



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: November 05, 2024

TIME: 12:54 PM

WSR 24-22-125

Agency: Department of Licensing

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

- Preproposal Statement of Inquiry was filed as WSR WSR 24-13-125 ; 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 308-77-102 Appeals; WAC 308-77-114 Unauthorized use of dyed diesel; New Section WAC 308-78-102 Appeals; New Chapter 308-79A WAC Fuel Tax and Proration – Investigation Procedures; and WAC 308-91-172 Appeals

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|-------------------|-----------|---|---|
| December 11, 2024 | 2:00 p.m. | Join the meeting now Meeting ID: 235 657 432 848 Passcode: nwth5d | If you are having trouble accessing the virtual meeting, please call 360-902-3486 at the time of the hearing to request assistance. Please email rulescoordinator@dol.wa.gov if you would like to request an interpreter, or other accommodations, at least one week in advance of the public hearing. |
| | | Dial in by phone +1 564-999-2000 , 140744215# United States, Olympia Find a local number Phone conference ID: 140 744 215# | PLEASE NOTE: Hearing participants are encouraged to attend in-person or be prepared to use the telephonic option (call-in) if they experience technical difficulties. In-person attendance will take place at the Black Lake Department of Licensing location, 405 Black Lake Blvd, Olympia, WA 98502 in Building 2, Room 2108.. |

Date of intended adoption: December 12, 2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Ellis Starrett
 Address 1125 Washington St SE, Olympia WA, 98501
 Email rulescoordinator@dol.wa.gov
 Fax
 Other
 Beginning (date and time) November 6, 2024
 By (date and time) December 11, 2024

Assistance for persons with disabilities:

Contact Ellis Starrett
 Phone (360) 902-3846
 Fax
 TTY
 Email rulescoordinator@dol.wa.gov
 Other
 By (date) December 4, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: These rules implement the Fuel Tax Discovery Team, by defining records request parameters and other investigation requirements for licensees under Chapters 46.87, 82.38, and 82.42 RCW. The rules reflect changes to dyed diesel penalties by allowing assessment based on storage capacity and adding repeater penalties for violations within a 5-year period. The rules make several technical changes: Verbiage-only change by removing “informal hearing” for “Review by Department”, and adding an Appeals chapter under Aircraft Fuel WACs.

Reasons supporting proposal: The proposed change implements HB 1964, passed during the 2024 legislative session with an effective date of July 1, 2024. HB 1964 removes informal hearing verbiage from RCW, establishes the Prorate Fuel Tax Discovery Team at RCW 82.38.390, and changes dyed diesel assessments..

Statutory authority for adoption: RCW 82.38.260 Administration and enforcement; RCW 82.41.120 Implementing rules required; and RCW 82.42.130 Administration and enforcement

Statute being implemented: RCW 46.87.080 Credentials – Design, procedures – Issuance, denial, suspension, revocation; RCW 82.38.072 Dyed special fuel – Penalties; RCW 82.38.120 Issuance of license – Refusal, suspension, revocation; RCW 82.38.170 Civil and statutory penalties and interest – Deficiency assessments; RCW 82.38.390 Prorate and fuel tax discovery team; RCW 82.42.118 Civil and statutory penalties and interest – Deficiency assessments; and RCW 82.42.210 Denial – Refusal – Suspension - Revocation.

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: n/a

Name of proponent: (person or organization) n/a

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|----------------|----------------|---|---------------|
| Drafting | Debbie Sanders | 405 Black Lake Blvd SW, Olympia WA, 98502 | 360-664-1481 |
| Implementation | Lynn Briscoe | 405 Black Lake Blvd SW, Olympia WA, 98502 | 360-480-1717 |
| Enforcement | JD Smith | 405 Black Lake Blvd SW, Olympia WA, 98502 | (564)464-5740 |

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
- Address
- Phone
- Fax
- TTY
- Email
- Other

No: Please explain: A cost-benefit analysis is not required because the Department of Licensing is not imposing additional costs. The rules do not create a new filing or reporting requirement for existing licensees that is not already established in law.

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:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[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)

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](#)):

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. A cost-benefit analysis is not required because the Department of Licensing is not imposing additional costs. The rules do not create a new filing or reporting requirement for existing licensees that is not already established in law.

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

Date: November 5, 2024

Name: Ellis Starrett

Title: Rules and Policy Manager

Signature:

