



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/23/95)

Agency: Washington Attorney General

- Permanent Rule**
- Emergency Rule**
- Expedited Repeal**

(1) Date of adoption: January 12, 1996

(2) Purpose: Accomplish reasoned and predictable procedures for the administration of: The Lemon Law program; dispute mechanism; compliance with arbitration awards; and enforcement of statutory disclosures upon resale.

(3) Citation of existing rules affected by this order:
Repealed: WAC 44-10-165; 220; 230; 320
Amended: WAC 44-10-010; 030; 040; 050; 060; 070; 080; 090; 100; 110; 120; 130; 140; 150; 160; 170; 180;
Suspended: 200; 210; 300; 310

(4) Statutory authority for adoption: RCW 19.118.080(2) and (7), RCW 19.118.061, § 4 Ch. 254, Laws 1995
Other authority:

PERMANENT RULE ONLY
Adopted under notice filed as WSR 95-21-004 7523-099 on November 21, 1995 (date).
Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY
Under RCW 34.05.350 the agency for good cause finds:
 (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.
 (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.
Reasons for this finding:

EXPEDITED REPEAL ONLY
Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption of effectiveness of rule?
 Yes No If Yes, explain:

(6) Effective date of rule:
Permanent Rules
 31 days after filing
 Other (specify) 1/22/96
*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)
Emergency Rules
 Immediately
 Later (specify) _____

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED
JAN 24 1996
TIME: 11:40 AM
WSR 96-03-155

NAME (TYPE OR PRINT)
Christine O. Gregoire
SIGNATURE
Christine O. Gregoire
TITLE Attorney General **DATE** 1/22/96

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted* state statutes:	New	<u>3</u>	Amended	<u>6</u>	Repealed	<u>7</u>

*(current calendar year)

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	<u>5</u>	Amended	<u>21</u>	Repealed	<u>4</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>5</u>	Amended	<u>21</u>	Repealed	<u>4</u>
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

AMENDATORY SECTION (Amending WSR 92-11-037, filed 5/18/92)

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))~~ (1) The phrase "arbitration special master" means the individual or group of individuals selected by the ~~((arbitration service))~~ board to hear and decide special issues timely brought before the ~~((arbitration service))~~ board by the parties.

~~((3))~~ (2) 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.

(3) The phrase "intervening transferor" means any person or entity which receives, buys or otherwise transfers the returned new motor vehicle prior to the first retail transfer, sale or lease subsequent to being repurchased or replaced by the manufacturer.

(4) The phrase "Lemon Law resale documents" refers to the following:

(a) "Lemon Law Resale Windshield Display" means a document created and provided by the attorney general which identifies that: (i) the vehicle was reacquired by the manufacturer after a determination or adjudication of a dispute; (ii) the vehicle has one or more nonconformities or serious safety defects, or was out-of-service thirty or more days due to diagnosis or repair of one or more nonconformities; and (iii) the defects or conditions causing the vehicle to be reacquired by the manufacturer.

(b) "Lemon Law Resale Disclosure": means a document created and provided by the attorney general which identifies that: (i) the vehicle was reacquired by the manufacturer after a settlement, determination or adjudication of a dispute; (ii) the vehicle has one or more nonconformities or serious safety defects, or was out-of-service thirty or more days due to diagnosis or repair of one or more nonconformities; and (iii) the defects or conditions causing the vehicle to be reacquired by the manufacturer.

(c) "Notice of Correction and Warranty" means a document created and provided by the attorney general which identifies each nonconformity or serious safety defect which was the basis of the settlement, determination or adjudication of the dispute. The document will provide space for the manufacturer to indicate whether each nonconformity or serious safety defect has been corrected and is warranted by the manufacturer.

(d) "Notice of out-of-state disposition of a reacquired vehicle" refers to a document created and provided by the attorney general which requires the manufacturer, agent or dealer to identify the destination state and the dealer, auction, other person or entity to whom the manufacturer sells or otherwise transfers the reacquired vehicle when the vehicle is taken to another state for any disposition, including: resale, transfer or

destruction.

