

## Chapter 391-65 WAC

### GRIEVANCE ARBITRATION RULES

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#### WAC

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391-65-072 Special provision—Educational employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-072, filed 9/30/80, effective 11/1/80.]  
  
Repealed by WSR 15-06-003, filed 2/19/15, effective 3/22/15. Statutory Authority: RCW 41.58.050, 41.59.110, 28B.52.080.

391-65-073 Special provision—Academic employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-073, filed 9/30/80, effective 11/1/80.]  
  
Repealed by WSR 15-06-003, filed 2/19/15, effective 3/22/15. Statutory Authority: RCW 41.58.050, 41.59.110, 28B.52.080.

391-65-074 Special provisions—Marine employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050,

41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),

§ 391-65-074, filed 9/30/80, effective 11/1/80.]

Repealed by WSR 88-12-057 (Order 88-09), filed

5/31/88. Statutory Authority: RCW 28B.52.080,

41.58.050, 41.56.090 and 41.59.110.

391-65-094 Special provision—Marine employees. [Statutory

Authority: RCW 28B.52.080, 41.56.040, 41.58.050,

41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),

§ 391-65-094, filed 9/30/80, effective 11/1/80.]

Repealed by WSR 88-12-057 (Order 88-09), filed

5/31/88. Statutory Authority: RCW 28B.52.080,

41.58.050, 41.56.090 and 41.59.110.

391-65-500 Marine employees—Grievance arbitration. [Statutory

Authority: RCW 28B.52.080, 41.56.040, 41.58.050,

41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),

§ 391-65-500, filed 9/30/80, effective 11/1/80.]

Repealed by WSR 83-24-036 (Order 83-06), filed

12/1/83, effective 1/1/84. Statutory Authority: RCW

34.04.022, 41.58.050, 41.56.090, 41.59.110 and  
28B.52.080.

391-65-510 Marine employees—Intervention and consolidation of  
proceedings. [Statutory Authority: RCW 28B.52.080,  
41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR  
80-14-050 (Order 80-9), § 391-65-510, filed 9/30/80,  
effective 11/1/80.] Repealed by WSR 83-24-036 (Order  
83-06), filed 12/1/83, effective 1/1/84. Statutory  
Authority: RCW 34.04.022, 41.58.050, 41.56.090,  
41.59.110 and 28B.52.080.

391-65-515 Marine employees—Conduct of grievance arbitration  
proceedings. [Statutory Authority: RCW 28B.52.080,  
41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR  
80-14-050 (Order 80-9), § 391-65-515, filed 9/30/80,  
effective 11/1/80.] Repealed by WSR 83-24-036 (Order  
83-06), filed 12/1/83, effective 1/1/84. Statutory  
Authority: RCW 34.04.022, 41.58.050, 41.56.090,  
41.59.110 and 28B.52.080.

391-65-525 Marine employees—Hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-525, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-530 Marine employees—Order of proceedings and evidence. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-530, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-535 Marine employees—Arbitration in the absence of a party. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR

80-14-050 (Order 80-9), § 391-65-535, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-540 Marine employees—Closing of hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-540, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-545 Marine employees—Examiner decision. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-545, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed

12/1/83, effective 1/1/84. Statutory Authority: RCW  
34.04.022, 41.58.050, 41.56.090, 41.59.110 and  
28B.52.080.

391-65-550 Marine employees—Petition for review of examiner  
decision. [Statutory Authority: RCW 28B.52.080,  
41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR  
80-14-050 (Order 80-9), § 391-65-550, filed 9/30/80,  
effective 11/1/80.] Repealed by WSR 83-24-036 (Order  
83-06), filed 12/1/83, effective 1/1/84. Statutory  
Authority: RCW 34.04.022, 41.58.050, 41.56.090,  
41.59.110 and 28B.52.080.

391-65-555 Marine employees—Commission action. [Statutory  
Authority: RCW 28B.52.080, 41.56.040, 41.58.050,  
41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),  
§ 391-65-555, filed 9/30/80, effective 11/1/80.]  
Repealed by WSR 83-24-036 (Order 83-06), filed  
12/1/83, effective 1/1/84. Statutory Authority: RCW

34.04.022, 41.58.050, 41.56.090, 41.59.110 and  
28B.52.080.

391-65-560 Marine employees—Grievance arbitration remedies.

[Statutory Authority: RCW 28B.52.080, 41.56.040,  
41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050  
(Order 80-9), § 391-65-560, filed 9/30/80, effective  
11/1/80.] Repealed by WSR 83-24-036 (Order 83-06),  
filed 12/1/83, effective 1/1/84. Statutory  
Authority: RCW 34.04.022, 41.58.050, 41.56.090,  
41.59.110 and 28B.52.080.

