

fields of government, business and education, and to aid Asian-Pacific Americans in obtaining governmental services in order to promote the health, safety and welfare of all residents of this state. The duties and responsibilities of the commission are more particularly described in chapter 43.117 RCW. The twelve members of the commission are appointed by the governor.

(2) All basic policy decisions are made by the commission at its regular and special meetings. To assist in policy formulation, and to otherwise assist in carrying out its various duties and responsibilities, the commission has an executive director, appointed by the governor based on commission recommendations, a staff hired by the executive director, and two standing committees comprised of commission members. The committees are:

(a) The executive committee, which is responsible for reviewing major news releases and other information designed to increase the public's knowledge of the commission or Asian-Pacific Americans, and for conducting certain commission business and for undertaking specific tasks delegated by the commission;

(b) The nominations committee, which is responsible for developing and implementing procedures by which to recommend commission and executive director appointees, and for such other tasks as may be delegated by the commission; and

Other committees may be formed at any time by [the] commission for the purpose of addressing various issues affecting Asian-Pacific Americans.

(3) The commission maintains a central administrative office at 1515 South Cherry, Olympia, Washington[,] 98504, and a field office at 110 Prefontaine Pl. S., Suite 202, Seattle, Washington, 98104.

[Statutory Authority: RCW 43.117.050(2), 88-21-003 (Order 88-1), § 34-02-010, filed 10/6/88. Statutory Authority: RCW 42.17.250, 42.17.260 and 42.30.070. 82-20-015 (Order 82-1), § 34-02-010, filed 9/28/82.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

Chapter 34-04 WAC
PUBLIC RECORDS

WAC
34-04-120 Adoption of form.

WAC 34-04-120 Adoption of form. The commission hereby adopts for use by all persons requesting inspection or copying of its records, the form set out below, entitled "Request for public records."

We have received your request for copies of our public records. Please complete the attached form and return it with the proper payment to the address below. We will forward to you those requested copies which are not exempt from disclosure when we receive this form. Thank you.

Return to:

Commission on Asian-American Affairs
c/o Executive Director
1515 South Cherry
Olympia, WA 98504

or

110 Prefontaine Pl. S., #202
Seattle, WA 98104

REQUEST FOR PUBLIC RECORDS

Date \_\_\_\_\_ Time \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Description of Records

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

I certify that the information obtained through this request for public records will not be used for commercial purposes.

Signature

Number of copies \_\_\_\_\_
Number of pages \_\_\_\_\_
Per page charge \$.25
Total charge \$\_\_\_\_\_

[Statutory Authority: RCW 43.117.050(2), 88-21-003 (Order 88-1), § 34-04-120, filed 10/6/88. Statutory Authority: RCW 42.17.250, 42.17.260 and 42.30.070. 82-20-015 (Order 82-1), § 34-04-120, filed 9/28/82.]

Title 44 WAC
ATTORNEY GENERAL'S OFFICE

Chapter
44-10 Arbitration and the arbitration process.

Chapter 44-10 WAC
ARBITRATION AND THE ARBITRATION
PROCESS

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**WAC 44-10-010 Definitions.** Terms, when used in this chapter, shall have the same meaning as terms used in chapter 19.118 RCW. The following definitions shall supplement or aid in the interpretation of the definitions set forth in chapter 19.118 RCW.

(1) The phrase "arbitration service" means the agency, firm, board, organization, individual or other entity selected by the attorney general through a request for proposal to conduct the arbitrations provided under chapter 19.118 RCW.

(2) The phrase "arbitration special master" means the individual or group of individuals selected by the arbitration service to hear and decide special issues brought before the arbitration service by the parties.

(3) The terms "attorney general" or "attorney general's office" means the person duly elected to serve as attorney general of the state of Washington and delegates authorized to act on his or her behalf.

(4) The term "person" includes every natural person, firm, partnership, corporation, association, or organization.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-010, filed 12/22/87.]

**WAC 44-10-030 Arbitration requests.** A consumer must submit a completed request for arbitration form with copies of supporting documentation to the Attorney General's Office, Lemon Law Administration in Seattle, in order to apply for the new motor vehicle arbitration process. The request for arbitration form will be supplied, upon request, by the attorney general's office.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-030, filed 12/22/87.]