~~((4))~~ (5) The term "person" includes every natural person, firm, partnership, corporation, association, or organization.

(6) "Settlement" means the resolution of a dispute, under chapter 19.118 RCW, between the consumer and manufacturer after the New Motor Vehicle Arbitration Board has accepted the consumer's request for arbitration and which results in the manufacturer reacquiring the new motor vehicle directly or indirectly through an agent or a motor vehicle dealer.

(7) "Similar law of another state" refers to the law of another state which creates remedies for a manufacturer's failure to conform a vehicle to its warranty and under which the vehicle was reacquired by the manufacturer.

~~((5) "Subsequent transferee" means a consumer that acquires a new motor vehicle and any remaining warranty coverage during the applicable manufacturer's written warranty period.)~~

[Statutory Authority: RCW 19.118.080 and 19.118.090. 92-11-037, § 44-10-010, filed 5/18/92, effective 6/18/92. Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-010, filed 12/22/87.]

NEW SECTION

WAC 44-10-020 Designation of manufacturer contract. (1) A new motor vehicle manufacturer shall submit, in writing, to the Attorney General's Office, Lemon Law Administration the name, address and telephone number of an individual designated by the manufacturer to receive notices related to the arbitration program, service of subpoenas, and other correspondence from the attorney general related to the manufacturer's duties and responsibilities set forth in chapter 19.118 RCW.

(2) Where a manufacturer's production or distribution system is accomplished through more than one division or region, the manufacturer may designate an individual for a division or region for the purpose of receiving notices related to the arbitration program, service of subpoenas, and other correspondence from the attorney general related to the manufacturer's duties and responsibilities set forth in chapter 19.118 RCW.

(3) The manufacturer is responsible for providing written notice to the attorney general of its replacement of the designated individual or changes to the related address and telephone number.

(4) If no individual is designated or an insufficient address is provided all notices shall be sent to the corporate headquarters of the manufacturer.

[]

AMENDATORY SECTION (Amending Order 87-4, 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 or in the Attorney General's Office in Spokane, 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.]

NEW SECTION

WAC 44-10-031 Effect of request for arbitration filing. (1) A request for arbitration is deemed to have been received within the thirty month limitation identified in RCW 19.118.090(2), if it: (a) is received by the Office of the Attorney General within thirty months from the date of original delivery of the new motor vehicle to a consumer at retail; and (b) identifies the consumer and the new motor vehicle which is the subject of the requested arbitration.

(2) If the attorney general finds that a request is not complete, the thirty month limitation will resume running three business days after the date the attorney general mails notice of incompleteness to the consumer.

[]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

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.))~~ After a request for arbitration has been received, the attorney general shall review the form for completeness.

(2) The attorney general will screen the request for arbitration ~~((form))~~ and supporting documentation to determine ~~((if))~~ whether the request ~~((is))~~ appears timely, complete and ~~((complies))~~ to comply with the jurisdictional requirements of chapter 19.118 RCW. ~~((The date of screening shall be recorded in the request for arbitration file.))~~

~~((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 at retail.))~~

~~((b))~~ (a) If a request ~~((is not timely))~~ appears to be untimely or ~~((does))~~ not in compliance ~~((empty))~~ with the jurisdictional requirements of chapter 19.118 RCW the attorney general will reject the request for arbitration and ~~((then))~~ notify the consumer of the reason for the rejection.

~~((e))~~ (b) A request will be considered complete if the information required by the request form is provided in full or if the consumer ~~((can))~~ provides a reasonable explanation for the absence of ~~((to the attorney general why))~~ any supporting documentation ~~((may be absent))~~.

~~((d))~~ (c) 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))~~ (3) 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))~~ determination of the appearance 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 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-040, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-040, filed 2/3/88.]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-050 Assignment to ~~((arbitration service))~~ board.

(1) After initial screening by the attorney general, all ~~((timely and complete))~~ requests for arbitration which appear to be timely, complete and to have met the jurisdictional requirements of chapter 19.118 RCW shall be assigned ~~((by the attorney general))~~ to the ~~((arbitration service))~~ board which will record the date it receives the assignment ~~((of receipt))~~ in the request for arbitration file.

(2) The ~~((arbitration service))~~ board 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))~~ board.

(3) The ~~((arbitration service))~~ board shall record the date of acceptance or rejection of the request for arbitration. The acceptance of the request shall commence the running of the forty-five calendar day period in which a hearing must be conducted.

(4) Upon acceptance of a request, the (~~(arbitration service)~~) board shall immediately send a notice of acceptance for 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 forty-five 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 designated manufacturer contact shall be sent a copy of the consumer's request and a manufacturer's statement form with the notice of (~~(arbitration)~~) acceptance.

[Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-050, filed 7/24/89, effective 8/24/89. 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.]

AMENDATORY SECTION (Amending WSR 92-11-037, filed 5/18/92)

WAC 44-10-060 Powers and duties of arbitration special master. (1) An arbitration special master may be appointed by the arbitration board to hear and decide preliminary and post-hearing issues which are within the arbitration board's authority. Requests for an arbitration special master may be made to the board by either party (~~(, jointly or by the arbitration service)~~). (~~(However, no arbitration special master may be appointed after the arbitration decision unless requested within twenty (20) days after the date of mailing of the arbitration decision or by the date the manufacturer receives the notice of acceptance from the arbitration service, whichever occurs first.)~~) Post-hearing arbitration special masters shall not resolve matters previously presented in the arbitration hearing and addressed in the arbitration decision, or extend the time for compliance beyond the time necessary to hear and notify the parties of a decision about the issues in dispute or requiring clarification.

(2) Issues which may be decided by the arbitration special master include but are not limited to: Motions to quash subpoenas, (~~(motions for telephone conference hearings, requests for continuances,)~~) disputes related to requests to view the vehicle, requests to set aside default determinations, ((resolution of factual)) disputes relating to ((effecting)) an arbitration award including specification of the award amounts which could not have been or were not resolved at the arbitration hearing or matters necessary for compliance with the arbitration decision such as: time and place for compliance, condition of the vehicle to be returned, clarification or recalculation of refund amounts or a determination that an offered vehicle is reasonably equivalent to the vehicle being replaced. 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.

(3) An arbitration special master shall not extend the forty day period during which the manufacturer must comply with the arbitration decision except where the arbitration special master makes a finding that:

(a) the dispute could not have been brought to the board allowing sufficient time to conclude compliance within the forty day compliance period; and

(b) the manufacturer's position in the dispute is supported by the special master's decision.

~~((3))~~ (4) 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 with an arbitration special master.

[Statutory Authority: RCW 19.118.080 and 19.118.090. 92-11-037, § 44-10-060, filed 5/18/92, effective 6/18/92. Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-060, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-060, filed 2/3/88.]

AMENDATORY SECTION (Amending Order 88-2, 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))~~ board on a form created by the attorney general. ~~((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))~~ be excluded or limited by the arbitrator 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))~~ option 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.]

AMENDATORY SECTION (Amending Order 88-2, filed 2/3/88)

WAC 44-10-080 Manufacturer's (~~right~~) option 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~~) The request for a viewing of the vehicle 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~~) board 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.]

AMENDATORY SECTION (Amending WSR 90-19-024, filed 9/11/90)

WAC 44-10-090 Arbitration fee. (1) A (~~five~~) three dollar arbitration fee shall be collected by the new motor vehicle dealer or lease company from the consumer at completion of the sale or lease (~~agreement~~) of a new motor vehicle. (~~except that such~~) No fee shall (~~not~~) be collected where the purchase, lease or transfer is made to a party other than a consumer. (~~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, motorcycle which has an engine displacement of less than 750 cubic centimeters or a truck with nineteen thousand pounds or more gross vehicle weight rating;~~

~~(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 and 19.118.090. 90-19-024, § 44-10-090, filed 9/11/90, effective 10/12/90. Statutory Authority: RCW 19.118.080(7). 87-23-030 (Order 87-2), § 44-10-090, filed 11/13/87.]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-100 Subpoenas. (1) A party's request for a subpoena must be received by the arbitration board no later than fourteen calendar days prior to the arbitration hearing date. The board shall make a determination of whether the documents and records sought by the party are reasonably related to the dispute and notify the attorney general of the request within two (2) business days of receiving the request.