~~Reviser's note: Chapter 15, Laws of 1983 recreates the marine employees' commission,  
Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that  
agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.~~

**WAC 391-65-001 Scope—Contents—Other rules.** This chapter  
governs proceedings ~~before the public employment relations~~  
~~commission~~ relating to arbitration of grievance disputes arising  
out of the interpretation or application of a collective  
bargaining agreement under all chapters of the Revised Code of



Washington (RCW) administered by the ~~commission~~agency. The ~~provisions of this chapter should be read in conjunction with the provisions of:~~

~~(1) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission, and which also replaces some provisions of chapter 10-08 WAC.~~

~~(2) Chapter 391-25 WAC, which regulates representation proceedings.~~

~~(3) Chapter 391-35 WAC, which regulates unit clarification proceedings and contains some well-established unit determination standards in a subchapter of rules beginning at WAC 391-35-300.~~

~~(4) Chapter 391-45 WAC, which regulates unfair labor practice proceedings.~~

~~(5) Chapter 391-55 WAC, which regulates the resolution of impasses in collective bargaining.~~

~~(6) Chapter 391-95 WAC, which regulates union security nonassociation proceedings.~~To the extent these rules of practice and procedure differ from the model rules in chapter 10-08 WAC

or this agency's general rules of practice and procedure in chapter 391-08 WAC, these special rules prevail.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060. WSR 03-03-064, § 391-65-001, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050. WSR 01-14-009, § 391-65-001, filed 6/22/01, effective 8/1/01; WSR 99-14-060, § 391-65-001, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-001, filed 9/30/80, effective 11/1/80.]

~~**WAC 391-65-002 Sequence and numbering of rules-Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:~~

~~(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections~~

~~numbered one digit greater than the general rule on that subject matter.~~

~~(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.~~

~~(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining Academic Personnel in Community Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.~~

~~(4) Special provisions relating to chapter 47.64 RCW (Marine employees-Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.~~

~~(5) Special provisions relating to chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.~~

~~(6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education)~~

~~are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.~~

~~(7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 12-05-066, § 391-65-002, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 10-20-172, § 391-65-002, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060. WSR 03-03-064, § 391-65-002, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 99-14-060, § 391-65-002, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-036 (Order 83-06), § 391-65-002, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-002, filed 9/30/80, effective 11/1/80.]~~

**WAC 391-65-010 Grievance arbitration request—Who may submitfile.** ~~Where there is an agreement~~If the parties agree to

arbitrate, a request for appointment of an arbitrator to hear and determine issues arising out of the interpretation or application of a collective bargaining agreement may be

~~submitted~~filed by the employer, the exclusive representative ~~or,~~ their agents, or by the parties jointly.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-010, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-010, filed 9/30/80, effective 11/1/80.]

**WAC 391-65-030 ~~Grievance arbitration~~ Request for grievance arbitration-Filing and service.** A request for appointment of a grievance arbitrator may be ~~made~~filed through the agency's online e-filing system, by email, or in writing ~~or by electronic telefacsimile transmission to~~the agency's Olympia office, as required by WAC 391-08-120 (1) and (2). ~~The request shall be on a form furnished by the commission or prepared by the party or parties submitting the request in conformance with WAC 391-65-050. The original request shall be submitted to the commission's Olympia office, as required by WAC 391-08-120(2).~~ If the request is not ~~submitted~~filed jointly, the party ~~submitting~~filing the

request shall serve a copy, ~~as required by WAC 391-08-120 (3) and (4),~~ on the other party to the collective bargaining agreement under which the dispute arises, as required by WAC 391-08-120 (3) and (4).

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-030, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.50.413 and 41.56.125. WSR 96-07-105, § 391-65-030, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-030, filed 9/30/80, effective 11/1/80.]

**WAC 391-65-050 ~~Grievance arbitration~~ Contents of request filing forms.** Each ~~request for appointment of a grievance arbitrator shall contain~~completed grievance arbitrator request filing form, whether obtained from the agency's website or through the agency's e-filing system, must include all of the following:

(1) Information identifying the parties to the dispute, including:

(a) The name, email address, mailing address, and telephone number of the employer and ~~the name, address and telephone number of its principal~~the employer's representative;

(b) The name, email address, mailing address, and telephone number of the employee organization and ~~the name, address and telephone number of its principal~~the employee organization's representative;

(c) ~~The employer's principal business;~~

~~(d)~~ A copy of the current or most recent applicable collective bargaining agreement; and

~~(e)~~ A general description of the employee job classification(s) in the bargaining unit ~~involved, specifying inclusions and exclusions;~~

~~(f) The number of employees in the bargaining unit;~~

~~(g) The agreement of the party or parties making the request to accept the decision of the arbitrator as final and binding; and~~

~~(h) The agreement of the party or parties making the request that there shall be no strike or lockout on the matters submitted to arbitration.~~

(2) Identification of the grievance to be resolved in arbitration.

(3) Designation of the request as:

(a) A request for appointment of a member of the agency staff as arbitrator; or

(b) A request for ~~the submission of~~ a list containing a specified number of names from the dispute resolution panel ~~created by~~ maintained by the agency under WAC 391-55-110.

