

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. The manufacturer's request for review of imposition of fine shall be sent to the Lemon Law administration 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 Lemon Law administration 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 Lemon Law administration shall issue a written review determination which shall be delivered to the manufacturer by certified mail, email if requested by the manufacturer or personal service.

(5) If it is determined 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was acceptable to the consumer as evidenced by a written statement from the consumer, the imposition of fine shall be rescinded.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 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(6) If a fine is rescinded under WAC 44-10-310(5) the Lemon Law administration program manager may impose a fine against the manufacturer where the manufacturer fails to comply with the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, email if requested by the manufacturer or personal service to the manufacturer and shall be imposed according to the schedule in WAC 44-10-300(2), and imposition of such fine is subject to review by the Lemon Law administration upon request of the manufacturer under WAC 44-10-310.

[Statutory Authority: RCW 19.118.080(2) and 19.118.061. WSR 10-01-069, § 44-10-310, filed 12/11/09, effective 1/11/10; WSR 02-12-093, § 44-10-310, filed 6/4/02, effective 7/5/02. Statutory Authority: RCW 19.118.080 (2) and (7), 19.118.061 and 1995 c 254 § 4. WSR 96-03-155, § 44-10-310, filed 1/24/96, effective 2/24/96. Statutory Authority: RCW 19.118.080 and 19.118.090(7). WSR 91-02-080, § 44-10-310, filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 19.118.061 and 19.118.080. WSR 89-06-025 (Order 89-1), § 44-10-310, filed 2/24/89.]