~~((1))~~ (2) 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 at the time and place set in the subpoena the designated documents or records under his or her control.

~~((2))~~ (3) ~~((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.)~~ Service of the subpoena may be made by certified mail, return receipt requested or by overnight express delivery.

~~((3))~~ (4) A person to whom a subpoena is directed may ~~((move to quash the subpoena))~~ submit a request to suspend or limit the terms of the subpoena to the board before the time specified in the subpoena for compliance. The ~~((motion to quash))~~ request must be accompanied by a short ~~((memorandum or))~~ statement setting forth the ~~((foundation))~~ basis for the ((motion)) request. Upon ~~((motion))~~ requests made to the board, the board shall notify the party who requested the subpoena. The board shall immediately assign the request to be heard at the arbitration hearing or before an arbitration special master who may suspend or modify the subpoena. ((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 who requested the subpoena, 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 nonparty fails to comply with a subpoena and upon an arbitrator finding that without such compliance there is insufficient evidence to render a decision in the dispute, the attorney general shall enforce such subpoena in superior court and the arbitrator shall continue the arbitration hearing until such time as the nonparty complies with the subpoena or the subpoena is quashed. The attorney general shall 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, 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) If a party fails to comply with the subpoena, the arbitrator may, at the outset of the arbitration hearing, impose any of the following sanctions:~~

~~(a) Find that the matters which were the subject of the subpoena, or any other designated facts, shall be taken to be established for purposes of the hearing in accordance with the claim of the party which requested the subpoena;~~

~~(b) Refuse to allow the disobedient party to support or oppose the designated claims or defenses, or prohibit that party from~~

~~introducing designated matters into evidence,
(c) Strike claims or defenses, or parts thereof; or
(d) Render a decision by default against the disobedient party.)~~

~~((7)) ((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.))~~

(5) A party or nonparty subject to the subpoena must comply or submit a ((motion to quash before the arbitration special master)) request to suspend or limit the subpoena within five business days of receipt of the subpoena. The request shall be heard within ((The arbitration special master shall have)) five business days to hear and rule on the request ((a motion to quash)). ((If the arbitration special master upholds a subpoena the party or nonparty shall have five business days to comply with the subpoena.))

(6) Where the arbitration special master upholds or modifies the subpoena, the responding person or party shall comply with the date set in the subpoena or within five business days, whichever is greater.

[Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-100, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-100, filed 12/22/87.]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-110 Scheduling of arbitration hearings. The ~~((arbitration service))~~ board has the authority to schedule the arbitration hearing at its discretion and shall notify the 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. If for any reason an arbitration hearing must be rescheduled, the board shall promptly notify the parties by mail or telephone.

[Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-110, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-110, filed 2/3/88.]

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

WAC 44-10-120 Withdrawal. A consumer may withdraw a request for arbitration at any time.

A withdrawal shall be granted without prejudice, although upon notice to the board of withdrawal, the thirty month ~~((statute of~~

~~limitations~~) period in which the consumer must submit a request for arbitration 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 and the consumer shall not be allowed to resubmit the claim for arbitration.

[Statutory Authority: RCW 19.118.080, 89-06-026 (Order 89-2), § 44-10-120, filed 2/24/89. Statutory Authority: RCW 19.118.080 (2) and (7), 88-01-093 (Order 87-4), § 44-10-120, filed 12/22/87.]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

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 including the manufacturer's statement and other evidence or documentation submitted by the manufacturer.

