

**WSR 18-13-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-116—Filed June 6, 2018, 12:03 p.m., effective June 6, 2018,  
12:03 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Rules Affected by this Order: Repealing WAC 220-359-02000Q; and amending WAC 220-359-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: Opens the treaty fishery for commercial sales to Washington wholesale buyers and the public. Harvestable sturgeon and salmon are available under the current harvest guidelines for each pool. The season is consistent with the 2008-2017 Management Agreement and the associated biological opinion. Rule is consistent with action of the Columbia River Compact on June 5, 2018. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 6, 2018.

Joe Stohr  
Director

NEW SECTION

**WAC 220-359-02000R Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

- (1) Open Areas: SMCRA 1H (John Day Pool):
  - (a) Season: Immediately through 6:00 p.m. June 15, 2018 in in John Day Pool.
  - (b) Gear: Setline Gear. Fishers are encouraged to use circle hooks and avoid J-hooks. It is unlawful to use setline gear with more than 100 hooks per set line, with hooks less than the minimum size of 9/0, with treble hooks, without visible buoys attached, and with buoys that do not specify operator and tribal identification.
  - (c) Allowable sale: Sturgeon from 43 to 54 inches fork length may be sold only when caught during open period and open area for the setline fishery. Legal-sized sturgeon may be kept for subsistence purposes. Live release of all oversize and under-size sturgeon is required.

(2) Open Areas: SMCRA 1H (John Day Pool):

(a) Season: Immediately through 6:00 p.m. June 15, 2018 in John Day Pool.

(b) Gear: Hoop nets, dip nets, bag nets, and rod and reel with hook and line.

(c) Allowable sale: Sturgeon from 43 to 54 inches fork length may be sold only when caught during the open period and open area of the setline fishery. Legal sized sturgeon may be kept for subsistence purposes. Live release of all oversize and under-size sturgeon is required.

(3) Open Areas: SMCRA 1F, 1G, and 1H (Zone 6)

(a) Season: 6:00 a.m. June 18 through 6:00 p.m. June 22 and 6 a.m. June 25 through 6:00 p.m. June 29.

(b) Gear: Set and drift gill nets with a 7" minimum mesh size restriction.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be sold but sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools and may be kept for subsistence purposes. Fish landed during the open periods are allowed to be sold after the period concludes.

(4) Open Areas: SMCRA 1F, 1G, and 1H (Zone 6)

(a) Season: 6:00 a.m. June 16 through 11:59 p.m. July 31.

(b) Gear: Hoop nets/bag nets, dip nets, and rod and reel with hook and line.

(c) Allowable sale: Salmon (any species), steelhead caught after 6:00 a.m. on June 16 may be sold or kept for subsistence. Shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be sold but sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools and may be kept for subsistence purposes. Fish landed during the open periods are allowed to be sold after the period concludes.

(d) Standard river mouth and dam anctuary closures remain in place for this gear except Spring Creek Hatchery.

(5) Open Areas: Areas defined in tribal/state MOU's/ MOA's.

(a) Season: 6:00 a.m. June 16 through 11:59 p.m. July 31 and only during days and times opened under tribal rules.

(b) Gear: Hook and line and/or platform gear identified in tribal rules.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be retained in fisheries downstream of Bonneville Dam. Sales of fish are not authorized on COE property downstream of Bonneville Dam. Fish must be transported elsewhere for sale. Fish landed during the open periods are allowed to be sold after the period concludes.

(6) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: 6:00 a.m. June 16 until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Wind River, Drano Lake, and Klickitat River.

(c) Gear: Hoop nets, bag nets, dip nets, and rod and reel with hook and line. Gill nets may only be used in Drano Lake.

(d) Allowable Sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon between 38 to 54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only. Sales of fish are allowed after the open period concludes, as long as fish were landed during the open period.

(7) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-180, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(8) Fish caught during the open period may be sold after the period concludes.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000Q Columbia River salmon seasons above Bonneville Dm. (18-40)

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 18-13-002 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 18-119—Filed June 6, 2018, 12:09 p.m., effective June 7, 2018]

Effective Date of Rule: June 7, 2018.

**Purpose:** The purpose of this rule making is to allow nontreaty recreational fishing opportunity in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

**Citation of Rules Affected by this Order:** Repealing WAC 220-312-06000K; and amending WAC 220-312-060.

**Statutory Authority for Adoption:** RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This action provides additional recreational angling opportunity based [on] a fishery update and runsize of upriver spring Chinook passage at Bonneville Dam. ESA impacts for wild fish are available to recreational fisheries in order to access hatchery fish. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. This action conforms Washington state rules with Oregon state rules and is consistent with the compact action of June 5, 2018. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 1.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 6, 2018.

Joe Stohr  
Director

#### NEW SECTION

**WAC 220-312-06000K Exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 220-312-06000C and WAC 220-312-060, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Salmon and Steelhead:

(a) Effective June 7 through June 15, 2018

(i) Open for boat and bank fishing for Chinook, coho, or steelhead from the Rocky-Tongue Point line (Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point) to the Bonneville Dam deadline.

(ii) Daily limit 6, no more than 2 adults.

(iii) Release all salmon and steelhead other than adipose clipped fish.

(iv) Salmon minimum length is 12 inches.

(b) Effective June 7 through June 15, 2018:

(i) Open to fishing for Chinook, coho, or steelhead from the Tower Island power lines in Bonneville Pool (located approximately 6 miles below The Dalles Dam) upstream to the Oregon and Washington border, plus the Washington bank between Bonneville Dam and the Tower Island power

lines (except for those waters closed under permanent regulations).

(v) Daily limit 6, no more than 2 may be adults.

(ii) Release all salmon and steelhead other than adipose clipped fish.

(iii) Salmon minimum size is 12 inches.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective June 16, 2018:

WAC 220-312-06000K Freshwater exceptions to statewide rules—Columbia River,

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### **WSR 18-13-003**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 18-118—Filed June 6, 2018, 12:55 p.m., effective June 9, 2018]

Effective Date of Rule: June 9, 2018.

Purpose: Amends Columbia River recreational sturgeon rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000G; and amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is needed to allow a limited harvest of sturgeon in the estuary and to allow the summer sturgeon season in the Bonneville Pool, The Dalles Pool, and adjacent tributaries. This rule will provide for additional angling opportunity. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 6, 2018.

Joe Stohr  
Director

#### NEW SECTION

**WAC 220-312-06000J Freshwater exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 220-312-06000C and WAC 220-312-060, it is unlawful to violate the provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) From Buoy 10 upstream to Wauna powerlines, including Youngs Bay, and all adjacent Washington tributaries:

(a) Retention of white sturgeon is prohibited, except it is permissible to retain white sturgeon from 1 hour before official sunrise to 2:00 p.m. on June 9, 2018.

(i) The daily limit of white sturgeon is one fish between 44-inches minimum and 50-inches maximum fork length.

(ii) Closed to angling for sturgeon at 2:00 p.m. daily on dates open to sturgeon retention.

(b) Catch and release angling is permissible on days not open to sturgeon retention.

(2) From Bonneville Dam to Dalles Dam, including adjacent tributaries:

(a) Retention of white sturgeon is prohibited, except it is permissible to retain white sturgeon from 1 hour before official sunrise to 1 hour after official sunset June 15, 2018.

(i) On days open for sturgeon retention the daily limit of white sturgeon is one fish between 38-inches minimum and 54-inches maximum fork length.

(ii) Catch and release angling is permissible on days not open to sturgeon retention.

(3) From The Dalles Dam to John Day Dam, including adjacent tributaries:

(a) Retention of white sturgeon is prohibited, except it is permissible to retain white sturgeon from 1 hour before official sunrise to 1 hour after official sunset June 15, 2018.

(i) On days open for sturgeon retention the daily limit of white sturgeon is one fish between 44-inches minimum and 54-inches maximum fork length.

(ii) Catch and release angling is permissible on days not open to sturgeon retention.

(4) From John Day Dam to McNary Dam:

(a) Retention of white sturgeon is prohibited.

(b) Catch and release angling is permissible on days not open to sturgeon retention.

(5) From Priest Rapids Dam to Rock Island Dam; effective immediately until further notice:

(a) Daily limit 2 white sturgeon between 38 and 72 inches fork length.

(b) No annual harvest limit of white sturgeon.

(c) Anglers are not required to record sturgeon on a catch record card.

(d) Catch and release fishing is allowed after the daily limit has been retained.

