AMENDATORY SECTION (Amending WSR 25-01-054, filed 12/11/24, effective 1/11/25)

WAC 308-100-005 Definitions. The definitions of this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Behind-the-wheel (BTW) range training" means training provided by a BTW instructor when a student has actual control of the power unit during a driving lesson conducted for backing, street driving, and proficiency development. BTW range training does not include time a student spends observing the operation of a CMV when ((~~he or she is~~)) they are not in control of the vehicle.

(2) "Behind-the-wheel (BTW) instructor" means an individual who provides BTW training involving the actual operation of a CMV by a student on a range or a public road and meets one of these qualifications:

(a) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement and meets all applicable state qualification requirements for CMV instructors; or

(b) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience as a BTW CMV instructor and meets all applicable state qualification requirements for CMV instructors.

(c) **Exception applicable to (a) and (b) of this definition:** A BTW instructor who provides training solely on a range which is not a public road is not required to hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, as long as the instructor previously held a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, and complies with the other requirements set forth in (a) or (b) of this definition.

(d) If an instructor's CDL has been canceled, suspended, or revoked due to any of the disqualifying offenses identified in C.F.R. 383.51, the instructor is prohibited from engaging in BTW instruction for two years following the date ((~~his or her~~)) their CDL is reinstated.

(3) "Certified test route" means:

(a) Test route that is approved and assigned by the department.

(b) The areas for completing the pretrip inspection, basic controls and road test as approved by the department for the administration of a commercial driver license skills test.

(4) "Classroom" means a space dedicated to and used exclusively by an instructor for the instruction of students. With prior department approval, a classroom may be located within alternative facilities, such as a public or private library, school, community college, college or university, public agency, or a business training facility. "Classroom," may also include a virtual classroom environment when video conferencing technology is capable of two-way communication between the instructor and all students.

(5) "Classroom/theory instruction" means knowledge instruction on the operation of a CMV and related matters provided by a theory in-

structor through lectures, demonstrations, audiovisual presentations, computer-based instruction, driving simulation devices, or similar means. Instruction occurring outside a classroom is included if it does not involve actual operation of a commercial motor vehicle and its components by the student.

(6) "Commercial driver license (CDL) third-party examiner" means a person or entity that is authorized by the state to administer commercial driver's license (CDL) skills tests.

(7) "Course cost" means the price charged for a course offering before any taxes, subsidies, discounts, or other price reductions or additional fees.

(8) "Demonstration of proficiency" means driver-trainee must demonstrate proficiency in required skills over time. Demonstration of proficiency of state and federal entry level driver training standards is not met by the completion of minimum hours of training. Nor is it limited to a single standardized assessment result.

(9) "Department" means the department of licensing.

(10) "Employee" means any operator of a commercial motor vehicle, including full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner operator contractors, while in the course of operating a commercial motor vehicle, who are either directly employed by or under lease to an employer.

(11) "Employer" means a person or entity that hires one or more individuals to operate a commercial motor vehicle on a regular basis during their normal course of employment and whose primary purpose is not to train operators of commercial motor vehicles.

(12) "English proficiency" means applicants for a commercial motor vehicle skills test must be able to understand and respond to verbal commands and instructions in English by a skills test examiner per 49 C.F.R. 383.133(5).

(13) "Entry-level driver training schools for commercial driver licenses (CDL)" means an entity that is approved by the department, to provide training as required by RCW 46.25.060 (1)(a)(ii).

(14) "Hour," as used in connection with training requirements, means no less than 50 minutes of training or instruction.

(15) "Instructor-led" means person-to-person learning where students can ask questions, receive feedback in real-time, and interaction and discussion are enabled. Some classroom instruction may include self-paced, online components as authorized and certified by the department of licensing. Completely self-paced, online training courses are not authorized.

(16) "Lab" means a teaching environment involving a nonmoving vehicle for hands on instruction supported by classroom material.

(17) "License or endorsement test" means a skills test that is required to obtain a commercial learner's permit, commercial driver license, or endorsement.

(18) "Observation" means the careful watching, as a passenger in a commercial motor vehicle, of street driving during the hours of course instruction, recording lessons learned and applying classroom material.

(19) "Proficiency development" means driving exercises that will allow more time to develop the skills needed to demonstrate proficiency, competence, and confidence in the street driving and backing maneuvers portions of a course.

