

WSR 22-11-019

PERMANENT RULES

WASHINGTON STATE LOTTERY

[Filed May 9, 2022, 12:21 p.m., effective June 9, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amendments to chapter 315-20 WAC, Procedural rules—Contested cases—Petitions for declaratory ruling and rule making. The purpose of the new rule is to allow the agency to hold brief adjudicative proceedings for certain administrative cases. This will allow the agency to resolve those cases faster and at less cost to the parties.

Citation of Rules Affected by this Order: New WAC 315-20-125.

Statutory Authority for Adoption: RCW 67.70.040 (1) and (3).

Adopted under notice filed as WSR 22-06-087 on March 1, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: May 9, 2022.

Kristi Weeks
Director of Legal Services

OTS-3629.1

NEW SECTION

WAC 315-20-125 Brief adjudicative proceedings. (1) Application of brief adjudicative proceedings.

(a) If an adjudicative proceeding is timely requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(i) Denial, conditional grant, suspension, or revocation of a license pursuant to chapter 315-04 WAC; or

(ii) Prize denials pursuant to WAC 315-06-120.

(b) If an adjudicative proceeding is requested in a matter not listed in (a) of this subsection, a brief adjudicative proceeding may be conducted in the sole discretion of the presiding officer when it appears that protection of the public interest does not require that the lottery provide notice and opportunity to participate to persons other than the parties and:

(i) Only legal issues exist; or

(ii) Both parties have agreed to a brief adjudicative proceeding.

(c) The presiding officer may, in their sole discretion, convert a brief adjudicative proceeding to a formal adjudicative proceeding whenever it appears that a brief adjudicative proceeding is insufficient to resolve the case.

(2) Conduct of brief adjudicative proceedings.

(a) Brief adjudicative proceedings shall be conducted by a presiding officer designated by the director. The presiding officer shall have agency expertise in the subject matter at hand but shall not have personally participated in the decision to issue the initiating document. For purposes of this section, "initiating document" means one or more documents that provide notice to the affected party of the lottery's action or decision.

(b) The parties may present written arguments, documentation, evidence, and declarations. The presiding officer shall designate the date(s) by which written materials must be submitted by the parties.

(c) The presiding officer may, in their sole discretion, entertain oral argument from the parties at a time and place designated by the presiding officer.

(d) No witnesses may testify.

(e) Depositions and interrogatories are not allowed.

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

(g) The presiding officer shall issue a written initial order within 10 days of the date for final submission of written materials or oral argument, if any.

(3) Preliminary record. The presiding officer shall consider the preliminary record when issuing an initial order.

(a) The preliminary record with respect to decisions made under chapter 315-04 WAC shall consist of:

(i) The lottery licensing file including, but not limited to, the application and all associated materials, correspondence to or from the applicant or licensee, background check results, and any documents relied upon in proposing to deny, grant conditionally, suspend, or revoke the license;

(ii) The initiating document;

(iii) The request for an adjudicative proceeding;

(iv) Any written materials submitted to, or considered by, the presiding officer; and

(v) Transcripts or recordings of oral argument, if any.

(b) The preliminary record with respect to decisions made under WAC 315-06-120 shall consist of:

(i) The lottery prize claim file including, but not limited to, any investigation or reconstruction results, and correspondence to or from the claimant;

(ii) The ticket, or a legible copy of the ticket, that is in question;

(iii) The initiating document;

(iv) The request for an adjudicative proceeding;

(v) Any written materials submitted to, or considered by, the presiding officer; and

(vi) Transcripts or recordings of oral argument, if any.

(4) Effectiveness of orders on brief adjudicative proceedings. Initial orders on brief adjudicative proceedings become final 21 days after service of the initial order unless:

(a) Administrative review is requested pursuant to subsection (5) of this section; or

(b) On their own initiative, the director or designee determines to review the matter and, within 21 days of service of the initial order, provides notice to the parties of the date by which a determination will be made.

(5) Administrative review.

(a) Any party to a brief adjudicative proceeding may request review of the initial order by filing a written petition for review by the director or designee.

(b) The petition for review must be actually received by the director or designee within 21 days of service of the initial order. The petition for review must also be served on any other party to the case at the time it is filed with the director or designee.

(c) The petition for review must contain a concise statement of the issue(s) to be reviewed.

(d) Each party shall be provided an opportunity to provide their written statement on the matter.

(e) The director or designee shall consider the petition for review and response, if any, and issue a final order or convert the proceeding to a formal adjudicative hearing.

(f) The final order must be in writing, must include a brief statement of the reason(s) for the decision, and must be entered within 20 days after the date of the initial order or the request for review, whichever is later. The final order must contain a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(g) A request for administrative review is deemed to have been denied if the director or designee does not make a disposition within 20 days after the petition for review is submitted.

(6) Agency record of brief adjudicative proceedings. The agency record of a brief adjudicative proceeding shall consist of the preliminary record as set forth in subsection (3) of this section, and, if applicable, any materials considered during a review pursuant to subsection (5) of this section and the final order.

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