(3) If the consumer defaults it shall be considered a withdrawal with prejudice of the ~~((claim))~~ request 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))~~ board 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 which 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 19.118.061, 19.118.080 and 19.118.090, 89-16-024 (Order 89-4), § 44-10-130, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7), 88-04-081 (Order 88-2), § 44-10-130, filed 2/3/88.]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-140 Representation ~~((by counsel))~~ of parties. (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))~~ board 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.

(3) A manufacturer may be represented by legal counsel, authorized employee ~~((or designated representative))~~ or agent.

[Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-140, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-140, filed 12/22/87.]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-150 ((Predecision)) ((s))Settlement of dispute.

(1) Both parties shall notify the board ~~((arbitration service and attorney general if the dispute is settled))~~ of a resolution or settlement of the dispute after the request for arbitration has been accepted by the arbitration board. The attorney general shall verify the terms of the settlement or resolution. ~~((to which the parties have agreed.))~~ The disclosure of terms is for statutorily required record keeping only. The settlement or agreement to otherwise resolve the dispute is not subject to approval by the ~~((arbitration service))~~ board or the attorney general.

(2) Notice of settlement or agreement to resolve the dispute 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 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-150, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-150, filed 12/22/87.]

AMENDATORY SECTION (Amending WSR 90-19-024, filed 9/11/90)

WAC 44-10-160 Use of technical expert. (1) An adequate pool of automotive and motorcycle technical experts shall be maintained by the ~~((arbitration service))~~ board. A technical expert is assigned by the board to advise and consult with an ~~((for assignment as advisors and consultants to each))~~ arbitrator ~~((if such services are deemed necessary))~~. Technical experts shall not

be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle.

(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))~~ board. The ~~((arbitrator or the arbitration service))~~ board may upon their own volition assign a technical expert to a dispute. ~~((Any request for a technical expert must be made within a time frame that will allow for reasonable inspection by the expert.))~~

(3) If a technical expert is assigned to a dispute, and ~~((intends))~~ is requested by the arbitrator to perform an inspection of the vehicle, other than as part of the arbitration hearing ~~((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 written report or results of the expert's inspection shall be supplied to the parties as soon as it is available. The 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.

~~((4) 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.))~~

~~((5))~~ (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 and 19.118.090. 90-19-024, § 44-10-160, filed 9/11/90, effective 10/12/90. Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-160, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-160, filed 2/3/88.]

REPEALER

WAC 44-10-165 Technical expert prehearing inspection report.

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

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 regulate the course of the hearings and the conduct of the parties, their representatives and witnesses;

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

(d) 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;

(e) To impose sanctions (~~or to continue a hearing~~) for failure of a party (~~or nonparty~~) to comply with a subpoena pursuant to (~~WAC 44-10-100~~) RCW 19.118.080 (2)(b).

(2) The board shall maintain an adequate pool of trained arbitrators and is responsible for the assignment of arbitrators to arbitration hearings. The selection and assignment of arbitrators is not subject to the approval of either party.

((+2)) (3) 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 not be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle. 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~~) board. Any prohibited contact shall be reported by the arbitrators to the (~~arbitration service~~) board and noted in the case record.

[Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-170, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-01-093 (Order 87-4), § 44-10-170, filed 12/22/87.]

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

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. ~~((A 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.))~~

(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 tape recording 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))~~ board 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 party 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 not be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle.))~~

[Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-180, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-

AMENDATORY SECTION (Amending WSR 90-19-024, filed 9/11/90)

WAC 44-10-200 The arbitration decision. (1) The arbitration board shall send the decision to the parties in each case within sixty calendar days of acceptance of the request for arbitration:

(a) All decisions shall be written, in a form to be provided by the attorney general, dated and signed by the arbitrator, and sent by certified mail to ~~((both))~~ the parties ~~((and the attorney general))~~;

(b) The date of mailing of the arbitration decision shall determine compliance with the sixty day requirement to issue an arbitration decision;

(c) The written decision shall contain findings of fact and conclusions of law 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 statutory 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 or describe a reasonably equivalent replacement vehicle and ~~((the))~~ any refundable incidental 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;~~

~~((iv))~~ (iii) If the consumer prevails and the manufacturer is represented by counsel, the decision shall include a description of the awarded reasonable costs and attorneys' fees incurred by the consumer in connection with board proceedings.