(e) Anglers who possess a valid two-pole endorsement may fish for sturgeon with two lines.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-06000G Freshwater exceptions to statewide rules—Columbia River. (18-68)

#### **WSR 18-13-004**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 18-120—Filed June 6, 2018, 2:11 p.m., effective June 6, 2018, 2:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon fishing rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000P; and amending WAC 220-313-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is needed to close the Tulalip Terminal Area salmon fishery because of the Tulalip Salmon Ceremony scheduled by the Tulalip Tribe for June 9, 2018. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 6, 2018.

Joe Stohr  
Director

NEW SECTION

**WAC 220-313-06000P Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective from 12:00 a.m. June 9 through 11:59 p.m. June 9, 2018, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect.

(1) **Marine Catch Record Card Area 8-2:** inside and easterly of a line projected 225 degrees from the pilings at old Bower's Resort to a point 2,000 feet offshore, thence northwesterly to a point 2,000 feet off Mission Point, thence across the mouth of Tulalip Bay to a point 2,000 feet off Hermosa Point, thence northwesterly following a line 2,000 feet offshore to the intersection with a line projected 233 degrees from the fishing boundary marker on the shore at the slide north of Tulalip Bay:

Closed to fishing for salmon.

REPEALER

The following section of the Washington Administrative Code is repealed effective June 10, 2018:

WAC 220-313-06000P Puget Sound salmon—Saltwater seasons and daily limits.

**WSR 18-13-005****EMERGENCY RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed June 6, 2018, 2:17 p.m., effective June 7, 2018]

Effective Date of Rule: June 7, 2018.

Purpose: This emergency rule is necessary to comply with chapter 304, Laws of 2018, passed by the 2018 legislature (ESHB 2938) concerning campaign finance law enforcement and reporting. The effective date of chapter 304, Laws of 2018, is June 7, 2018.

Citation of Rules Affected by this Order: New WAC 390-16-043, 390-16-325, 390-19-045, 390-37-005, 390-37-042, 390-37-062 and 390-37-071; repealing WAC 390-05-295, 390-17-013 and 390-37-041; and amending WAC 390-05-200, 390-05-205, 390-05-215, 390-05-243, 390-05-275, 390-05-290, 390-05-305, 390-05-400, 390-05-500, 390-05-505, 390-05-515, 390-05-530, 390-12-200, 390-16-011A, 390-16-042, 390-16-063, 390-16-071, 390-16-206, 390-16-230, 390-16-313, 390-17-017, 390-17-030, 390-17-400, 390-17-405, 390-17-410, 390-18-030, 390-18-050, 390-18-060, 390-19-010, 390-19-020, 390-19-050, 390-37-001, 390-37-010, 390-37-020, 390-37-030, 390-37-040, 390-37-050, 390-37-060, 390-37-061, 390-37-063, 390-37-070, 390-37-075, 390-37-090, 390-37-100, 390-37-103, 390-37-105, 390-37-130, 390-37-134, 390-37-136, 390-37-140, 390-37-142, 390-37-143, 390-37-144, 390-37-150, and 390-37-182.

Statutory Authority for Adoption: RCW 42.17A.110(1) and chapter 304, Laws of 2018.

Under RCW 34.05.350 the agency for good cause finds 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: Chapter 304, Laws of 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 7, Amended 55, Repealed 3.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 55, Repealed 3.

Date Adopted: June 7, 2018.

B. G. Sandahl  
Deputy Director

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-200 Definition—Candidates for public office—Time of filing.** The following circumstances shall give rise to presumption that an individual is a "candidate" as that term is defined in RCW 42.17A.005((~~7~~)):

(1) The existence of a political committee promoting the election of such individual for public office with the knowledge and consent of that individual; or

(2) A public declaration of candidacy by an individual even if the candidacy is conditioned on a future occurrence; or

(3) Meeting the requirements set forth in WAC 390-16-230 (1) or (2).

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-205 Definition of term "consumable."** For the purpose of RCW 42.17A.005 ~~((13)(a)(iv))~~ the term "consumable" includes the amount paid for food, beverages, preparation, catering or entertainment cost furnished at the event.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-215 Receipt of a campaign contribution.** "Receipt" of a campaign contribution, as that term is used in chapter 42.17A RCW, shall be deemed to occur ~~((at the earliest of the following))~~ as follows:

(1) For online or credit card contributions, the contribution is considered received at the time the transfer is made from the merchant account to a candidate or political committee account, except that a contribution made to a candidate who is a state official or legislator outside the restriction

period established in RCW 42.17A.560, but transferred to the candidate's account within the restricted period, is considered received outside of the restriction period.

(2) For all other contributions, receipt shall be deemed to occur at the earliest date of the following:

(a) The date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly situated campaign official obtains possession of the contribution~~((?))~~; or

~~((2))~~ (b) The date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly situated campaign official is informed of the contribution, or becomes aware that the campaign, or in the case of an earmarked contribution, the intermediary or conduit, has possession of the contribution~~((?))~~; or

~~((3))~~ (c) The date that the contribution becomes available for use by the candidate or committee.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-243 Ministerial functions by persons holding administrative offices.** For the purposes of RCW 42.17A.005 and 42.17A.205:

(1) "Ministerial functions" mean the activities and duties of an administrative office that satisfy RCW 42.17A.005 ~~((13) and (33))~~ and require:

(a) Data entry for a candidate or political committee;

(b) Filing reports that have been reviewed and approved for filing by the candidate or political committee officer;

(c) Maintaining campaign finance and other similar records including making them available for inspection upon direction by the candidate or political committee officer;

(d) Writing and depositing checks at the direction of the candidate or political committee officer;

(e) Communications related to ministerial functions (to respond to questions about data entry, to discuss or review a candidate or committee's bank account balance, to schedule times to receive contribution checks at events, to review reports with the candidate or committee prior to filing, and similar communications) but do not involve attending strategy or campaign planning meetings or portions of meetings with candidates or political committee officers or their agents; or

(f) Other similar campaign finance activities and duties.

(2) "Administrative office" means a person performing campaign finance related clerical support or recordkeeping activities on behalf of candidates and political committees, when, for the purposes of RCW 42.17A.005 ~~((13) and (33))~~, those activities:

(a) Are directed by the candidate or political committee officer and require performance of activities by the administrative office in a prescribed manner;

(b) Are approved by the candidate or political committee officer for whom the services are performed;

(c) Do not involve the exercise of personal judgment or discretion, including authorizing expenditures;

(d) Do not involve the disclosure, except as required by law, of any information regarding a candidate or committee's plans, projects, activities or needs, or regarding a candidate's

or committee's contributions or expenditures that is not already publicly available, or otherwise engage in activity that is a contribution; and

(e) Do not involve the performance of functions other than ministerial functions.

(3) A person performing only ministerial functions on behalf of two or more candidates or political committees is not:

(a) Considered an agent so long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee; or

(b) An officer pursuant to WAC 390-05-245. However, that person's name, address and title must be reported on the C-1 or C-1pc registration form.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-275 Definition—Party organization.**

"Party organization," as that term is used in chapter 42.17A RCW and Title 390 WAC, means a bona fide political party as defined in RCW 42.17A.005 and applied in WAC ~~((390-05-196))~~ 390-05-210.

AMENDATORY SECTION (Amending WSR 13-12-017, filed 5/24/13, effective 6/24/13)

**WAC 390-05-290 Political advertising definitions.** (1)

"Mass communication" means a communication, digital or otherwise, intended to reach a large audience through any of the following methods:

(a) Advertising displays, newspaper advertising, billboards, signs;

(b) Brochures, articles, tabloids, fliers, periodicals;

(c) Radio or television presentations;

(d) Sample ballots (see WAC 390-17-030);

(e) Online or other electronic transmission methods;

(f) One hundred or more letters, emails, text messages or similar communications that are identical or substantially similar in nature, directed to specific recipients, and sent within a thirty-day period; and

(g) Other mass means of disseminating political advertising, unless excluded by chapter 42.17A RCW or commission rule.

(2) "Online" means disseminating through a network of interconnected computers or devices, such as the internet or similar systems enabling electronic dissemination or exchange of communications. Examples include, but are not limited to, internet web sites, web-based social media (such as Facebook, Twitter, and other electronic publishing platforms), emails, and text messages.

(3) "Political advertising" is defined under RCW 42.17A.005 to include a mass communication used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

(4) Political advertising does not include letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the space or time is not normally required.

AMENDATORY SECTION (Amending WSR 92-05-080, filed 2/18/92, effective 3/20/92)

**WAC 390-05-305 Petition for disclosure—Form.** (1)

A petition for disclosure shall be legible, on 8-1/2 x 11" paper and shall include the following information:

- (a) The name of the jurisdiction;
- (b) A request that public disclosure be required;
- (c) The names and addresses of all known candidates and ballot proposition committees in the jurisdiction who will be required to report;
- (d) The legibly printed name and address and the legal signature of at least fifteen percent of the number of registered voters in the jurisdiction as of the date of the most recent general election in the jurisdiction.

(2) The petition shall be verified and certified by the auditor or elections officer of the county or counties in which the jurisdiction is located. The signatures shall be verified by

comparing the signatures on the petition to the signatures on the voter registration roll. The auditor shall place his seal on each verified page of the petition in order to certify it to the commission.

(3) A suggested form for petition is:

"We, the undersigned citizens and registered voters of (name of jurisdiction), request that the Public Disclosure Commission order disclosure in (name of jurisdiction)."

(4) A suggested form for the petition of a jurisdiction by ordinance, resolution or other official action is:

"We, the (governing board) of (name of jurisdiction) request that the Public Disclosure Commission order disclosure in (name of jurisdiction). This request is made pursuant to RCW ~~((42.17.405))~~ 42.17.135 and WAC 390-05-305~~((4))~~."

AMENDATORY SECTION (Amending WSR 16-04-080, filed 1/29/16, effective 2/29/16)

**WAC 390-05-400 Changes in dollar amounts.** Pursuant to the requirement in RCW 42.17A.125 that the commission biennially revise the dollar amounts found in Initiative 134 and RCW 42.17A.410 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	2016 Revision
.005	Definition of "Independent Expenditure"	\$950	<del>(\$1,000)</del> *
.445(3)	Reimbursement of candidate for loan to own campaign	\$5,500	\$6,000
.630(1)	Report— Applicability of provisions to Persons who made contributions	\$19,000	\$20,000
	Persons who made independent expenditures	\$950	\$1,000
.405(2)	Contribution Limits— Candidates for state leg. office	\$950	\$1,000
	Candidates for county office	\$950	\$1,000
	Candidates for other state office	\$1,900	\$2,000
	Candidates for special purpose districts	\$1,900	\$2,000
	Candidates for city council office	\$950	\$1,000
	Candidates for mayoral office	\$950	\$1,000
	Candidates for school board office	\$950	\$1,000
	Candidates for hospital district	\$950	\$1,000
.405(3)	Contribution Limits— State official up for recall or pol comm. supporting recall— State Legislative Office	\$950	\$1,000
	Other State Office	\$1,900	\$2,000
.405(4)	Contribution Limits— Contributions made by political parties and caucus committees		

Code Section	Subject Matter	Amount Enacted or Last Revised	2016 Revision
	State parties and caucus committees	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to a candidate	.50 per voter	.50 per registered voter
.405(5)	Contribution Limits—		
	Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall		
	State parties and caucuses	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.50 per voter	.50 per registered voter
.405(7)	Limits on contributions to political parties and caucus committees		
	To caucus committee	\$950	\$1,000
	To political party	\$5,000	\$5,500
.410(1)	Candidates for judicial office	\$1,900	\$2,000
.475	Contribution must be made by written instrument	\$95	\$100

\* Chapter 304, Laws of 2018, amended the definition of independent expenditure, changing the dollar-threshold element of that definition to one-half the contribution limit from an individual per election.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-500 Debate or forum.** "Debate or forum" means qualifying events under RCW 42.17A.005 (~~((19)(b)(iii))~~) where candidates are invited based upon predefined objective criteria, including where only one candidate in an uncontested race participates.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-505 Electioneering communication exclusions.** (1) "Electioneering communication" does not include communications listed in RCW 42.17A.005 (~~((19)(b)(iii))~~).

(2) "Electioneering communication" also does not include:

(a) Letters to the editor or comparable communications to news media described in RCW 42.17A.005 (~~((19)(b)(iii))~~);

(b) Communications conveyed through web sites, emails, telephone calls, or in-person leaflet/pamphlet drops at street addresses; or

(c) Communications conveyed in a manner not specified in RCW 42.17A.005(~~((19))~~).

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-515 Member.** In determining whether a communication is to a "member" as that term is used in RCW 42.17A.005 and 42.17A.255, and for the purposes of RCW 42.17A.405, 42.17A.410 and 42.17A.420:

(1) The commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and whether it has formal organizing documents, membership criteria and services it provides its members.

(2) With respect to the status of members of an organization, the commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the outcome of an election, taking into account such factors as whether the members affirmatively accept membership and the rights and obligations conferred on members by the organization including whether members have the right to vote for:

(a) Election of directors or officers; or

(b) Changes to the articles or bylaws; or

(c) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution.

A required payment of a predetermined amount of membership dues is also a factor; however, an organization will



not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."

(3) If a membership organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 C.F.R. Sec. 100.134 (e)-(g), the commission will consider the organization and its members as qualifying for the exemption in RCW 42.17A.005 (~~((13)(b)(v) and (19)(b)(vii))~~) unless the communication was not sent primarily to members. However, these FEC criteria are not the only indicators of legitimate membership organizations or valid members, a determination that will be made by the commission on a case-by-case basis as necessary.

(4) In determining whether an internal political communication is "primarily" limited to the members of an organization or political committee, the commission will consider whether any distribution to nonmembers is incidental and isolated.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-05-530 Funding sources for electioneering communications.** (1) "Source of funds" means a person who contributes anything of value for the communication, including a loan, gift, advance, payment, pledge, or personal or professional services for less than full consideration.

(2) Goods, services, property or rights other than money or its equivalent are deemed to have a monetary value equivalent to their fair market value.

(3) "Source of funds" does not include those things of value specified in RCW 42.17A.005 (~~((13)(a)(i))~~).

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-05-295 Definition—Promise or promise to pay.

AMENDATORY SECTION (Amending WSR 16-05-008, filed 2/4/16, effective 3/6/16)

**WAC 390-12-200 Public disclosure commission—Role of the executive director.** The executive director acts as the commission's chief administrative officer and is accountable to the commission for agency administration. In addition, the executive director will:

(1) Act as the appointing authority for agency staff, including the authority to hire, set salaries, promote, assign work, evaluate, take corrective action and, where appropriate, terminate staff.

(2) Exercise such other management oversight, decision-making and administrative action to provide timely and meaningful public access to accurate information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with and equitable enforcement of Washington's disclosure and campaign finance laws.

(3) Determine when appropriate and authorize enforcement alternatives set out in chapter 390-37 WAC to resolve complaints filed with the commission.

(4) Act as liaison between the commission and other public agencies.

(5) Research, develop, and draft policy positions, administrative rules, interpretations and advisory options for presentation to the commission.

(6) Enter into contracts and agreements on behalf of the commission.

(7) The executive director may delegate authority to subordinates, consistent with agency delegation of authority protocols as adopted by the commission, to act for ~~((him or her))~~ the executive director as needed and appropriate.

(8) The executive director may perform other duties as authorized by chapter 42.17A RCW, Title 390 WAC or as prescribed or delegated by the commission.

### Chapter 390-16 WAC

#### ~~((FORMS FOR))~~ CAMPAIGN ~~((FINANCING))~~ FINANCE REPORTING~~((—CONTRIBUTIONS))~~

AMENDATORY SECTION (Amending WSR 12-01-047, filed 12/14/11, effective 1/14/12)

#### **WAC 390-16-011A Sponsor of a political committee.**

(1) This rule applies to political committees that are not authorized committees. This rule does not apply to political committees that filed final C-4 reports as of December 31, 2011.

(2) "Sponsor" of a political committee is defined under RCW 42.17A.005 (~~((42)(b))~~).

(3) A sponsored political committee that registers on or after January 1, 2012, shall include on its C-1pc the name of at least one sponsor in the committee's name.

(4) A political committee registered before January 1, 2012, shall amend its registration by January 31, 2012. A sponsored political committee shall include on its amended C-1pc the name of at least one sponsor in the committee's name.

(5) To determine if a political committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 (~~((42)(b)(i))~~):

(a) A political committee not organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received January 1, 2011, through the date of filing the amended C-1pc.

(b) A political committee organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.

(6) A sponsored political committee must amend its C-1pc sixty days before an election in which it participates if the committee's name on its most recently filed C-1pc does not include at least one current sponsor. To determine if the committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 (~~((42)(b)(i))~~) at the time of the amendment:

(a) A political committee not organized to support or oppose a particular candidate or ballot proposition will consider all contributions received in the previous twelve months through the date of filing the amended C-1pc.

(b) A committee organized to support or oppose a particular candidate or ballot proposition will consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.

AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89, effective 11/4/89)

**WAC 390-16-042 Debts and obligations—Contingent liabilities—Reporting.** (1) Pursuant to RCW 42.17A.-240 and 42.17A.005, "promise," "promise to pay," "debt" and "obligations" mean:

(a) Any oral or written order or agreement placed for goods, services, or anything else of value;

(b) Any offer to purchase advertising space, broadcast time, or other written, broadcast or digital advertising-related product or service;

(c) Any contractual contingent liability; or

(d) Provided that the amount of the debt or obligation in (a), (b) or (c) of this subsection owed to a vendor is more than seven hundred fifty dollars, and the vendor has not been paid in full for the goods received, invoices submitted, or services performed within the time periods specified in (d)(i) and (ii) of this subsection:

(i) For reports due within thirty days of an election, debts or obligations of more than seven hundred fifty dollars must be reported if the debt or obligation has been outstanding for more than five business days as of the last day of the reporting period;

(ii) For reports due during any other reporting period, debts or obligations of more than seven hundred fifty dollars must be reported if the debt or obligation has been outstanding for more than ten business days as of the last day of the reporting period.

(2) A contractual contingent liability (e.g., an additional fee to be paid to a political consultant or other person whose services are used by a candidate who wins the election) is reportable as a debt or obligation ((on Form C-4, Schedule B,)) from the time the contract is entered into until the liability is voided, paid or otherwise satisfied.

(3) Regularly recurring expenditures, of the same type and same or similar amount that have been reported at least once, need not be reported as debt unless they are past due as of the last day of the reporting period. Examples of recurring obligations that can be reported as recurring expenditures rather than debt include rent, utilities, insurance, cellular phone costs, and payments to campaign staff.

(4) Any obligations already reported to pay for goods and services made by a third party on behalf of a candidate or political committee after the original payment or debt to that party has been reported also need not be reported as debt.

NEW SECTION

**WAC 390-16-043 Candidates and political committees—Public inspection of books of account.** (1) RCW 42.17A.005 defines "books of account" for candidates and

political committees as "a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day."

(2) RCW 42.17A.225 and 42.17A.235 require that candidates and political committees participating in an election as defined in RCW 42.17A.005, must make their books of account available for public inspection. The public inspection of books of account is not intended to be an exhaustive audit of all contributions received and expenditures made.

(3) Any individual who requests to publicly inspect the books of account of a candidate or political committee, must make the request during the period beginning ten calendar days before a primary, general, or special election, by contacting the filer's email address listed on the C-1 report for a candidate, or the C-1pc report for a political committee.

(4) The inspection of the books of account may occur on weekdays, unless the treasurer for the candidate or committee agrees otherwise, beginning on the eighth day before the election, excluding legal holidays, for at least two consecutive hours between 9:00 a.m. and 5:00 p.m. at a location that is agreed upon by the treasurer and the individual requesting the inspection. The inspection must be allowed within forty-eight hours of the date and time the request was made at the agreed-upon location, provided that if the request is not made by 3:00 p.m. on the third day preceding an election, the candidate or political committee need only make best efforts to accommodate the request.

(5) The treasurer for the candidate or committee may make the books of account available electronically, in lieu of scheduling an in-person inspection, or if a location cannot be agreed upon by both parties. If the campaign's only copy of its books of account is maintained electronically with security protections, the person requesting the inspection must be given sufficient instruction to allow the inspection to proceed. Videotaping, photographing or photocopying of the records is not required to be permitted but may be agreed to by both parties during or in advance of the inspection.

(6) The books of account, ledger and other supporting documentation must be maintained by the treasurer and kept current within one business day. The books of account of a candidate or political committee include the following: A ledger, spreadsheet, or similar listing of contributions, expenditures, loans, debts and obligations to substantiate the information disclosed on the PDC campaign finance reports. If a ledger is not sufficiently kept, the books of account must include the underlying source documents such as receipts, invoices, copies of contribution checks, copies of canceled checks for expenditures, notes or other documentation concerning expenditures, orders placed, and loans. In the absence of those types of source documents, the campaign or committee must make the check register available.

(7) The candidate or political committee is not required to make copies of its books of account for the requestor or provide the name and address of contributors who gave twenty-five dollars or less in the aggregate in total contributions.

(8) At the time of making the appointment the person requesting to inspect the books of account must provide the name(s) and contact information for all individuals who will

be in attendance for the inspection. The requestor(s) must show photo identification prior to the inspection beginning, and the candidate or political committee may deny the inspection from occurring if photo identification is not provided.

AMENDATORY SECTION (Amending WSR 14-12-012, filed 5/22/14, effective 6/22/14)

**WAC 390-16-063 Additional information regarding independent expenditures and C-6 report filing.** (1) RCW 42.17A.255 requires a person not otherwise subject to the disclosure requirements of Chapter 42.17A RCW to disclose an independent expenditure of one hundred dollars or more that supports or opposes a candidate or ballot measure. RCW 42.17A.260 requires the disclosure of political advertising with a fair market value of one thousand dollars or more that is presented to the public within twenty-one days of an election, that supports or opposes a candidate or ballot measure, and that qualifies as an independent expenditure.

(a) **Prorating and attributing independent expenditures that support or oppose multiple candidates or ballot measures.** Whether to disclose an independent expenditure that supports or opposes multiple candidates or ballot measures is determined by prorating and attributing the cost of the expenditure among all candidates or ballot measures that are the subject of the expenditure. Disclosure is required when:

(i) The pro rata cost for a single candidate or ballot measure reaches or exceeds the statutory threshold and none of the subject candidates are seeking election to the same office and none of the subject ballot measures are competing measures; or

(ii) The sum of the pro rata costs attributable to all candidates seeking election to the same office or the sum of the pro rata costs attributable to competing ballot measures reaches or exceeds the statutory threshold.

Example 1 (prorating): A mailer/postcard supports one candidate and one ballot measure at a total cost of \$3,200. One side of the postcard is entirely devoted to the ballot measure. The other side is split evenly between the candidate and the ballot measure. The ballot measure's pro rata share is \$2,400 (75%) and the candidate's pro rata share is \$800 (25%).

Example 2 (prorating and attributing): An independent expenditure ad appears in the newspaper two weeks before the election. The ad costs \$1,000; 50% of the ad supports a candidate and the other 50% opposes the candidate's opponent. The independent expenditure is disclosed under RCW 42.17A.260 because the sum of the pro rata share for the two candidates who seek the same office is \$1,000.

(b) **Disclosing independent expenditures that support or oppose multiple candidates or ballot measures.** When a pro rata, attributable cost reaches or exceeds the statutory threshold, the entire independent expenditure must be disclosed. Include the amounts attributable to all candidates and ballot propositions supported or opposed by the expenditure.

(c) **Other applications of prorating and attributing independent expenditures.** Use the prorating and attribution steps explained in (a)(i) and (ii) of this section to determine

when an independent expenditure as defined in RCW 42.17A.005(~~((26))~~) must comply with the "no candidate authorized this ad" sponsor identification and, if applicable, the "top 5" contributors required by RCW 42.17A.320(~~((2))~~) and WAC 390-18-010.

(2) A political committee reporting pursuant to RCW 42.17A.225, 42.17A.235 and 42.17A.240 is exempt from providing on a C-6 form itemized information concerning its sources of funds giving in excess of two hundred fifty dollars for an electioneering communication, unless the committee received funds that were requested or designated for the communication.

(3) An out-of-state political committee shall report pursuant to RCW 42.17A.305 if it sponsors an electioneering communication defined in RCW 42.17A.005.

(4) The sponsor of an electioneering communication shall report pursuant to RCW 42.17A.305 and commission rules regarding electioneering communications, even if the expenditure also satisfies the definition of independent expenditure in RCW 42.17A.005 or 42.17A.255. Persons in compliance with this subsection are deemed in compliance with RCW 42.17A.255 or 42.17A.260.

