WAC 162-08-294 Claims of self incrimination—Immunity. (1) **How claimed.** A natural person who is testifying under oath, may, instead of answering a question, decline to answer the question on the ground that the testimony or evidence required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture.

(2) **Procedure before compelling testimony.** Before compelling testimony after the privilege against self incrimination has been invoked (and thereby exempting the witness from prosecution) the administrative law judge shall ask examining counsel and also counsel for the commission to state their positions on whether the witness should be ordered to answer. Counsel for the commission may ask that the ruling be deferred for such time as is necessary for counsel for the commission to consult with other public officers before responding. The position of counsel for the commission and other public officers shall be given due weight by the administrative law judge in deciding whether to order the witness to answer.

(3) **Inference from silence after immunity acquired.** If the witness declines to answer the question after acquiring exemption from prosecution, the administrative law judge may consider the silence as evidence and may draw such inferences from it as are warranted by the facts surrounding the incident.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-020, § 162-08-294, filed 11/7/89, effective 12/8/89; Order 35, § 162-08-294, filed 9/2/77.]