**WAC 44-10-035 Arbitration requests—Forty day written request to replace or repurchase vehicle.** A consumer may file a request for arbitration any time after having sent the manufacturer a written request to replace or repurchase the new motor vehicle pursuant to RCW 19.118.041(1). However, no arbitration hearing shall be conducted before the manufacturer has had forty calendar days to comply with the consumer's written request.

[Statutory Authority: RCW 19.118.061 and 19.118.080. 88-19-064 (Order 88-8), § 44-10-035, filed 9/16/88.]

**WAC 44-10-040 Attorney general screening of arbitration requests.** (1) A submitted request for arbitration form shall be date stamped upon receipt by the attorney general.

(2) The attorney general will screen the request for arbitration form and supporting documentation to determine if the request is timely, complete and complies with the jurisdictional requirements of chapter 19.118 RCW.

(a) A request will be considered timely if it is received within thirty months from the date of original delivery of the new motor vehicle to the original consumer.

(b) If a request is not timely or does not comply with the jurisdictional requirements of chapter 19.118 RCW the attorney general will reject the request and then notify the consumer of the reason for the rejection.

(c) A request will be considered complete if the information required by the request form is provided in full or if the consumer can provide a reasonable explanation to the attorney general why any supporting documentation may be absent.

(d) If a request is not complete, the attorney general will notify the consumer of any procedures or information required to complete the request.

(3) If the attorney general finds that a request is not complete, the statute of limitations, for purposes of chapter 19.118 RCW, will resume running two business days after the date the attorney general mails notice of incompleteness to the consumer.

(4) A consumer request that is based on a problem which does not manifest itself, is intermittent or unconfirmed shall not preclude an attorney general finding of jurisdiction for purposes of initial screening. However, this section shall not preclude a party from raising jurisdictional issues at the arbitration hearing or subsequent court proceedings.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-040, filed 2/3/88.]

**WAC 44-10-050 Assignment to arbitration service.**

(1) After initial screening by the attorney general, all timely and complete request for arbitration forms which have met the jurisdictional requirements of chapter 19.118 RCW shall be date stamped upon approval by the attorney general and forwarded to the arbitration service which will date stamp the request upon receipt.

(2) The arbitration service must determine if it will accept the request for arbitration or reject the request for arbitration, for the reasons set forth in RCW 19.118.090, within three business days after the attorney general has forwarded the request for arbitration to the arbitration service.

(3) The arbitration service shall date stamp the request for arbitration immediately upon acceptance of the request. The acceptance of the request shall commence the running of the thirty calendar day period in which a hearing must be conducted.

(4) Upon acceptance of a request, the arbitration service shall immediately send a notice of arbitration to the consumer and manufacturer of its acceptance by certified mail/return receipt requested and shall inform the

parties that a hearing shall be held within thirty calendar days. The parties shall be sent formal notice of the actual hearing date by certified mail/return receipt requested, at least ten calendar days before the hearing. The manufacturer shall be sent a copy of the consumer's request and a manufacturer's statement form with the notice of arbitration.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-050, filed 2/3/88; 88-01-093 (Order 87-4), § 44-10-050, filed 12/22/87.]

**WAC 44-10-055 Composition of arbitration panel.**

(1) Upon acceptance of the consumer's request for arbitration, the arbitration service shall inform the consumer and the manufacturer that the hearing will be conducted by an arbitrator appointed by the arbitration service unless either party requests that the hearing be conducted by a three member panel. Such request must be in writing and received by the arbitration service within five business days of the date the party received the notice of arbitration. The three member panel shall be appointed by the arbitration service and may include an automotive technical expert.

(2) The three member panel shall be subject to the provisions of WAC 44-10-170 and 44-10-180.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-055, filed 2/3/88.]

**WAC 44-10-060 Powers and duties of arbitration special master.** (1) One or more arbitration special masters shall be appointed by the arbitration service to hear and decide preliminary and post-hearing issues that must be resolved, including but not limited to; motions to quash subpoenas, motions for telephone conference hearings, requests for continuances, requests to view the vehicle. The arbitration special master may conduct telephonic conferences with a party or parties, as appropriate, and may request additional written information in order to rule on issues.

