3) **What is an ORV use permit?**

(a) The temporary ORV use permit authorized under RCW 46.09.430 is:

- (i) Valid for sixty days from the date of application;
- (ii) Available to nonresidents and Washington residents who choose not to annually license their ORV; and
- (iii) Not transferable to another vehicle.

(b) The annual ORV registration authorized under RCW 46.09.410 is:

- (i) Valid for one year from the date of application;
- (ii) Available to Washington residents and nonresidents when the ORV is primarily used in Washington state; and
- (iii) Not transferable to another vehicle.

(4) **What do I do with the annual or temporary off-road permit?**

The permit must be ~~((+~~

~~(a-))~~ carried on the vehicle ~~((+~~

~~(b-))~~ and made available to any law enforcement officer on request.

(5) **May I operate my off-road/nonhighway vehicle using a temporary or annual vehicle use permit on any dirt, gravel road, or trail in Washington?** No. Check with local, state, or federal authorities in the areas you intend to operate the vehicle.

(6) What are the licensing options for wheeled all-terrain vehicles described in RCW 46.09.310?

(a) In accordance with RCW 46.09.442, you must minimally register your vehicle for off-road use by purchasing:

- (i) A metal tag; and
- (ii) An off-road tab.

(b) If your vehicle has been modified for on-road use and you are electing to use it on a public roadway, you must:

(i) Submit the wheeled all-terrain vehicle (WATV) road use declaration; and

- (ii) Purchase an off-road and on-road tab.

(c) You may elect to revert to off-road use only at any subsequent registration period. Adding on-road use will not require the re-submission of a WATV road use declaration.

Note: Modifying the vehicle does not require the purchase of an on-road tab.

(7) Do I need to retile my wheeled all-terrain vehicle after I have modified it for on-road use? No, that is a registration activity only.

[Statutory Authority: RCW 46.01.110. WSR 11-21-068, § 308-94A-005, filed 10/17/11, effective 11/17/11. Statutory Authority: RCW 46.16.110. WSR 06-21-024, § 308-94A-005, filed 10/9/06, effective 11/9/06. Statutory Authority: RCW 46.01.110. WSR 01-13-008, § 308-94A-005, filed 6/8/01, effective 7/9/01; WSR 99-24-013, § 308-94A-005, filed 11/22/99, effective 12/23/99.]