



**RULE-MAKING ORDER**  
(RCW 34.05.360)

**CR-103** (10/1/89)

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|---|--|
| Agency: <b>OFFICE OF THE ATTORNEY GENERAL</b>   | <input checked="" type="checkbox"/> Permanent Rule<br><input type="checkbox"/> Emergency Rule  |
| (1) Date of adoption: <b>December 13, 1990</b>  |  |
| (2) Purpose:<br><b>To establish procedures for Attorney General fining authority, RCW 19.118.090</b>  |  |
| (3) Citation of existing rules affected by this order:<br>Repealed:<br>Amended: <b>WAC 44-10-300; WAC 44-10-310</b><br>Suspended:   |  |
| (4) Authority for adoption:<br>Statute: <b>RCW 19.118.080, RCW 19.118.090 (7)</b><br>Other Authority:   |  |
| (5.1) <b>PERMANENT RULE ONLY</b><br>Pursuant to notice filed as WSR <u>90-22-089</u> on <u>November 7, 1990</u> (date).<br>Describe any changes other than editing from proposed to adopted version:  |  |
| (5.2) <b>EMERGENCY RULE ONLY</b><br>Pursuant to RCW 34.05.350 the agency for good cause finds:<br><input type="checkbox"/> (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.<br><input type="checkbox"/> (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.<br><br>Reasons for this finding: |  |
| (5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, explain:  |  |
| (6) Effective date of rule:<br><b>Permanent Rules</b><br><input checked="" type="checkbox"/> 31 days after filing<br><input type="checkbox"/> Other (specify) _____ *<br><small>*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)</small>  | <b>CODE REVISER USE ONLY</b><br><br>CODE REVISER'S OFFICE<br>STATE OF WASHINGTON<br>FILED<br><br><b>DEC 31 1990</b><br><br>TIME: <u>10:30</u> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">PM</span><br>WSR <u>91-02-080</u> |
| NAME (TYPE OR PRINT)<br><b>KENNETH O. EIKENBERRY</b>  |  |
| SIGNATURE<br><i>Kenneth O. Eikenberry</i>   |  |
| TITLE<br><b>ATTORNEY GENERAL</b>  | DATE<br><b>12/27/90</b>  |

AMENDATORY SECTION (Amending Order 89-1, filed 2/24/89)

WAC 44-10-300 IMPOSITION OF FINE FOR MANUFACTURER NONCOMPLIANCE WITH AN ARBITRATION DECISION.

(1) Pursuant to RCW 19.118.090, the attorney general (~~shall~~) may impose a fine against a manufacturer if, after forty calendar days from the manufacturer's receipt of notice of consumer's acceptance of an arbitration decision, the manufacturer has not complied with the decision. Notice of the imposition of fine shall be to the manufacturer by certified mail or personal service.

(2) The attorney general (~~shall~~) may impose a fine against the manufacturer for noncompliance according to the following schedule for each day after the forty day calendar period:

|                         |                    |
|-------------------------|--------------------|
| DAYS 1 THROUGH 10.....  | \$ 300.00 PER DAY  |
| DAYS 11 THROUGH 20..... | \$ 500.00 PER DAY  |
| DAYS 21 THROUGH 30..... | \$ 700.00 PER DAY  |
| DAYS 31 AND ON.....     | \$ 1000.00 PER DAY |

The foregoing fines shall accrue until the manufacturer complies or until one hundred thousand dollars has accrued, whichever occurs first.

AMENDATORY SECTION (Amending Order 89-1, filed 2/24/89)

WAC 44-10-310 REQUEST FOR REVIEW OF IMPOSITION OF FINE.

(1) The manufacturer shall have ten days from the date of receipt of notice of imposition of fine to request a review of imposition of fine by the attorney general. The manufacturer's request for review of imposition of fine shall be in writing and shall state the reasons for the manufacturer's noncompliance with the arbitrator's decision within the forty calendar day period.

(2) Upon receipt of a request for review of imposition of fine, the attorney general shall have ten days to conduct a review.

(3) The review shall be limited to determining whether the manufacturer has shown by clear and convincing evidence that any delay or failure of the manufacturer to comply within forty calendar days following the manufacturer's receipt of notice of consumer's acceptance was beyond the manufacturer's control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. No other issues shall be considered in the review.

(4) The attorney general shall issue a written review determination which shall be delivered to the manufacturer by certified mail or personal service.

(5) If the attorney general determines that the manufacturer's noncompliance was beyond the manufacturer's control or was acceptable to the consumer as evidenced by a written statement from the consumer, the imposition of fine shall be rescinded. The

imposition of fine shall be affirmed by the attorney general where the manufacturer has failed to show clear and convincing evidence as required by WAC 44-10-310(3). If the imposition of fine is affirmed, the manufacturer shall be liable for a fine according to the schedule specified in WAC 44-10-300(2) including all days during the pendency of review under this section and until compliance with the arbitrator's decision or until one hundred thousand dollars has accrued, whichever comes first.

(6) If a fine is rescinded under WAC 44-10-310 the attorney general shall impose a fine against a manufacturer where a manufacturer fails to comply with the agreement between the manufacturer and the consumer, or when the manufacturer fails to comply immediately after the circumstances no longer exist which made compliance beyond the control of the manufacturer. Notice of such fine shall be by certified mail or personnel service to the manufacturer and shall be imposed according to the schedule in WAC 44-10-300(2), and imposition of such fine may be appealed by the manufacturer under WAC 44-10-310.

~~((7) The imposition of a fine by the attorney general under this section may be appealed by the manufacturer to superior court.))~~