(2) Arbitration special masters shall sign a written oath prior to their appointment as arbitration special master attesting to their impartiality. There shall be no ex parte communication initiated by a party between such party and the arbitration special master.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-060, filed 2/3/88.]

**WAC 44-10-070 Manufacturer's statement.** (1) The manufacturer shall be required, on a form prescribed by the attorney general, to provide information relevant to the resolution of the dispute to the consumer and arbitration service. The manufacturer shall ensure that the completed manufacturer's statement form is received by the arbitration service and consumer within ten calendar days from the date of receipt of the notice of arbitration. The manufacturer's statement form shall be completely answered and shall include, but not be limited to, the following information:

(a) A statement of any affirmative defenses, and any legal or factual issues to be raised at the hearing. Any

issues or affirmative defenses not raised in documents filed prior to the hearing may not be raised at the hearing; except as provided in WAC 44-10-080(6).

(b) The name, title, and business address of any person(s) the manufacturer plans to call as witnesses or from whom affidavits or written testimony will be presented;

(c) A statement identifying the year, make, model, options, color and any other significant information pertaining to the vehicle or vehicles it intends to offer as a reasonably equivalent replacement vehicle if the consumer prevails and requests replacement. If the manufacturer believes in good faith that replacement is impossible or unreasonable, the manufacturer must raise such issue in its statement.

(2) The manufacturer must exercise its right to request a viewing of the consumer's motor vehicle by including a request to view the vehicle in the manufacturer's statement.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-070, filed 2/3/88.]

**WAC 44-10-080 Manufacturer's right to request a viewing of motor vehicle.** (1) A manufacturer may request a viewing of the vehicle to aid in preparation of its defense. Such request must be indicated in the manufacturer's statement.

(2) The manufacturer and the consumer shall attempt to arrange a mutually agreeable time and location for such viewing. If after reasonable good faith attempts to arrange a viewing, a mutually agreeable time and location is not established, the manufacturer may request from the arbitration service that a arbitration special master set a time and location for viewing.

(3) The arbitration special master, upon such request, shall establish a time and location for viewing that is reasonably convenient for the parties. The location may be the consumer's residence if other locations are not reasonably convenient for the parties. The consumer must be present during the viewing, unless the consumer expressly waives in writing the right to be present.

(4) The viewing is not meant to be another attempt to repair the vehicle and no repair procedures shall be conducted.

(5) The manufacturer may perform limited nonrepair diagnostic examinations and inspection procedures, such as test driving the vehicle or attaching a testing device to the vehicle. The results of any diagnostic procedures or data gathered as a result of such procedures shall be supplied to the consumer as soon as it is available.

(6) If the viewing of the vehicle reveals any affirmative defenses or legal or factual issues not previously raised in the manufacturer's statement or consumer's request for arbitration, either party may file amendments to their pleadings within three business days of the viewing, or, no later than three business days prior to the hearing date, whichever is earlier.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-080, filed 2/3/88.]

**WAC 44-10-090 Arbitration fee.** (1) A five dollar arbitration fee shall be collected by the new motor vehicle dealer from the consumer at completion of the sale, except that such fee shall not be collected in the following instances:

(a) Where the consumer is a business purchasing the new motor vehicle as part of a fleet of ten or more vehicles from the same new motor vehicle dealer at the same time for the direct use by the consumer in the consumer's business;

(b) Where the new motor vehicle is a moped, a motorcycle or a truck with nineteen thousand pounds or more gross weight;

(c) Where the sale is between a new motor vehicle dealer and another new motor vehicle dealer both of which have valid written agreements for the sale and service of vehicles with the same manufacturer.

(2) Upon collection of the arbitration fee by the new motor vehicle dealer, the arbitration fee shall be forwarded to the department of licensing with the assigned certificate of ownership and application for title.

(3) For purposes of this rule:

(a) "Consumer" shall include any person, association, company, corporation or business entity.

(b) "Fleet" shall not include ten or more vehicles purchased by a consumer who has executed a lease agreement as lessor or intends to solicit a lease agreement as lessor of any such vehicles.

(c) "Lease agreement" shall not include a rental agreement executed in the normal course of the consumer's business.

[Statutory Authority: RCW 19.118.080(7), 87-23-030 (Order 87-2), § 44-10-090, filed 11/13/87.]

**WAC 44-10-100 Subpoenas.** (1) A subpoena issued by the attorney general, pursuant to chapter 19.118 RCW, shall identify the party causing the issuance of the subpoena, designate that the subpoena is issued by the attorney general pursuant to RCW 19.118.080, state the purpose of the proceeding and shall command the person to whom it is directed to produce designated books, documents, or things under his or her control at the time and place set in the subpoena.

(2) A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the person, or by giving a copy of the subpoena, or by leaving such copy at the place of his or her abode. When service is made by any other person than an office authorized to serve process, proof of service shall be made by affidavit.

(3) A person to whom a subpoena is directed may move to quash the subpoena. The motion to quash must be accompanied by a short memorandum or statement setting forth the foundation for the motion. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed (and upon notice to the party by whom the subpoena was issued) the arbitration special master may quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter at issue.

(4) Any objection to the production of evidence shall be treated as a motion to quash to be decided by the arbitration special master.

(5) If a person fails to obey a subpoena, upheld by the arbitration special master, the attorney general may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask for an order of the court to compel the production of relevant evidence for the arbitration hearing. The court upon such petition shall enter an order directing the person to appear before the court at a time and place to be fixed in such order and then and there to show cause why the person has not responded to the subpoena or has refused to comply. A copy of the order shall be served upon the person. If it appears to the court that the subpoena was properly issued and upheld by the arbitration special master, the court shall enter an order that the person appear at the time and place fixed in the order and produce the required evidence, and on failing to obey said order the person shall be dealt with as for contempt of court.

(6) The arbitration service shall have three business days from the receipt of the manufacturer's statement to determine whether to submit a request from itself or the parties, to the attorney general to issue a subpoena for the production of evidence. The person subject to the subpoena must comply or submit a motion to quash before the arbitration special master within five business days of receipt of the subpoena. The arbitration special master shall have five business days to hear and rule on a motion to quash. If the arbitration special master upholds a subpoena the person shall have five business days to comply with the subpoena. If the person does not comply the attorney general may bring a show cause motion in superior court.

[Statutory Authority: RCW 19.118.080 (2) and (7), 88-01-093 (Order 87-4), § 44-10-100, filed 12/22/87.]

**WAC 44-10-110 Scheduling of arbitration hearings.** The arbitration service has the authority to schedule, at its discretion, the arbitration hearing and shall notify both parties of the date, time and place by certified letter mailed at least ten calendar days prior to the hearing. Hearings may be scheduled during business hours, Monday through Thursday evenings, or Saturdays.

[Statutory Authority: RCW 19.118.080 (2) and (7), 88-04-081 (Order 88-2), § 44-10-110, filed 2/3/88.]

**WAC 44-10-120 Withdrawal.** (1) A consumer may withdraw a request for arbitration at any time;

(a) A withdrawal requested at least three business days prior to the scheduled hearing shall be granted without prejudice, although upon withdrawal, the thirty month statute of limitations shall resume running. A consumer who has withdrawn may resubmit the claim for arbitration. However, if the consumer withdraws the second request, the withdrawal shall be considered a

withdrawal with prejudice, with the same effect as a withdrawal under WAC 44-10-120 (1)(b).

(b) A withdrawal requested less than three business days prior to the scheduled hearing shall be granted with prejudice and the consumer shall not be allowed to re-submit the claim for arbitration.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-120, filed 12/22/87.]

**WAC 44-10-130 Defaults.** (1) A party who fails to appear at the arbitration hearing will be considered in default.

(2) If a manufacturer defaults the arbitrator shall hold the hearing. The arbitrator shall make a decision based on the evidence presented by the consumer, and any files or documentation contained in the record.

(3) If the consumer defaults it shall be considered a withdrawal with prejudice of the claim for arbitration. The hearing shall be canceled if the consumer defaults.

(4) The default shall be final unless within twenty-four hours of the hearing time, the manufacturer or consumer contacts the arbitration service to request that the default be set aside. The request shall include evidence of an unforeseeable circumstance that resulted in the failure of the party to appear. Such request shall be considered by the arbitration special master who will hear arguments from both parties on the request to set aside the default. Arguments may be conducted via telephone conference call. If the arbitration special master sets aside the default a new hearing shall be scheduled within ten calendar days of the original hearing date, and the parties shall be informed of the new date and time at least five business days prior to the hearing date.

