

WAC 326-08-110 Initial order. (1) Within ninety days after the conclusion of a full adjudicative proceeding or after submission of memos, briefs, or proposed findings that the administrative law judge may allow after the adjudicative proceeding, the administrative law judge shall prepare an initial order for signature by the director.

(2) The initial order shall include a statement of findings and conclusions and the reasons and basis on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction. Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. Findings set forth in language that is essentially a repetition or paraphrase of the relevant provision of law shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings. The initial order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(3) Findings of fact shall be based exclusively on the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based on the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in a civil trial. However, the administrative law judge shall not base a finding exclusively on such inadmissible evidence unless the administrative law judge determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the order.

(4) Where it bears on the issues presented, the experience, technical competency, and specialized knowledge of the office may be used in the evaluation of evidence.

(5) If an administrative law judge becomes unavailable for any reason before the entry of the order, a substitute administrative law judge shall be appointed by the office of administrative hearings. The substitute administrative law judge shall use any existing record and may conduct any further proceedings appropriate in the interests of justice. Any action taken by a duly appointed administrative law judge for an unavailable administrative law judge is as effective as if taken by the unavailable administrative law judge.

(6) The administrative law judge shall cause to be served copies of the order on all parties.

[Statutory Authority: RCW 39.19.030. WSR 11-11-030, § 326-08-110, filed 5/11/11, effective 6/11/11. Statutory Authority: RCW 39.19.030(7). WSR 92-15-077, § 326-08-110, filed 7/16/92, effective 8/16/92. Statutory Authority: Chapter 39.19 RCW. WSR 84-09-002 (Order 84-5), § 326-08-110, filed 4/5/84.]