Reasonable costs and attorneys' fees shall be determined by the arbitrator based on an affidavit of costs and fees prepared by the consumer's attorney and submitted no later than the conclusion of the arbitration hearing. The affidavit may be amended for post-hearing costs and fees ~~((by the consumer's attorney within thirty days of the consumer's acceptance of the decision but in no case after a manufacturer's compliance with a decision))~~. The amended affidavit of costs and fees must be delivered to the manufacturer's designated representative by certified mail or personal service and a copy submitted to the arbitration board by the consumer's attorney within thirty days of the consumer's acceptance of the decision but in no case after a manufacturer's compliance with a decision.

(2) Included with the copy of the arbitration decision sent to the consumer shall be a form to be completed by ~~((said))~~ the consumer, indicating acceptance or rejection of the decision. The

board shall forward general information to the consumer explaining the consumer's right to appeal the decision to superior court. The consumer must return ((said)) the form to the ((arbitration service)) board within sixty calendar days from the date of the consumer's receipt of the decision. ((If the consumer has not responded within thirty days, the attorney general's office shall send a notice requesting a response and informing the consumer that failure to respond 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.))~~ The consumer shall have one hundred twenty calendar days from the date of the rejection of the decision to file a petition of appeal in superior court. At the time of filing an appeal, the consumer shall deliver by certified mail or by personal service a conformed copy of the petition to the attorney general.

(4) If the consumer accepts ((the)) a decision which awards repurchase or replacement, the ((arbitration service)) board shall send a copy of the form completed by the consumer indicating acceptance ((notice of acceptance)) by certified mail to the manufacturer and shall include a manufacturer's intent form. ~~((The intent form shall be returned to the attorney general by the manufacturer within thirty calendar days, of the manufacturer's receipt of notice of consumer's acceptance 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.))~~

[Statutory Authority: RCW 19.118.080 and 19.118.090. 90-19-024, § 44-10-200, filed 9/11/90, effective 10/12/90. Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090. 89-16-024 (Order 89-4), § 44-10-200, filed 7/24/89, effective 8/24/89. Statutory Authority: RCW 19.118.080 (2) and (7). 88-04-081 (Order 88-2), § 44-10-200, filed 2/3/88.]

AMENDATORY SECTION (Amending Order 88-2, filed 2/3/88)

WAC 44-10-210 Technical corrections. (1) The (~~arbitration service or the attorney general~~) board may make "technical corrections" to an (~~arbitrator's~~) arbitration 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~~) board a written request for technical corrections (~~(, in writing,)~~) setting forth the requested correction(s) and reason(s). Such request must be received by the (~~arbitration service~~) board 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.] *AKW*

NEW SECTION

WAC 44-10-221 Resale documents--Attorney general procedures.

(1) When a vehicle has been determined by the New Motor Vehicle Arbitration Board, or has been adjudicated in a superior or appellate court of this state, as having one or more nonconformities or serious safety defects that have been subject to a reasonable number of attempts by the manufacturer to conform the vehicle to the warranty:

(a) The attorney general will provide the manufacturer with the "Lemon Law resale documents" necessary to resell or otherwise transfer the vehicle together with instructions regarding compliance with RCW 19.118.061 and applicable rules;

(b) The attorney general will provide the manufacturer with the required documents by certified mail at the conclusion of the period pursuant to RCW 19.118.090(9) for a manufacturer to file an appeal or upon notice from the manufacturer of receipt of the vehicle, whichever occurs first.

(2) When a vehicle is the subject of a "settlement" under chapter 19.118 RCW:

(a) the attorney general will provide the manufacturer with the "Lemon Law resale documents" necessary to resell or otherwise transfer the vehicle together with instructions regarding compliance with the RCW 19.118.061 and applicable rules;

(b) The attorney general will provide the manufacturer with the required documents by certified mail upon notice of the settlement by the parties.