(5) If both parties default, the disposition of the case shall be handled as if only the consumer defaulted pursuant to WAC 44-10-130(3).

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-130, filed 2/3/88.]

**WAC 44-10-140 Representation by counsel.** (1) Any party to the arbitration hearing may be represented by counsel. If either party opts to be so represented, said party shall immediately notify the arbitration service and the other party of the name and address of the attorney.

(2) The consumer may be represented by himself or herself or by legal counsel, but may not be represented by a nonattorney. However, a person, acting as an interpreter, may assist a party in the presentation of the case if such assistance is necessary because of a mental or physical handicap or language barrier which would preclude the party from adequately representing himself or herself pro se.

(3) A manufacturer may be represented by legal counsel or an appointed representative or agent of the manufacturer.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-140, filed 12/22/87.]

**WAC 44-10-150 Predecision settlement of dispute.** (1) One or both of the parties shall notify the arbitration

service and attorney general if the dispute is settled at any time after the request for arbitration is received and before the decision is rendered. The attorney general shall verify the terms of the settlement to which the parties have agreed. The disclosure of terms is for statutorily required record keeping only. The settlement is not subject to approval by the arbitration service or the attorney general.

(2) Notice of settlement shall be treated procedurally as if the consumer had withdrawn from the arbitration process, as set forth in WAC 44-10-120.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-150, filed 12/22/87.]

**WAC 44-10-160 Use of technical expert.** (1) An adequate pool of automotive technical experts shall be maintained by the arbitration service for assignment as advisors and consultants to each arbitrator if such services are deemed necessary.

(2) Either party may request that a technical expert be assigned to a dispute. Such assignment, however, shall be at the discretion of the arbitrator or the arbitration service. The arbitrator or the arbitration service may upon their own volition assign a technical expert to a dispute. If a technical expert is assigned to a dispute, and intends to perform an inspection of the vehicle prior to the hearing, a notice of the time, date and location of the technical expert's inspection of the vehicle will be provided to both parties. This section does not confer a right, for either party, to be present during the inspection of the vehicle, however, either party may be present. Any request for a technical expert must be made within a time frame that will allow for reasonable inspection by the expert.

(3) Said expert may be present as advisor and consultant at the arbitration hearing, if he or she has been requested to be present by the arbitrator or arbitration service.

(4) The expert shall sign a written oath attesting to his or her impartiality prior to the commencement of each arbitration hearing to which he or she has been assigned.

[Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-160, filed 2/3/88.]

**WAC 44-10-165 Technical expert prehearing inspection report.** (1) In the event a technical expert is assigned to a dispute and conducts an inspection of the vehicle prior to hearing per WAC 44-10-160(2), any written report or results of such inspection shall be supplied to the parties as soon as it is available.

(2) In the event a technical expert conducts an inspection of the vehicle prior to hearing, said technical expert shall be present at the hearing or shall be available by telephone at the time of hearing, and may be examined by either party or the arbitrator.

[Statutory Authority: RCW 19.118.061 and 19.118.080. 88-09-063 (Order 88-4), § 44-10-165, filed 4/20/88.]

**WAC 44-10-170 Powers and duties of arbitrators.** (1) Arbitrators shall have the duty to conduct fair and

impartial hearings, to take all necessary actions to avoid delay in the disposition of proceedings, to maintain order, and to meet the sixty day time frame required by RCW 19.118.090 for the rendering of a decision. They shall have all powers necessary to meet these ends including, but not limited to, the power:

(a) To consider any and all evidence offered by the parties which the arbitrator deems necessary to an understanding and determination of the dispute;

(b) To request the attorney general to issue subpoenas to compel the production of documents, records, and things relevant to the dispute;

(c) To regulate the course of the hearings and the conduct of the parties, their representatives and witnesses;

(d) To schedule vehicle inspection by the technical experts, if deemed necessary, at such time and place as the arbitrator determines;

(e) To continue the arbitration hearing to a subsequent date if, at the initial hearing, the arbitrator determines that additional information is necessary in order for said arbitrator to render a fair and accurate decision. Such continuance shall be held within ten calendar days of the initial hearing.

