



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)

Do NOT use for expedited rule making

Agency: Department of Licensing

Subject of possible rule making: Significant decisions in driver license cases.

Statutes authorizing the agency to adopt rules on this subject: RCW 46.01.110 and 34.05.220.

Reasons why rules on this subject may be needed and what they might accomplish: The Department of Licensing (DOL) provides administrative hearings for drivers facing various types of license suspension and revocation. With 18 hearings examiners, there is a risk that decisions on reoccurring legal issues can be divergent and inconsistent. DOL is seeking to develop a process for nominating, selecting and indexing hearing examiners' decisions that are significant and resolve a question about reoccurring legal issues or statutes under DOL's authority. A significant decision would give guidance to the attorneys and the public on the way in which DOL interprets the law and exercises its discretion.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Internal review and stakeholder input.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:
(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Clark J. Holloway
Department of Licensing
PO Box 9020
Olympia, Washington 98507-9020
(360) 902-3846
cholloway@dol.wa.gov

DATE:
October 18, 2016

NAME (TYPE OR PRINT)
Damon Monroe

SIGNATURE
Damon Monroe

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 18, 2016
TIME: 11:38 AM

WSR 16-21-083

DRAFT

NEW SECTION

WAC 308-104-350 Significant decisions in driver license cases.

(1) The department will use the process outlined in this section to nominate, select, and index significant decisions in the following types of adjudicative proceedings related to a sanction of the driving privilege:

- (a) The implied consent law (RCW 46.20.308);
- (b) The financial responsibility law (chapter 46.29 RCW);
- (c) The habitual traffic offender law (chapter 46.65 RCW);
- (d) The Uniform Commercial Driver's License Act (chapter 46.25 RCW);

(e) Any formal hearing affecting the driving privilege conducted pursuant to the provisions of RCW 46.20.329 through 46.20.333.

(2) For the purposes of this section, a significant decision is a final order or a portion of a final order in an adjudicative proceeding that is of substantial importance to the department in carrying out its duties. Generally, an order is of substantial importance only if it analyzes and applies a statute or rule under the department's authority, demonstrates the department's reasoning as to a frequently recurring legal issue, provides a legal analysis or interpretation not found in existing case law, or applies settled law to unusual facts.

(3) Any person may nominate a final adjudicative order to be evaluated for indexing by completing an Order Index Nomination Request Form. The form can be obtained from the department's web site at www.dol.wa.gov and returned to the Hearings and Interviews Unit, P.O. Box 9031, Olympia, WA 98507-9031, along with a copy of the nominated order.

(4) The director or director's designee shall make a final decision as to whether to select the nominated order as a significant decision based on the criteria in subsection (2) of this section, and that decision is not appealable.

(5) A decision that has been selected by the director as significant shall be maintained in a separate index. The index shall at a minimum contain a description of the type of document, name of parties, brief description of the legal subjects and pertinent legal citation. A copy of the index and a copy of the significant decision will be made available on the department's web site at www.dol.wa.gov. The general public records index maintained under WAC 308-10-067 will contain a reference to the specific location and identification of significant decision index and copies of the significant decisions.

(6) The department shall periodically update and review the index to verify that the indexed documents continue to meet the criteria in subsection (2) of this section. The department may, at any time, delete a document from an index. Under RCW 42.56.070(6), a significant decision may not be cited in a proceeding if it has not been indexed.

(7) An indexed significant decision is binding authority in an administrative proceeding described in subsection (1) of this section.