(5) Any person making an expenditure that is reportable under RCW 42.17A.640, grass roots lobbying campaigns, that also satisfies the definition of electioneering communication in RCW 42.17A.005 shall file pursuant to RCW 42.17A.305 and commission rules regarding electioneering communications.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-071 Annual report of major contributors and persons making independent expenditures.** (1) Any person, other than an individual (a) who made contributions to state office candidates and statewide ballot proposition committees totaling more than the aggregate amount during the preceding calendar year for contributions referenced in WAC 390-05-400, (~~(code section 180(1))~~) or (b) who made independent expenditures regarding state office candidates and statewide ballot propositions totaling more than the aggregate amount during the preceding calendar year for independent expenditures referenced in WAC 390-05-400, (~~(code section 180(1))~~) shall file with the commission an annual report required pursuant to RCW 42.17A.630. This report shall not be required of a lobbyist employer filing an annual L-3 report pursuant to RCW 42.17A.630 or of a candidate's authorized committee or a political committee provided the information has been properly reported pursuant to RCW 42.17A.235 and 42.17A.240.

(2) The report is entitled "Special Political Expenditures" and is designated "C-7." Copies of this form are available on the commission's web site, [www.pdc.wa.gov](http://www.pdc.wa.gov), and at the Commission Office, Olympia, Washington. Any attachments shall be on 8-1/2" x 11" white paper.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-16-206 Ratings and endorsements.** (1) Any person making a measurable expenditure of funds to commu-

nicate a rating, evaluation, endorsement or recommendation for or against a candidate or ballot proposition shall report such expenditure including all costs of preparation and distribution in accordance with chapter 42.17A RCW. However, rating, endorsement or recommendation expenditures governed by the following provisions are not reportable: The news media exemptions provided in RCW 42.17A.005 ~~((13)(b)(iv) and (19)(b)(iii))~~ and WAC 390-16-313 ~~((2)(b))~~, and the political advertising exemption in WAC 390-05-290.

(2) A candidate or sponsor of a ballot proposition who, or a political committee which, is the subject of the rating, evaluation, endorsement or recommendation shall not be required to report such expenditure as a contribution unless the candidate, sponsor, committee or an agent thereof advises, counsels or otherwise encourages the person to make the expenditure.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-16-230 Surplus campaign funds—Use in future.** (1) If at any time in the future or after the last day of the election cycle for candidates as defined in RCW 42.17A.005~~((7))~~ any contribution is received or an expenditure is made from surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or political committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17A.235 and 42.17A.240 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17A.205, 42.17A.235 and 42.17A.240. The surplus funds may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." All augmentations to and all expenditures made from the retained surplus funds after the last day of the election cycle shall be reported in detail as to source, recipient, purpose, amount and date of each transaction.

(2) For candidates as defined in RCW 42.17A.005~~((7))~~, if at any time after the last day of the election cycle, any contribution is received or expenditure is made from such surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or authorized committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or authorized committee shall file (a) a final report for the previous campaign as provided in RCW 42.17A.235 and 42.17A.240 and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17A.205, 42.17A.235 and 42.17A.240. The surplus

funds as of the last day of the election cycle may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." "Funds from previous campaign" carried forward by a candidate to his or her new campaign are not subject to contribution limits set forth in RCW 42.17A.405.

(3) A political committee formed to support or oppose a particular ballot proposition or particular candidates which retains surplus funds to use in support or opposition of other candidates or of other ballot propositions has become a continuing political committee and must thereafter register and report in accordance with chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-16-313 Independent expenditure—Definition and application.** (1) "Independent expenditure," as that term is used in chapter 42.17A RCW, except RCW 42.17A.255, means an "expenditure" as defined in RCW 42.17A.005 that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for public office, except federal elective office or precinct committee officer, by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office~~((, or (iv)))~~;

(b) It is made in support of any or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

~~((b))~~ (c) The expenditure pays in whole or in part for any political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name;

~~((c))~~ (d) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value equal to or greater than ~~((the amount specified for independent expenditures in WAC 390-05-400))~~ one-half the contribution limit from an individual per election. A series of expenditures, each of which is under ~~((the applicable amount in WAC 390-05-400))~~ one-half the contribution limit from an individual per election, constitutes one independent expenditure if their cumulative value is equal to or greater than ~~((the amount specified in WAC 390-05-400))~~ one-half the contribution limit from an individual per election; and

~~((d))~~ (e) The expenditure is not a contribution as defined in RCW 42.17A.005 and clarified by WAC 390-05-210.

(2) Exempt activities. The following activities are not considered independent expenditures for purposes of RCW 42.17A.255, 42.17A.630, or 42.17A.320:

(a) Ordinary home hospitality;

(b) A news item, feature, commentary, or editorial, or communications with journalists or editorial staff designed to elicit the same, in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(c) Participation in the creation of a publicly funded voters pamphlet statement in written or video form;

(d) An internal political communication primarily limited to (i) the members of or contributors to a political party organization or political committee, (ii) the officers, management staff or stockholders of a corporation or similar enterprise, or (iii) the members of a labor organization or other membership organization;

~~((e))~~ (e) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or the property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made shall be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the person providing the facility; or

~~((f))~~ (f) The rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of two hundred fifty dollars personally paid by the worker.

#### NEW SECTION

**WAC 390-16-325 Dissolution of committees.** (1) Dissolution is the process by which a committee officially ceases doing business, pursuant to RCW 42.17A.225 and 42.17A.235. Dissolution does not relieve the candidate, elected official, or officers from any obligations to address violations that occurred before the committee was dissolved.

(2) To initiate dissolution, the committee must file a notice of intent to dissolve.

(3) The official form for filing a notice of intent to dissolve a committee is designated "D-1." The D-1 must be filed using the electronic filing system provided by the commission, available on the commission's web site at [www.pdc.wa.gov](http://www.pdc.wa.gov). The executive director may waive the electronic filing requirement and allow for the use of another written format on the basis of hardship. The commission is required to post each committee's notice of intent to dissolve on the commission web site upon receipt.

(4) On the D-1 form, the candidate or authorized committee officer must attest to the following:

(a) The committee has concluded its activities in all respects and has ceased to function and intends to dissolve;

(b) The committee has no outstanding debts or obligations, will not make any expenditure other than those related to the dissolution process, and will not engage in any political activity or any other activity that generates additional reporting requirements;

(c) The committee has filed a final report;

(d) No complaint or court action under chapter 42.17A RCW is pending against the committee and it has not been

informed by the commission of any possible violations or technical corrections which remain unresolved;

(e) The committee has no outstanding penalties under chapter 42.17A RCW as assessed by the commission or a court;

(f) The committee accepts an ongoing obligation to maintain compliance with these conditions and an affirmative duty to notify the commission of any noncompliance;

(g) The committee understands that the committee's bank account may not be closed before the political committee has dissolved; and

(h) The treasurer is obligated to preserve books of account, bills, receipts, and all other financial records for five years, or as otherwise required by chapter 42.17A RCW.

(5) If, sixty days after a committee has filed its notice of intent to dissolve (D-1), the committee is in compliance with the above requirements and has not notified the commission in writing that it revokes its intent to dissolve, the committee shall be deemed to be dissolved.

(6) The executive director will promptly acknowledge by electronic writing the committee's dissolution. The acknowledgment of dissolution will be posted on the commission's web site when sent to the committee.

(7) If the committee has not met the requirements for dissolution, the executive director will promptly notify the committee by electronic writing that it is not eligible to dissolve, and explain the reasons for its ineligibility. The committee may initiate the process again once it has come into compliance with the requirements.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-17-017 Facilities—Definition.** "Facilities," as that term is used in RCW 42.17A.005~~((7))~~, means that which facilitates or makes some campaign activity possible, including but not limited to: Use of stationary, postage, machines and equipment, use of employees of an entity during working hours, vehicles, office space, room or building, publications of an entity or client list of an entity.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-17-030 Sample ballots and slate cards.** (1) **Intent.** The commission finds that, under certain conditions, expenditures for slate cards and other candidate listings fall within the scope of RCW 42.17A.405(15) and are, therefore, exempt from contribution limits and eligible for payment with a bona fide political party's exempt funds. Slate cards and other candidate listings remain reportable under chapter 42.17A RCW and subject to the political advertising provisions of the law.

The purpose of this exemption from the contribution limits is to allow political parties and other sponsors to tell the general public which candidates they support. The exemption is not intended as a device to circumvent the contribution limits and full reporting requirements by undertaking any degree of significant campaigning on behalf of candidates.

