



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 18, 2023

TIME: 9:03 AM

WSR 23-21-101

Agency: Department of Licensing

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 23-16-151 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or
- Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 308-100-005 Definitions; WAC 308-100-033 Minimum training requirements; WAC 308-100-035 Employer certification; WAC 308-100-040 Examination requirement for commercial driver's license; WAC 308-100-050 Examination fees; WAC 308-100-100 Intrastate waiver; WAC 308-100-130 Serious traffic violations; WAC 308-100-180 Third-party testing fee; and, creation of two new WACs to cover retesting and retraining requirements following the surrender, disqualification, or cancellation of a driver's CDL, and CDL drivers from Canada and Mexico.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 21, 2023	10:00 AM	<p>Join Zoom Meeting https://dol-wa.zoom.us/j/85787173870?pwd=OGtw6EBgmeC02arb7OzYGqqqt8AEIC.1</p> <p>Meeting ID: 857 8717 3870 Passcode: 341647</p> <p>---</p> <p>One tap mobile +12532050468,,85787173870#,,, ,*341647# US +12532158782,,85787173870#,,, ,*341647# US (Tacoma)</p> <p>---</p> <p>Dial by your location</p> <ul style="list-style-type: none"> • +1 253 205 0468 US • +1 253 215 8782 US (Tacoma) • +1 346 248 7799 US (Houston) • +1 408 638 0968 US (San Jose) • +1 669 444 9171 US • +1 669 900 6833 US (San Jose) • +1 719 359 4580 US • +1 646 931 3860 US • +1 689 278 1000 US • +1 301 715 8592 US (Washington DC) • +1 305 224 1968 US • +1 309 205 3325 US 	<p>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 the highways and licensing building located at 1125 Washington St SE, Olympia, WA 98504.</p>

	<ul style="list-style-type: none"> • +1 312 626 6799 US (Chicago) • +1 360 209 5623 US • +1 386 347 5053 US • +1 507 473 4847 US • +1 564 217 2000 US • +1 646 876 9923 US (New York) <p>Meeting ID: 857 8717 3870 Passcode: 341647</p> <p>Find your local number: https://dol-wa.zoom.us/j/85787173870</p>
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Date of intended adoption: November 22, 2023 (Note: This is **NOT** the effective date)

<p>Submit written comments to:</p> <p>Name: Kelsey Stone</p> <p>Address: 1125 Washington St SE Olympia, WA 98504</p> <p>Email: rulescoordinator@dol.wa.gov</p> <p>Fax:</p> <p>Other:</p> <p>By (date) <u>November 14, 2023</u></p>	<p>Assistance for persons with disabilities:</p> <p>Contact <u>Kelsey Stone</u></p> <p>Phone: 360-902-0131</p> <p>Fax:</p> <p>TTY:</p> <p>Email: rulescoordinator@dol.wa.gov</p> <p>Other:</p> <p>By (date) <u>November 11, 2023</u></p>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: DOL is proposing amendments of current definitions related to CDL holders to decrease regulatory barriers to obtaining a CDL per a petition from the Washington Trucking Association, as well as implementation pursuant to HB 1058 passed during the 2023 legislative session

Reasons supporting proposal: This proposal will include technical corrections clarifying rules related to training, testing, and reporting requirements for CDL holders, training providers, and employers, which is intended to increase Washington's capacity to train CDL holders, improve agency efficiency and oversight capabilities, and ensure compliance with state statute and federal regulation.

Statutory authority for adoption: RCW 46.01.110 Rule-making authority

Statute being implemented: Amending: WAC 308-100-005 Definitions; WAC 308-100-033 Minimum training requirements; WAC 308-100-035 Employer certification; WAC 308-100-040 Examination requirement for commercial driver's license; WAC 308-100-050 Examination fees; WAC 308-100-100 Intrastate waiver; WAC 308-100-130 Serious traffic violations; WAC 308-100-180 Third-party testing fee.

Repealing: WAC 308-100-135 Out-of-service order violations.

