

WSR 23-19-099

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed September 20, 2023, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-14-114.

Title of Rule and Other Identifying Information: Chapter 308-101 WAC, Hearing procedural rules.

Hearing Location(s): On October 31, 2023, at 10:00 a.m., via Zoom meeting <https://dol-wa.zoom.us/j/81069585123?pwd=Zldxb25PcWF1TXJISGEzcUtpZmdMQT09>, Meeting ID 810 6958 5123, Pass-

code 470074; One-tap mobile +12532158782,,81069585123#,,,,*470074# US (Tacoma), +12532050468,,81069585123#,,,,*470074# US; or dial by your location, Meeting ID 810 6958 5123, Passcode 470074. Find your local number <https://dol-wa.zoom.us/u/k9kF88yza>. If you are having difficulty joining the Zoom meeting at the time of the public hearing, please call 360-902-0131. An in-person option is available at Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: November 1, 2023.

Submit Written Comments to: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, email rulescoordinator@dol.wa.gov, by October 30, 2023.

Assistance for Persons with Disabilities: Contact Kelsey Stone, phone 360-902-0131, email rulescoordinator@dol.wa.gov, by October 21, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Creating a new chapter [section] under chapter 308-101 WAC to define business rules, guidelines, and the process for conducting administrative reviews of the petitioner's commercial driver's license (CDL) disqualifications based on an adverse decision on the admin per se/IMPLIED consent hearing, per RCW 46.20.308.

Reasons Supporting Proposal: These rule changes will provide due process to CDL-endorsed petitioners based on the admin per se/IMPLIED consent administrative hearings decision impacting personal driving privileges by confirming that sanctions against driving privileges don't exceed statutory guidelines. It also provides a separate opportunity for due process of the CDL disqualification under RCW 46.20.245 and 49 U.S.C. § 383.51, as recommended by the assistant attorney general's review of current processes.

Statutory Authority for Adoption: RCW 34.05.220 Rules for agency procedure—Indexes of opinions and statements.

Statute Being Implemented: Chapter 308-101 WAC, Hearing procedural rules.

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

Name of Agency Personnel Responsible for Drafting: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-0131; Implementation: Marta Reinhold, 1125 Washington Street S.E., Olympia, WA 98504, 360-664-1488; and Enforcement: Marguerite Friedlander, 1125 Washington Street S.E., Olympia, WA 98504, 360-664-1523.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule making cleans up language for administrative processes and does not impose any costs.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:
Is fully exempt.

September 20, 2023
Ellis Starrett
Rules and Policy Manager

OTS-4943.1

AMENDATORY SECTION (Amending WSR 18-11-098, filed 5/21/18, effective 9/4/18)

WAC 308-101-230 Final orders. (1) Every decision and final order shall:

(a) Be correctly captioned as to the name of the department of licensing and name of the proceeding;

(b) Designate all parties and representatives participating in the proceeding;

(c) Contain a final order disposing of all contested issues; and

(d) Contain a statement describing the right to appeal.

(2) In the event the original hearings examiner is unavailable, the department may assign a case to another hearings examiner to either hear the case if the record has not closed, or in a case where the record is closed, make a determination as to the findings of fact and conclusions of law based on the record submitted.

(3) At any stage prior to commencement of the hearing the department may reassign a matter to a different hearings examiner.

(4) Pursuant to RCW 46.20.308, any commercial driver's license (CDL) holder that requests an administrative hearing to contest a suspension or revocation of their personal driver's license (PDL) and that hearing results in a verdict sustaining the suspension or revocation of the PDL, shall also receive an administrative review of the CDL disqualification under RCW 46.25.090. The administrative review shall be conducted no later than five business days after the final order is entered resolving the administrative sanction on the PDL. The sanctions, suspension, revocation, and/or disqualification of both the PDL and CDL for the same incident shall run concurrently.

[Statutory Authority: RCW 46.01.110. WSR 18-11-098, § 308-101-230, filed 5/21/18, effective 9/4/18.]