(2) For purposes of RCW 42.17A.005~~((19))~~ and 42.17A.405~~((15))~~, "sample ballots" means slate cards, or

other candidate listings, whether written or oral, that satisfy the qualifying criteria specified in subsection (10) of this section.

(3) Sample ballots constitute political advertising for a slate or list of candidates and must be properly identified and otherwise in compliance with the provisions of RCW 42.17A.320 through 42.17A.340.

(4)(a) **A bona fide political party** may use contributions it receives pursuant to RCW 42.17A.405(15) to produce and distribute sample ballots.

(b) Expenditures for sample ballots do not count against a bona fide political party's contribution limit to the candidates listed on the sample ballot. Further, when reporting sample ballot expenditures, a bona fide political party is not required to attribute a portion of the expenditure to each of the candidates listed on the sample ballot, but the names of the candidates must be reported along with the other information required by chapter 42.17A RCW and chapter 390-17 WAC.

(5) **Any person**, as defined by RCW 42.17A.005, who makes an expenditure for sample ballots has made an expenditure that does not count against that person's contribution limit to the candidates listed.

(6) **An in-state political committee**, when disclosing expenditures for sample ballots as part of its C-4 report, is not required to attribute a portion of the expenditure to the candidates listed on the sample ballot, but the names of the candidates and their respective party affiliations must be reported along with other information required by chapter 42.17A RCW and chapter 390-17 WAC.

(7) **An out-of-state committee**, when disclosing expenditures for sample ballots on a C-5 report, is not required to allocate a portion of the expenditure to the candidates listed on the sample ballot, but must report that an expenditure for sample ballots was made, the name and address of the person to whom the expenditure was made, the full amount of the expenditure, and the name, office sought and party affiliation of each candidate listed on the sample ballot. The report is due no later than the 10th day of the month following the month in which the expenditure was made.

(8) If a **lobbyist or lobbyist employer** makes expenditures for sample ballots, those expenditures are required to be reported in detail on the lobbyist's monthly L-2 report. Itemization of these expenditures must include the names and respective party affiliations of the candidates listed on the sample ballot, but no portion of the expenditure need be allocated to individual candidates listed on the sample ballot.

(9) **The candidates listed on a sample ballot** are not required to report any portion of the expenditure as an in-kind contribution to their campaigns.

(10) **Qualifying criteria for sample ballots, slate cards and other candidate listings.** In order not to count against a person's contribution limit to the candidates listed on a sample ballot and, in the case of a bona fide political party, in order to be eligible for payment with contributions received pursuant to RCW 42.17A.405(15), a sample ballot must satisfy **all** of the criteria in (a) through (d) of this subsection.

(a) The sample ballot must list the names of at least three candidates for election to public office in Washington state and be distributed in a geographical area where voters are eli-

gible to vote for at least three candidates listed. The candidate listing may include any combination of three or more candidates, whether the candidates are seeking federal, state or local office in Washington.

(b) The sample ballot must not be distributed through public political advertising; for example, through broadcast media, newspapers, magazines, billboards or the like. The sample ballot may be distributed through direct mail, telephone, electronic mail, Web sites, electronic bulletin boards, electronic billboards or personal delivery by volunteers.

(c) The content of a sample ballot is limited to:

- The identification of each candidate (pictures may be used);
- The office or position currently held;
- The office sought;
- Party affiliation; and
- Information about voting hours and locations.

Therefore, the sample ballot must exclude any additional biographical data on candidates and their positions on issues as well as statements about the sponsor's philosophy, goals or accomplishments. The list must also exclude any statements, check marks or other indications showing support of or opposition to ballot propositions.

(d) The sample ballot is a stand-alone political advertisement. It must not be a portion of a more comprehensive message or combined in the same mailing or packet with any other information, including get-out-the-vote material, candidate brochures, or statements about the sponsor's philosophy, goals or accomplishments. On Web sites, electronic bulletin boards or electronic billboards, the sample ballot must be a separate document.

**AMENDATORY SECTION** (Amending WSR 16-04-081, filed 1/29/16, effective 2/29/16)

**WAC 390-17-400 Time limit to solicit or accept contributions.** The purpose of this rule is to clarify and implement RCW 42.17A.560.

(1) **"Campaign debt,"** as used in RCW 42.17A.560 and this rule, means any debt incurred by a candidate seeking election to a nonfederal public office, including campaigns for state, county, city, town, school district, special district or other state political subdivision elective office.

(2) **"Known candidates"** means individuals who are, or who become, candidates for state or local office during a legislative session freeze period.

(3) **"Legislative session freeze period"** means the period of time in RCW 42.17A.560 within which contributions shall not be solicited or accepted by a state official or a person employed by or acting on behalf of a state official.

(a) The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends at 11:59 p.m. on the day of adjournment of the regular legislative session.

(b) If a special session is held immediately following the end of the regular legislative session, the freeze period ends at 11:59 p.m. on the day the special session adjourns.

(c) If a special session is held other than within thirty days before a regular legislative session, the freeze period

begins at 12:01 a.m. on the first day of the special session and ends at 11:59 p.m. on the final day of the special session.

(4) A successful candidate for state office who does not already hold a state office is not required to comply with RCW 42.17A.560 until sworn into office.

(5) A state official must comply with RCW 42.17A.560 until he or she no longer holds state office.

(6) **Activities allowed during a freeze period.** During a legislative session freeze period, the activities in which state officials may engage include, but are not limited to:

(a) Soliciting or accepting contributions to assist his or her own campaign for federal office;

(b) Accepting gifts or other items permitted under chapter 42.52 RCW, so long as the gift or other item is not

- A contribution to an incumbent state official or known candidate,
- A contribution to a public office fund,
- Used to pay a nonreimbursed public office related expense, or
- Used to retire a campaign debt;

(c) Attending and speaking at a fund-raising event held by or on behalf of a bona fide political party, so long as the contributions raised are not earmarked or otherwise designated for any incumbent state official or known candidate;

(d) Attending a fund-raiser held by a candidate who is not subject to RCW 42.17A.560, provided the state official does not solicit or accept any contributions in connection with the fund-raiser.

(i) The state official's planned attendance may be included in publicity for the fund-raiser.

(ii) The state official may receive complimentary admission from the candidate so long as the official attends to show support for the candidate and the attendance does not assist the official's own campaign.

(e) Transferring their own personal funds, as defined in WAC 390-17-305, or their own surplus funds, as defined in RCW 42.17A.005, to their own campaign account, so long as the funds are properly reported;

(f) Soliciting or accepting contributions on behalf of a nonprofit charity; or

(g) Soliciting or accepting contributions on behalf of any political committee, including a caucus political committee, a bona fide political party or a ballot measure committee, so long as the political committee does not spend the contributions for the benefit of incumbent state officials or known candidates.

(7) **Activities not allowed during a freeze period.** During a legislative session freeze period, a state official, or a person employed by or acting on behalf of a state official, may not solicit or accept contributions that:

(a) Go to an incumbent state official or known candidate;

(b) Go to a public office fund;

(c) Are used to pay a nonreimbursed public office related expense;

(d) Are used to retire a campaign debt;

(e) Go to a caucus political committee if the committee spends the contributions for the benefit of incumbent state officials or known candidates; or

(f) Go to a bona fide political party or a political committee if the political party or committee spends the contributions for the benefit of incumbent state officials or known candidates.

(8) **"Person employed by or acting on behalf of a state official"** includes a caucus political committee or any political committee financed or controlled by a legislative caucus as a whole or by one or more officers of a caucus political committee.

(a) During a legislative session freeze period, a person employed by or acting on behalf of a state official may not solicit or accept contributions for any of the purposes specified in subsection (7) of this section.

(b) During a legislative session freeze period, a caucus political committee may solicit or accept contributions from caucus members if the members make the contributions with their own personal funds, as defined in WAC 390-17-305, or with their own surplus funds, as defined in RCW 42.17A.-005.

(c) During a legislative session freeze period, a caucus political committee may not solicit or accept contributions for any of the purposes specified in subsection (7) of this rule.

(9) **Bona fide political parties.** During a legislative session freeze period, a bona fide political party may not solicit or accept contributions that are

- Used for a public office fund,
- Used for a state official's nonreimbursed public office related expenses,
- Used for retiring a state official's campaign debt, or
- Earmarked contributions to specific incumbent state officials or known candidates.

However, a bona fide political party may solicit or accept contributions for its own fund-raising purposes.