New WACs: 308-100-034 Demonstrated Proficiency; and 308-100-045 Reinstatement of a CDL after disqualification, cancellation, expiration, revocation, surrender, suspension, or transfer.

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: WAC language was modified based on feedback received from external stakeholders.

Type of proponent: Private Public Governmental

Name of proponent: (person or organization)

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Kelsey Stone	1125 Washington St SE Olympia, WA 98504	360-902-0131
Implementation:	Dan Cooke	1125 Washington St SE Olympia, WA 98504	360-902-3826
Enforcement:	Dan Cooke	1125 Washington St SE Olympia, WA 98504	360-902-3826

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

- Name: Kelsey Stone
- Address: 1125 Washington St SE Olympia, WA 98504
- Phone: 360-902-0131
- Fax:
- TTY:
- Email: rulescoordinator@dol.wa.gov
- Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: Check one.

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

	Proposed WAC Sections and Title	This proposed rule section is <u>not exempt</u>-	This proposed rule section is <u>exempt</u>. Provide RCW to support this exemption.
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		Analysis is required	
1.	WAC 308-100-005 Definitions	<input type="checkbox"/>	RCW 34.05.310 (4)(d) (Correct or clarify language)
2.	WAC 308-100-033 Minimum training requirements	<input type="checkbox"/>	RCW 34.05.310 (4)(d) (Correct or clarify language)
3.	New WAC 308-100-034 Demonstrated Proficiency	<input checked="" type="checkbox"/>	Established to align Department policy regarding training standards and clarify the Department's interpretation of federal rules.
4.	WAC 308-100-035 Employer certification	<input type="checkbox"/>	RCW 34.05.310 (4)(d) (Correct or clarify language) RCW 34.05.310 (4)(g)((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)
5.	WAC 308-100-040 Examination requirement for commercial driver's license	<input type="checkbox"/>	RCW 34.05.310 (4)(d) (Correct or clarify language)
6.	New WAC 308-100-045 Reinstatement of a CDL after disqualification, cancellation, expiration, revocation, surrender, suspension, or transfer	<input type="checkbox"/>	RCW 34.05.310 (4)(e) (Dictated by statute)
7.	WAC 308- 100-050 Examination fees	<input type="checkbox"/>	RCW 34.05.310 (4)(f) (Set or adjust fees) RCW 34.05.310 (4)(e) (Dictated by statute)
8.	WAC 308-100-130 Serious traffic violations	<input type="checkbox"/>	RCW 34.05.310 (4)(e) (Dictated by statute)
9.	WAC 308-100-135 Out-of-service order violations (Repealed)	<input checked="" type="checkbox"/>	
10.	WAC 308-100- 180 Third-party testing fee	<input type="checkbox"/>	RCW 34.05.310 (4)(f) (Set or adjust fees) RCW 34.05.310 (4)(e) (Dictated by statute)

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. Benefits for customers and employers include greater ease for regaining a commercial driver's license, or licensed driver, without incurring additional costs for training and testing. Costs include reduced cash flows to non-employer training providers, state-operated testing facilities, and third-party examiners due to lifting requirements for drivers to undergo retraining and retesting. Additionally reducing these requirements may get drivers on the road faster than current policy allows, but this risk should be offset by other efforts to ensure initial training quality, proficiency standards, and integrity of assessments. We believe that with these efforts, fewer professional drivers will face withdrawal actions leading to CDL surrender, and that the overall benefits exceed the costs involved in extending the retesting and retraining intervals, and standardizing demonstration of proficiency criteria. Concerns raised by stakeholders were addressed in the modified language being filed.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

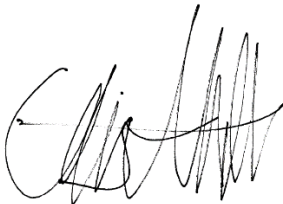
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Signature:

Date: October 18, 2023

Name: Ellis Starrett

Title: Rules and Policy Manager

A handwritten signature in black ink, appearing to read 'Ellis Starrett', is written over a faint horizontal line. The signature is stylized and cursive.