(4) The name(s), signature(s), and, ~~if any,~~ title(s), if any, of the ~~representative(s) of the requesting party (parties),~~ and person(s) filing the request as well as the date(s) of the signature(s).

(5) Any other information requested in the grievance arbitrator request filing form found on the agency's website at [www.perc.wa.gov](http://www.perc.wa.gov) or as required through the agency's e-filing system.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-050, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.05.413 and 41.56.125. WSR 96-07-105, § 391-65-050, filed 3/20/96, effective 4/20/96.]



Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. WSR 88-12-057 (Order 88-09), § 391-65-050, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-050, filed 9/30/80, effective 11/1/80.]

**WAC 391-65-070 ~~Grievance arbitration~~ Appointment of staff**

**arbitrator.** ~~Upon concurrence of the parties or upon the submission of a joint request, a member of the agency staff shall be assigned as grievance arbitrator. The parties shall not be permitted to select a grievance arbitrator from a list of agency staff members, or to exercise a right of rejection on appointments made under this section; but may jointly express a preference for appointment of one or more staff members as their arbitrator, and their request shall be considered in making the assignment. Upon the submission of a request by one party for the appointment of a member of the agency staff as grievance arbitrator, the agency shall determine whether the other party to the collective bargaining agreement concurs in the appointment of a staff arbitrator. In the absence of concurrence, the agency shall notify the requesting party of the lack of concurrence and shall close the case if concurrence is~~

~~not provided within a reasonable time.~~A request for appointment of a member of the agency staff as arbitrator will result in the automatic appointment of an agency staff member. Alternatively, the parties may request a list of staff members available to serve as a grievance arbitrator, and an arbitrator must be selected under the procedures specified in WAC 391-55-120. In lieu of receiving a list, the parties may request that a specific member of the agency staff be assigned as the grievance arbitrator, subject to final determination by the executive director.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 00-14-048, § 391-65-070, filed 6/30/00, effective 8/1/00; WSR 99-14-060, § 391-65-070, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-070, filed 9/30/80, effective 11/1/80.]

~~**WAC 391-65-075 Special provision Marine employees.**~~

~~Grievance arbitration cases filed under chapter 47.64 RCW shall be mediated by agency staff under chapter 391-55 WAC. Absent settlement, the grievance arbitration proceeding may be~~

~~conducted by the marine employees' commission in a manner consistent with this chapter.~~

~~[Statutory Authority: RCW 41.58.050 and 41.58.065. WSR 12-05-066, § 391-65-075, filed 2/15/12, effective 3/17/12.]~~

**WAC 391-65-090 ~~Grievance arbitration~~ Designation of panel of arbitrators.** Upon the request of a party, the agency shall ~~furnish~~provide a list of ~~members of~~arbitrators from the dispute resolution panel in accordance with WAC 391-55-120(1). ~~Names shall be referred and an arbitrator shall be selected under~~ The parties must select an arbitrator under the procedures specified in WAC 391-55-120(2).

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-090, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-090, filed 9/30/80, effective 11/1/80.]

**WAC 391-65-110 ~~Grievance arbitration~~ Conduct of proceedings.** The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises, subject to the following:

(1) Arbitration cases handled by members of the agency staff ~~shall~~must be kept in the public files ~~of~~maintained by the agency.

(2) Except as provided in subsections (1) ~~and (2)~~ of this section, all arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" as last amended with approval of the Federal Mediation and Conciliation Service.

(3) Rulings, actions, and decisions issued by staff arbitrators under this chapter ~~shall~~are not ~~be~~ subject to appeal to the commission ~~or the marine employees' commission~~.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 12-05-066, § 391-65-110, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-65-110, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060 and 41.56.125. WSR 03-03-064, § 391-65-110, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-110, filed 7/1/99, effective 8/1/99; WSR 96-07-105, § 391-65-110, filed 3/20/96, effective 4/20/96. Statutory

Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-110, filed 9/30/80, effective 11/1/80.]

**WAC 391-65-130 ~~Grievance arbitration~~-Award.** Any arbitrator assigned or selected under this chapter for a dispute involving public employees shall, after sending the arbitration award to the parties, submit a copy to the executive director. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-130, filed 7/1/99, effective 8/1/99; WSR 96-07-105, § 391-65-130, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-130, filed 9/30/80, effective 11/1/80.]

**WAC 391-65-150 ~~Grievance arbitration~~-Expenses of arbitration.** Each party shall pay the expenses of presenting its own case and the expenses and fees of its arbitration panel member, if any, ~~of an arbitration panel~~. The expenses of witnesses ~~shall~~must be paid by the party producing them. The ~~commission~~agency shall pay the salary and expenses of a staff member assigned under WAC 391-65-070, but the ~~commission~~agency shall not pay any costs for recording ~~and~~/or transcription of proceedings, ~~r~~ or any other expenses of the proceedings. The

parties shall pay the fees and expenses of a dispute resolution panel member selected under WAC 391-65-090, as provided in WAC 391-55-120.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-65-150, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-150, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-150, filed 9/30/80, effective 11/1/80.]