(2) Arbitrators shall maintain their impartiality throughout the course of the arbitration proceedings.

(a) An arbitrator shall sign a written oath prior to the commencement of each arbitration hearing to which he or she has been assigned, attesting to his or her impartiality in that case.

(b) There shall be no direct communication between the parties and the arbitrators other than at the arbitration hearing. Any other oral or written communications between the parties and the arbitrators shall be channeled through the arbitration service for transmittal to the appropriate arbitrator. Any such prohibited contact shall be reported by the arbitrators to the arbitration service and noted in the case record.

[Statutory Authority: RCW 19.118.080 (2) and (7), 88-01-093 (Order 87-4), § 44-10-170, filed 12/22/87.]

**WAC 44-10-180 The arbitration hearing.** (1) The conduct of the hearing shall encourage a full and complete disclosure of the facts.

(2) Arbitrators may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Either party, at the hearing or any time prior, may request that the arbitrator examine or ride in the vehicle. The arbitrator shall comply with such requests unless the arbitrator determines that such examination or ride is not reasonably practical, not reasonably safe, or not relevant to the issues to be considered at the hearing. Such determination shall be set forth in the arbitration decision.

(3) The consumer shall present his or her evidence and witnesses, then the manufacturer shall present its evidence and witnesses.

(4) Each party may question the other after each presentation, and may question each witness after testimony. The arbitrator may question any party or witness at any time.

(5) The arbitrator shall ensure that a record of the hearing is maintained,

(6) The arbitrator shall administer an oath or affirmation to each individual who testifies.

(7) The hearing procedure contemplates that both parties will be present. However, either party may offer written testimony only, as long as the arbitration service and the other party are informed of such and are in receipt of that evidence prior to the day of the hearing.

(8) A party may request presentation of its case by telephone. Such request must demonstrate that it is unreasonable to require the requesting person to attend the hearing in person. The request shall be directed to the arbitration service and will be decided by the arbitration special master. If such request is granted the arbitration service shall immediately notify the other party. In such cases, the party requesting the telephonic hearing shall pay all costs associated therewith, including but not limited to, costs for long distance calls, conference calls, and rental of telephone amplification equipment.

(9) The arbitration service shall assign arbitrators to the pending cases. The choice of arbitrators is not subject to the approval of either party.

(10) Arbitrators must not have a personal interest in the outcome of any hearing, nor be acquainted with any of the participants except as such acquaintance may occur in the hearing process, nor hold any prejudice toward any party. Arbitrators shall have no current connection to the sale or manufacturer of motor vehicles.

[Statutory Authority: RCW 19.118.080 (2) and (7), 88-04-081 (Order 88-2), § 44-10-180, filed 2/3/88.]

**WAC 44-10-200 The arbitration decision.** (1) The arbitrator shall send, by certified mail, a decision in each case within sixty calendar days of the notice of arbitration:

(a) All decisions shall be in writing, dated and signed by the arbitrator, and sent to both parties and the attorney general;

(b) The date of mailing of the arbitration decision shall determine compliance with the sixty day requirement.

(c) The written decision shall contain findings of fact and a conclusion as to whether the motor vehicle meets the statutory standards for refund or replacement;

(i) If the consumer prevails and has elected repurchase of the vehicle, the decision shall include the calculations used to determine the monetary award as set forth in RCW 19.118.090, 19.118.041 and 19.118.021;

(ii) If the consumer prevails and has elected replacement of the vehicle, the decision shall include the information used to identify a reasonably equivalent replacement vehicle and the costs associated with such vehicle and a description of the vehicle as set forth in RCW 19.118.090, 19.118.041 and 19.118.021;

(iii) If the consumer prevails, the decision shall include provisions for the return of the vehicle upon compliance by the manufacturer at a reasonable time and place.

(2) Included with the copy of the arbitration decision sent to the consumer shall be a form to be completed by said consumer, indicating acceptance or rejection of the decision. The consumer must return said form to the arbitration service within thirty calendar days from the date of the consumer's receipt of said notice. If the consumer has not responded within thirty days, the attorney general's office shall send a second notice requesting response and informing the consumer that failure to respond within thirty days of receipt of the second notice shall be deemed a rejection of the arbitration decision.