(10) **Segregating session freeze funds.** During a legislative session freeze period, if a state official, a caucus political committee, or another person employed by or acting on behalf of a state official solicits or accepts contributions to

- A caucus political committee,
- A bona fide political party, or
- Any political committee that supports or opposes state or local office candidates, the contributions are presumed to violate RCW 42.17A.560, unless the contributions are
- Deposited into a separate bank account and
- Not spent for the benefit of incumbent state officials or known candidates.

However, nothing in this subsection authorizes a state official, a caucus political committee or any person employed by or acting on behalf of a state official to take any of the actions prohibited by subsection (7) or (8)(c) of this section.

(11) **Session freeze solicitations.** If a person is solicited for a contribution during the legislative session freeze period

- By a state official, a caucus political committee, or another person employed by or acting on behalf of a state official, and
- The contribution is to a caucus political committee, a bona fide political party, or a political committee that supports or opposes candidates for state or local office, and
- The person makes a contribution during or after the freeze period in response to this solicitation, the contribution is subject to RCW 42.17A.560 and subsection (12) of this section.

(12) **Spending contributions to benefit incumbents or known candidates.** For purposes of complying with subsections (6)(g), (7)(e) and (f), and (10) of this section, contributions are considered spent for the benefit of incumbent state officials or known candidates if the contributions are used at any time for one or more of the following purposes.

(a) Contributions to incumbent state officials or known candidates.

(b) Independent expenditures supporting incumbent state officials or known candidates, or opposing their opponents, whether or not the opponents are themselves known candidates during a legislative session freeze period.

(c) Payments to staff, consultants or advisors for performing activities that directly assist or promote the election of incumbent state officials or known candidates.

(d) Polls or surveys that relate to incumbent state officials, known candidates or their districts, or to general voter attitudes or preferences, unless

- A poll or survey is produced, conducted, tabulated and analyzed according to the terms of a written confidentiality agreement and, if the agreement is breached, all reasonable steps are taken to enforce it, and
- The results of a poll or survey are not provided by the spender, or with the spender's permission or prior knowledge, to incumbent state officials, known candidates or their agents.

However, candidate recruitment poll or survey results may be provided to an individual who later becomes a known candidate without the expenditure being considered as benefiting a known candidate so long as the poll or survey does not constitute a contribution to the individual or does not otherwise support or promote his or her election to state or local office. For purposes of this subsection, a "candidate recruitment poll or survey" is a poll or survey that is conducted for the sole purpose of recruiting candidates to run for public office and only determines

- The respondent's party preference,
- The level of support the incumbent currently has and how strong that support is, but not why he or she has that support,

- Whether respondents recognize the names of individuals who may decide to seek that elective office,
- Whether respondents currently hold a favorable opinion about these individuals, their abilities or fitness for elective office, but not why such opinions are held,
- Whether respondents would likely vote for one or more of these individuals were they to seek office, but not why respondents would vote in the manner they indicated or whether they could be persuaded to change their vote, and
- The validity of the poll or survey results.

(e) Any other expenditure that directly benefits or promotes the election to state or local office of incumbent state officials or known candidates.

(13) For online or credit card contributions, the contribution is considered received at the time the transfer is made from the merchant account to a candidate or political committee account, except that a contribution made to a candidate who is a state official or legislator outside the restriction period established in RCW 42.17A.560, but transferred to the candidate's account within the restricted period, is considered received outside of the restriction period.

(a) Any such contributions should be reported as received on the date the transfer is made from the merchant account to a candidate or political committee account.

(b) The PDC may request that the state official or legislator document that the contribution was received by the merchant account outside the restriction period.

**AMENDATORY SECTION** (Amending WSR 13-12-017, filed 5/24/13, effective 6/24/13)

**WAC 390-17-405 Volunteer services.** (1) In accordance with RCW 42.17A.005 (~~((13)(b)(vi))~~), an individual may perform services or labor for a candidate or political committee without incurring a contribution, so long as the individual is not compensated by any person for the services or labor rendered and the services are of the kind commonly performed by volunteer campaign workers. These commonly performed services include:

- (a) Office staffing;
- (b) Doorbelling or leaflet drops;
- (c) Mail handling (folding, stuffing, sorting and postal preparation, processing emails to and from the campaign);
- (d) Political or fund-raising event staffing;
- (e) Telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);
- (f) Construction and placement of yard signs, hand-held signs or in-door signs;
- (g) Acting as a driver for candidate or candidate or committee staff;
- (h) Scheduling of campaign appointments and events;
- (i) Transporting voters to polling places on election day;
- (j) Except as provided in subsection (2) of this section, preparing campaign disclosure reports required by chapter



42.17A RCW and otherwise helping to ensure compliance with state election or public disclosure laws;

(k) Campaign consulting and management services, polling and survey design, public relations and advertising (including online advertising), or fund-raising performed by any individual, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service;

(l) Creating, designing, posting to and maintaining a candidate or political committee's official campaign web site or online forum, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; and

(m) All similar activities as determined by the commission.

(2) An attorney or accountant may donate his or her professional services to a candidate, a candidate's authorized committee, a political party or a caucus political committee, without making a contribution in accordance with RCW 42.17A.005 (~~((13)(b)(viii))~~), if the attorney or accountant is:

(a) Employed and his or her employer is paying for the services rendered;

(b) Self-employed; or

(c) Performing services for which no compensation is paid by any person. However, neither RCW 42.17A.005 (~~((13)(b)(viii))~~) nor this section authorizes the services of an attorney or an accountant to be provided to a political committee without a contribution ensuing, unless the political committee is a candidate's authorized committee, political party or caucus political committee and the conditions of RCW 42.17A.005 (~~((13)(b)(viii))~~) and (a), (b) or (c) of this subsection are satisfied, or unless the political committee pays the fair market value of the services rendered.

**AMENDATORY SECTION** (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-17-410 Electioneering communications may constitute contributions and be subject to limit.** (1) Electioneering communications are contributions when they satisfy the definition of contribution in RCW 42.17A.005 (~~((13))~~) or 42.17A.310.

(2) Contributions are subject to all applicable provisions of chapter 42.17A RCW and Title 390 WAC, including RCW 42.17A.405, 42.17A.410 and 42.17A.420.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 390-17-013 Committee—Definition.

**AMENDATORY SECTION** (Amending WSR 13-12-017, filed 5/24/13, effective 6/24/13)

**WAC 390-18-030 Advertising—Exemptions from identification and alternatives for online advertising.** (1) RCW 42.17A.320 requires that political advertising must identify certain information. The commission is authorized to exempt advertising where the sponsor identification disclo-

ures required by RCW 42.17A.320 (1) and (2) are impractical. In addition, other political advertising is exempt from providing certain disclosures.

(2) The following forms of advertising need not include the sponsor's name and address, the "no candidate authorized this ad" sponsor identification, the "top five contributors," or the identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee as otherwise required by RCW 42.17A.320 (1) and (2) because such identification is impractical: Ashtrays, badges and badge holders, balloons, bingo chips, brushes, bumper stickers - size 4" x 15" or smaller, buttons, cigarette lighters, clothes pins, clothing, coasters, combs, cups, earrings, emery boards, envelopes, erasers, Frisbees, glasses, golf balls, golf tees, hand-held signs, hats, horns, ice scrapers, inscriptions, key rings, knives, labels, letter openers, magnifying glasses, matchbooks, nail clippers, nail files, newspaper ads of one column inch or less (excluding online ads), noisemakers, paper and plastic cups, paper and plastic plates, paper weights, pencils, pendants, pennants, pens, pinwheels, plastic tableware, pocket protectors, pot holders, reader boards where message is affixed in moveable letters, ribbons, 12-inch or shorter rulers, shoe horns, skywriting, staple removers, stickers - size 2-3/4" x 1" or smaller, sunglasses, sun visors, swizzle sticks, state or local voters pamphlets published pursuant to law, tickets to fund-raisers, water towers, whistles, yard signs - size 4' x 8' or smaller, yo-yos, and all other similar items.

(3) Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.

(a) These automatic displays must be clear and conspicuous, unavoidable, immediately visible, remain visible for at least four seconds, and display a color contrast as to be legible. Online advertising that includes only audio must include the disclosures in a manner that is clearly spoken.

(b) Examples include nonblockable pop-ups, roll-overs, a separate text box or link that automatically appears with or in the advertising that automatically takes the reader directly to the required disclosures upon being clicked once, or other similar mechanisms that disclose the information required in RCW 42.17A.320.