(3) When a vehicle is the subject of final determination, adjudication or settlement under a "similar law of another state":

(a) The attorney general will provide the manufacturer, agent, motor vehicle dealer or other transferor with the resale documents necessary to resell or otherwise transfer the vehicle together with instructions regarding compliance with this section;

(b) The attorney general will provide the manufacturer, agent,

motor vehicle dealer or other transferor with the resale documents by certified mail upon receiving a written request for Lemon Law resale documents, which includes a description of the defects or conditions causing the vehicle to be reacquired by the manufacturer.

[]

NEW SECTION

WAC 44-10-222 Manufacturer duties upon receipt of a returned vehicle. The manufacturer must:

(1) Notify the attorney general's office and the department of licensing upon receipt of the vehicle from the consumer due to a determination, adjudication or settlement pursuant to chapter 19.118 RCW and chapter 44-10 WAC.

(2) Attach the "Lemon Law Resale Windshield Display", as provided by the attorney general, to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of the vehicle.

(3) Correct and warrant a serious safety defect.

(4) Notify the attorney general's office and the department of licensing of correction of a nonconformity or serious safety defect and execute a "Notice of Correction and Warranty" as provided by the attorney general.

[]

NEW SECTION

WAC 44-10-223 Manufacturer, transferor and dealer duties prior to resale of a returned vehicle. After the manufacturer's receipt of a vehicle and prior to first subsequent retail transfer, sale or lease of a vehicle subject to the requirements of RCW 19.118.061:

(1) The manufacturer, agent or new motor vehicle dealer with actual knowledge of a determination, adjudication or settlement must deliver the Lemon Law resale documents with the vehicle to a wholesale or retail buyer, or transferor.

(2) The buyer or transferor should sign and date the acknowledgement of receipt of the Lemon Law resale documents on the "Lemon Law Resale Disclosure" in each wholesale transaction.

(3) An intervening transferor who receives the "Lemon Law Resale Disclosure" or "Notice of Correction and Warranty" is prohibited from transferring, selling, or leasing the vehicle without delivery of the "Lemon Law Resale Disclosure" and any

"Notice of Correction and Warranty" with the vehicle to the next transferor, purchaser or lessee.

(4) The "Lemon Law Resale Windshield Display" can only be removed by the first subsequent retail purchaser or lessee of the motor vehicle who has signed the Lemon Law Resale Disclosure form.

[]

REPEALER

WAC 44-10-220 Resale of motor vehicle determined or adjudicated as having a serious safety defect.

WAC 44-10-230 Resale of motor vehicle determined or adjudicated as having a nonconformity.

AMENDATORY SECTION (Amending WSR 91-02-080, filed 12/31/90)

WAC 44-10-300 Imposition of fine for manufacturer noncompliance with an arbitration decision. (1) Pursuant to RCW 19.118.090, the attorney general 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, notwithstanding any arbitration special master hearing or findings. Notice of the imposition of fine shall be to the manufacturer by certified mail or personal service.

(2) The attorney general 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.

[Statutory Authority: RCW 19.118.080 and 19.118.090(7). 91-02-080, § 44-10-300, filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 19.118.061 and 19.118.080. 89-06-025 (Order 89-1), § 44-10-300, filed 2/24/89.]

AMENDATORY SECTION (Amending WSR 91-02-080, filed 12/31/90)

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 or request additional information from the parties or other persons regarding manufacturer noncompliance.

(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(5) the attorney general (~~shall~~) may impose a fine against (~~a~~) the manufacturer where (~~a~~) the 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~~) is subject to review by the attorney general upon request of the manufacturer under WAC 44-10-310.

[Statutory Authority: RCW 19.118.080 and 19.118.090(7). 91-02-080, § 44-10-310, filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 19.118.061 and 19.118.080. 89-06-025 (Order 89-1), § 44-10-310, filed 2/24/89.] 222

REPEALER

WAC 44-10-320 Failure by the manufacturer to pay a fine.