(3) If the consumer rejects the decision, the arbitration service shall forward general information to the consumer explaining the consumer's right to appeal the decision to superior court. A form shall be included with the information, and if the consumer files an appeal, the consumer will be requested to return the form to the attorney general indicating the cause number and county of the filing.

(4) If the consumer accepts the decision, the arbitration service shall send a notice of acceptance by certified mail to the manufacturer. A manufacturer's intent form shall also be sent. The intent form shall be returned by the manufacturer within thirty calendar days, of the manufacturer's receipt of notice of consumer's acceptance, to the attorney general and shall indicate whether the manufacturer intends to comply with the decision or appeal the decision to superior court.

(5) A verification of compliance form shall be sent to the consumer by the attorney general's office. The verification of compliance form shall be completed and returned to the attorney general by the consumer upon the manufacturer's compliance with the decision.

(6) After forty calendar days from the date of the notice of acceptance to the manufacturer, the attorney general shall determine whether the manufacturer has complied with the arbitration decision or appealed to superior court. If the manufacturer has not complied or appealed, the attorney general may impose fines authorized by RCW 19.118.090. Information regarding the manufacturer's right to contest the fines shall be provided by the attorney general.

[Statutory Authority: RCW 19.118.080 (2) and (7), 88-04-081 (Order 88-2), § 44-10-200, filed 2/3/88.]

**WAC 44-10-210 Technical corrections.** (1) The arbitration service or the attorney general may make "technical corrections" to an arbitrator's decision. "Technical corrections" shall generally be defined as computational corrections, typographical corrections, or other minor corrections.

(2) A party may submit to the arbitration service a request for technical corrections, in writing, setting forth the requested correction(s) and reason(s). Such request must be received by the arbitration service within ten calendar days of the mailing of the arbitrator's written decision.

[Statutory Authority: RCW 19.118.080 (2) and (7), 88-04-081 (Order 88-2), § 44-10-210, filed 2/3/88.]

**WAC 44-10-215 Receipt of resale information.** The manufacturer, shall receive, with the notice of acceptance, a "Lemon Law resale notice," consumer disclosure form and an out-of-state disposition postcard.

[Statutory Authority: RCW 19.118.061 and 19.118.080, 88-09-064 (Order 88-5), § 44-10-215, filed 4/20/88.]

**WAC 44-10-220 Resale of motor vehicle determined or adjudicated as having a serious safety defect.** (1) Resale of a motor vehicle in the state of Washington, pursuant to RCW 19.118.061(1), must conform to the following procedures:

(a) A manufacturer, its agent or motor vehicle dealer to whom a motor vehicle with a serious safety defect is returned, shall affix a "Lemon Law resale notice" to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law resale notice" will set forth that the vehicle was determined to have a serious safety defect and the specific serious safety defect(s) shall be enumerated. The "Lemon Law resale notice" shall be supplied by the attorney general's office. The "Lemon Law resale notice" may only be removed by the manufacturer, its agent or motor vehicle dealer upon receipt of a signed copy of the consumer disclosure form.

(b) The consumer disclosure form sets forth the specific serious safety defect found in the motor vehicle. The motor vehicle dealer shall ensure that the purchaser of a motor vehicle signs the consumer disclosure form and that a signed copy is delivered to the attorney general's office. The purchaser shall receive a copy of the signed disclosure form.

(c) The manufacturer must ensure that a copy of the signed certificate of correction and warranty is received by the motor vehicle dealer that is to sell the vehicle, the vehicle service division of the Washington state department of licensing and the state attorney general's office. Upon sale of the vehicle, the motor vehicle dealer shall provide a copy of the certificate of correction and warranty to the consumer.

(2)(a) If a manufacturer delivers a motor vehicle that has been found to have a serious safety defect under the Lemon Law, to a motor vehicle dealer outside of Washington state, the manufacturer shall fill out an out of state disposition postcard indicating the vehicle identification number and the destination state, and send the postcard to the attorney general's office.

