

Addendum to the Initial Statement of Reasons

Title 13, Division 1, Chapter 1

Article 2.4 – Driver Safety

The Department of Motor Vehicles (department) proposes to further amend Sections 115.01, 115.2, 115.04, 115.06, 115.08, 115.10, and 115.11 in Article 2.4, related to driver safety hearings.

Amendments are being made to Article 2.4 in response to change made to Government Code section 11440.20 that allows for the service of hearing documents to be transmitted electronically and amended Government Code section 11440.30 to allow a hearing officer, in circumstances where a party objects to a hearing being conducted electronically, to structure the hearing in a manner that addresses the party's specific objections.

The department published the originally proposed text on January 5, 2024 in the California Regulatory Notice Register. The department also made the proposed regulatory text available on its website, in its field offices, and through email to interested parties. The department is making further amendments to the proposed text that includes substantive and non-substantive amendments to ensure each provision is clear to affected parties.

§ 115.01. Definitions

Subsection (b) is amended to remove the 's' at the end of the definition and make the definition of "Hearing Officer" singular.

Subsection (c) is amended to insert parentheses around the word "Party."

Subsections (c)(1) and (2) are amended to capitalize the first letter of the sentence.

§ 115.02. Public Observation.

Subsection (b)(2) is amended for clarity by separating each reason for which attendance could be restricted by adopting subsections (b)(2)(A) through (C). The requirements are unchanged, however, the subsection is clearer with the addition of the three subsections.

Subsection (b)(2)(C) is amended to remove the words "due to" and, instead, add the word "The."

§ 115.04. Hearing Requests and Late Hearing Requests.

Subsection (a)(1)(C) is amended to remove the word 'and' at the end of the subsection.

Subsection (a)(1)(D) is amended to remove a comma and replace with a semi-colon and to add the word 'and' at the end of the subsection.

§ 115.06. Electronic Service.

Section 115.06 is amended to add the words "as consented to by the person requesting electronic service."

§ 115.08. Discovery Requests.

Section 115.08 is amended to make non-substantive edits by adding a comma after the words “Government Code” and removing a comma after the word “and.”

§ 115.10. Hearings.

Subsection (a)(2)(D) is amended to remove the word ‘may’ and replace with the word ‘shall.’ The use of the word ‘may’ causes the potential exclusion of evidence to be discretionary. To ensure clarity, the department determined that the use of the word “shall” would ensure a fair hearing process.

§ 115.11. Motions.

Subsections (c) and (c)(1) are amended to restructure the sentence for clarity.

Subsection (c)(1) is amended for clarity. As originally proposed, subsection (c)(1) established that a motion that is not served orally on the record or in writing, served on the hearing officer either in person or by mail will not be accepted and will be denied. This text could have been confusing as it both said a motion will not be accepted and will be denied. This section is revised to make clear that a motion that was not served in compliance with subsection (c) will not be accepted for filing and d will not be considered.

Subsection (c)(2) is amended to remove a hyphen between the words ‘in’ and ‘person.’

Subsection (d) is amended to remove existing text. The originally proposed text large portions of existing text subsection (d) was inadvertently omitted. That language is added, but is also being removed due to lack of necessity. The amendments make clear that oral arguments shall be made on the record. The method by which oral argument is made, whether in person or through electronic means, is immaterial.

§ 115.13. Motion for a Continuance of Hearing.

Subsection (d)(2) is amended to add reference to subsection (d)(1). Subsection (d) allows a motion for continuance to be made and filed within 10 business days following the time a party discovered a conflict, event, or occurrence. Subsection (b)(1) establishes that a motion for continuance will not be granted if it is made more than 10 days following the time the party discovered the conflict. However, the department wanted to allow parties to establish extenuating circumstances where the notice requirements in subsection (d) could not be met. For clarity, the department is adding a citation back to subsection (d)(1), as it relates to a motion for continuance not being granted.

§ 115.14. Hearing Officer Disqualification.

Subsection (a) is amended to remove the originally proposed word “themselves” and replace with “themselves.”