(20) "Proficiency-based learning" means:

(a) Learning outcomes emphasize competencies that include application and creation of knowledge along with the development of skills and abilities;

(b) Competency criteria and standards are explicit, measurable, transferable learning objectives that equip driver-trainees with necessary knowledge, skills, and abilities;

(c) Assessments are meaningful and directly related to driver-trainees' accomplishment of objectives;

(d) Driver-trainees receive rapid, differentiated support based on their individual learning needs; and

(e) Driver-trainees are given specific and actionable feedback that allows them to advance upon demonstrated proficiency of content in all required areas of the curriculum.

(21) "Range" means an area closed from the public where driving activities are practiced, free of obstructions, enables the driver to maneuver safely and free from interference from other vehicles and hazards, and has adequate sight lines.

(22) "Street driving" means driving a commercial motor vehicle on a public road, where the traffic laws are enforced, consisting of city street, country road, and freeway driving.

(23) "Theory instructor" means an individual who provides knowledge instruction on the operation of a CMV and meets one of these qualifications:

(a) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience driving a CMV requiring a CDL of the same (or higher) class and/or the same endorsement and meets all applicable state qualification requirements for CMV instructors; or

(b) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience as a BTW CMV instructor and meets all applicable state qualification requirements for CMV instructors.

(c) **Exceptions applicable to (a) and (b) of this definition:** An instructor is not required to hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, if the instructor previously held a CDL of the same (or higher) class and complies with the other requirements set forth in (a) or (b) of this definition.

(d) If an instructor's CDL has been canceled, suspended, or revoked due to any of the disqualifying offenses identified in C.F.R. 383.51, the instructor is prohibited from engaging in theory instruction for two years following the date ((~~his or her~~)) their CDL is reinstated.

(24) "Training institute/provider" means an entity that is approved by the department, to provide training as required by RCW 46.25.060 (1)(a)(ii):

(a) An institution of higher learning accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the higher education board;

(b) A licensed private vocational school as that term is defined by RCW 28C.10.020(7);

(c) An entity in another state that the department has determined provides training or instruction equivalent to that required under WAC 308-100-033 or 308-100-035; or

(d) An entity that the state has determined provides on-site contracted training or instruction equivalent to that required under WAC 308-100-033.

(25) "Without a CDL" means any period of cancellation, expiration, revocation, surrender, or suspension.

AMENDATORY SECTION (Amending WSR 19-01-078, filed 12/17/18, effective 1/17/19)

WAC 308-100-110 Renewal online. Except as otherwise provided by this section, any person who is outside the state at the time ((~~his or her~~)) their commercial driver's license expires may request a renewal by mail or online as permitted by RCW 46.20.120(3). The department shall not renew an endorsement to a commercial driver's license for the operation of a vehicle transporting hazardous materials by mail or online.

AMENDATORY SECTION (Amending WSR 19-01-078, filed 12/17/18, effective 1/17/19)

WAC 308-100-150 Third-party examiner—Qualifications. A person applying to be a third-party examiner must meet the following requirements:

(1) Hold an active CDL;

(2) Have two years or more experience operating commercial motor vehicles representative of the class of vehicle for which ((~~he or she~~)) they would conduct testing;

(3) Have five years of total driving experience;

(4) A check of the person's driving record shows: The person has not been convicted or found to have committed any of the following offenses within the three year period preceding the date of application:

(a) Driving a motor vehicle while under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(d) Using a commercial motor vehicle in the commission of a felony;

(e) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle; and

(f) Convicted of and found to have committed any of the following felony offenses or any crime involving fraud, moral turpitude, dishonesty, or corruption.

(5) The applicant has not been convicted of no more than one conviction or finding that the person committed two or more serious traffic violations, as defined in WAC 308-100-130, within three years preceding the date of application;

(6) The applicant has not been convicted of four or more moving traffic violations, as defined in WAC 308-104-160, within three years preceding the date of application;

(7) The applicant has not been convicted of two or more moving traffic violations, as defined in WAC 308-104-160, within one year preceding the date of application;

(8) No driver's license suspension, cancellation, revocation, disqualification, or denial within three years preceding the date of application;

(9) Maintain or be employed by a business or agency in which driver testing records would be maintained and available to the state or federal representatives for announced or unannounced inspections and audits;

(10) Be or be employed by a licensed business or government agency within the state of Washington or within ((~~fifty~~)) 50 miles of state boundaries;

(11) Submit to announced or unannounced audits;

(12) Attend all training required by the department of licensing;

(13) Must test a minimum of ((~~ten~~)) 10 different applicants per calendar year or at the discretion of the department, complete recertification requirements; and

(14) Failure to maintain the above qualifications will result in the termination of a third-party examiner.