(b) If a motor vehicle dealer in Washington state has received, for purposes of resale, a motor vehicle that has been found to have a serious safety defect, and such dealer sells, delivers or disposes of such vehicle outside of Washington state, the motor vehicle dealer shall fill out an out of state disposition postcard indicating the vehicle identification number and destination state, and send the postcard to the attorney general's office.

[Statutory Authority: RCW 19.118.061 and 19.118.080, 88-13-039 (Order 88-7), § 44-10-220, filed 6/9/88.]



**WAC 44-10-230 Resale of motor vehicle determined or adjudicated as having a nonconformity.** (1) Resale of a motor vehicle in the state of Washington, pursuant to RCW 19.118.061(3) and 19.118.061(4), must conform to the following procedures:

(a) A manufacturer, its agent or motor vehicle dealer to whom a motor vehicle with a nonconformity is returned shall affix a "Lemon Law resale notice" to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law resale notice" will set forth that the vehicle was determined to have a nonconformity and the specific nonconformity(ies) shall be enumerated. The "Lemon Law resale notice" shall be supplied by the attorney general's office. The "Lemon Law resale notice" may only be removed by the manufacturer, its agent or motor vehicle dealer upon receipt of a signed copy of the consumer disclosure form.

(b) The consumer disclosure form sets forth the specific nonconformity found in the motor vehicle. The motor vehicle dealer shall ensure that the purchaser of a motor vehicle signs the consumer disclosure form and that a signed copy is delivered to the attorney general's office. The purchaser shall receive a copy of the signed disclosure form.

(c) The manufacturer, if it chooses to have the nonconformity corrected, must ensure that a copy of the signed certificate of correction and warranty is received by the motor vehicle dealer that is to sell the vehicle, the vehicle services division of the Washington state department of licensing and attorney general's office. Upon sale of the vehicle, the motor vehicle dealer shall provide a copy of the certificate of correction and warranty to the consumer.

(2)(a) If a manufacturer delivers a motor vehicle that has been found to have a nonconformity under the Lemon Law, to a motor vehicle dealer outside of Washington state, the manufacturer shall fill out an out of state disposition postcard indicating the vehicle identification number and the destination state, and send the postcard to the attorney general's office.

(b) If a motor vehicle dealer in Washington state has received, for purposes of resale, a motor vehicle that has been found to have a nonconformity, and such dealer sells, delivers or disposes of such vehicle outside of Washington state, the motor vehicle dealer shall fill out an out of state disposition postcard indicating the vehicle identification number and destination state, and send the postcard to the attorney general's office.

[Statutory Authority: RCW 19.118.061 and 19.118.080. 88-13-039 (Order 88-7), § 44-10-230, filed 6/9/88.]

**WAC 44-10-240 Warranty period for certificate of correction and warranty.** Any warranty of a correction of a defect issued pursuant to the provisions of RCW 19.118.061 shall be for the duration of one year from the date of resale or an additional twelve thousand miles from the date of resale, whichever occurs first.

[Statutory Authority: RCW 19.118.061 and 19.118.080. 88-09-064 (Order 88-5), § 44-10-240, filed 4/20/88.]

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## Title 50 WAC BANKING, DIVISION OF

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- 50-20 Industrial loan companies.
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### Chapter 50-12 WAC BANKS AND TRUST COMPANIES

#### WAC

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- 50-12-115 Investment securities—Proper management.
- 50-12-116 Investment securities—Investment in investment companies.
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**WAC 50-12-110 Investment securities—Permissible investments.** A bank or trust company may purchase or hold obligations of a single obligor which are "investment securities," as defined below, and meet the following guidelines for proper "investment security" management. The term "investment security" shall mean a marketable obligation evidencing indebtedness of any person, copartnership, association, or corporation; of the government of the United States or any agency thereof; of any state, or political subdivision thereof; or of any publicly-owned entity that is an instrumentality of a state or municipal corporation in the form of bonds, notes, and/or debentures. They exclude investments which are predominately speculative but shall include:

(1) Type I securities which a bank may deal in, purchase, and sell for its own account without limitation. These securities include:

- (a) Obligations of the United States;
- (b) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans;

(c) General obligations of a state or political subdivision including but not limited to obligations of a county, city, town, municipal corporation, or any publicly-owned entity that is an instrumentality of a state or municipal corporation;