(4) Political advertising created and distributed by an individual using his or her own modest resources is not required to provide the disclosures in RCW 42.17A.320, when all of the following criteria are satisfied:

(a) The individual spends in the aggregate less than one hundred dollars to produce and distribute the advertising or less than fifty dollars to produce and distribute online political advertising;

(b) The individual acts independently and not as an agent of a candidate, authorized committee, political committee, corporation, union, business association, or other organization or entity;

(c) The advertising is not a contribution under RCW 42.17A.005 (~~((13)(a)(ii) or (iii))~~) or WAC 390-05-210;

(d) The individual does not receive donations, contributions, or payments from others for the advertising, and is not compensated for producing or distributing the advertising; and

(e) The advertising is either:

- A letter, flier, handbill, text or email from the individual that does not appear in a newspaper or other similar mass publication (except for letters to the editor and similar communications addressed in WAC 390-05-490(~~((4))~~)); or

- Disseminated on the individual's social media site, personal web site, or an individual's similar online forum where information is produced and disseminated only by the individual.

(5) Political advertising that is internal political communications to members is not required to separately include the disclosures in RCW 42.17A.320 where the sponsor's name is otherwise apparent on the face of the communication.

AMENDATORY SECTION (Amending WSR 15-12-058, filed 5/28/15, effective 6/28/15)

**WAC 390-18-050 Commercial advertisers—Public inspection of records.** (1) RCW 42.17A.005(11) defines "commercial advertiser" as any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise. This includes communications such as paid internet or digital advertisements, brochures, flyers and any other means of mass communications used for the purpose of appealing, directly or indirectly for votes or for financial or other support in any election campaign.

(2) RCW 42.17A.005 (8)(b) defines "books of account," in the case of a commercial advertiser, as details of political advertising or electioneering communications provided by the advertiser, including the names and addresses of persons from whom it accepted political advertising or electioneering communications, the exact nature and extent of the services rendered and the total cost and the manner of payment for the services.

(3) Pursuant to RCW 42.17A.345, each commercial advertiser who has accepted or provided political advertising, as defined by RCW 42.17A.005(39), or electioneering communications, as defined by RCW 42.17A.005(22), must maintain documents and current books of account. Such information must be available for public inspection:

(a) In person during normal business hours;

(b) Provided electronically promptly upon request; or

(c) Available online on the advertiser's web site.

(4) Any person, without reference to or permission from the public disclosure commission, is entitled to inspect a commercial advertiser's political advertising or electioneering communications documents and books of account.

~~((2) No commercial advertiser shall be required to make available for public inspection))~~ (5) Information regarding political advertising or electioneering communications (~~(prior to)~~) must be made available as of the time when the advertisement or communication has initially received public

distribution or broadcast. Such records must be maintained for a period of no less than three years after the date of the applicable election.

~~((3) The documents))~~ (6) The information and books of account that must be maintained open for public inspection pursuant to RCW 42.17A.345(1) are:

(a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified;

(b) The name and address of the ~~((person))~~ person(s) who sponsored the advertising or electioneering communication;

(c) The total cost of the advertising or electioneering communication, how much of that amount has been paid, who made the payment, when it was paid, and what method of payment was used; and

(d) Date(s) the commercial advertiser rendered service.

~~((4))~~ (7) In addition to subsection ~~((3))~~ (6) of this section and pursuant to RCW 42.17A.345 (1)(b), the documents and books of account open for public inspection must include the advertisement of communication itself, and a description of the major work components or tasks, as specified in (a) through ~~((f))~~ (g) of this subsection, that were required to provide the advertising or communications services.

(a) For printers, reproducers and other persons who provide commercial duplicating services: Quantity of items, item description, design, layout, typesetting, photography, printing, silk screening, binding.

(b) For mailing services: Quantity of items mailed, binding, stuffing, labeling, list or directory services, postage or delivery.

(c) For broadcast media: Air time and number of spot advertisements. If the broadcaster provides additional services such as copy writing, talent, production, and tape reproduction, some type of record or notation evidencing the additional service must be available.

(d) For billboard or sign companies: Number and location of signs, design, printing and art work, erection/removal costs.

(e) For specialty or novelty commercial advertisers: Quantity of items provided, silk screening, design, printing and art work.

(f) For newspapers and other print media: Amount of advertising space and dates of publication. If the advertiser provides additional services such as design or layout, some type of record evidencing such additional services must be available.

(g) For digital communication platforms: An approximate description of the geographic locations and audiences targeted, and total number of impressions generated by the advertisement of communication.

(8) At the request of the PDC, each commercial advertiser required to comply with this section shall deliver to the PDC copies of the information described in subsection (7) of this section.

AMENDATORY SECTION (Amending WSR 12-01-047, filed 12/14/11, effective 1/14/12)

**WAC 390-18-060 Electioneering communication reporting threshold and sponsors.** (1) A "sponsor of an electioneering communication" is defined in RCW 42.17A.005~~((43))~~.

(2) For the purposes of RCW 42.17A.005 ~~((19)(e))~~, an electioneering communication is reportable by the sponsor to the commission when the communication, alone or in combination:

(a) Identifies the same candidate in one or more communications satisfying RCW 42.17A.005 ~~((19)(a) and (b))~~ or commission rules;

(b) Is made by the same sponsor of one or more of the communications;

(c) When it, either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market or aggregate value of \$1,000 or more; and

(d) Is not a communication exempted from reporting under RCW 42.17A.005~~((20))~~ or commission rule.

(3) When the electioneering communication or communications - Including radio or television transmissions, mailings, billboards, newspapers and/or periodicals - Reach the \$1,000 threshold, the sponsor shall electronically report to the commission as required by RCW 42.17A.305 within twenty-four hours of, or on the first working day after, the date the electioneering communication is first broadcast, transmitted, erected, distributed, or otherwise published.

(4) Once the \$1,000 threshold is reached, all subsequent electioneering communications by the sponsor identifying the same candidate are reportable as provided in RCW 42.17A.305 and this rule.

(5) When more than one sponsor pays for the electioneering communication, the entire fair market value of the communication is attributable to all sponsors. All sponsors of the same communication are responsible for reporting once the \$1,000 threshold is met. A failure to report by one joint sponsor is not attributable to all joint sponsors of a specific communication or communications if the remaining sponsors have reported properly.

(6) Consistent with WAC 390-16-060 and the requirements of PDC Form C-6, a prorated portion of independent expenditure and electioneering communications expenditures shall be attributed to each candidate or ballot proposition identified in the advertisement or communication. That proration shall be based on a reasonable, good faith estimate of the value of the portion of the advertisement or communication relating to each candidate or proposition identified.

AMENDATORY SECTION (Amending WSR 01-22-052, filed 10/31/01, effective 1/1/02)

**WAC 390-19-010 Intent of electronic filing.** (1) The public disclosure commission (PDC) was created and empowered by initiative of the people to provide timely and meaningful public access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to insure

compliance with contribution limits and other campaign finance restrictions.

(2) Full and prompt access to the political finance data filed by persons subject to the law is best realized through wide-spread use of electronic filing alternatives. The Washington state legislature has mandated that certain filers submit their PDC reports electronically. The ~~((commission))~~ PDC makes available to all candidates, public officials, lobbyists, lobbyist employers, and political committees that are required to file reports under this chapter electronic filing alternatives for submitting reports, and encourages all persons required to report under the disclosure law to utilize the electronic filing alternatives provided by the PDC.

AMENDATORY SECTION (Amending WSR 16-04-027, filed 1/25/16, effective 2/25/16)

**WAC 390-19-020 Electronic filing—Mandatory filing.** (1) RCW 42.17A.245 mandates that persons ~~((satisfying))~~ meeting the qualifying criteria in that section file all contribution and expenditure reports by electronic means.

(2) Persons filing by electronic means shall register with the PDC and receive a filer identification number and password. Filers must have a current C-1 Candidate Registration Statement or a C-1pc Committee Registration Statement on file with the PDC prior to receiving a filer identification number.

(3) A filer subject to RCW 42.17A.245 shall file all PDC C-3 and C-4 reports and all appropriate schedules electronically in compliance with subsection (5) of this section.

(4) Any filer required to file electronically, but who files on paper, is in violation of RCW 42.17A.245 and may be subject to enforcement action unless the filer is a candidate who has sought and been granted an exception from electronic filing under WAC 390-19-050.

(5) A filer subject to electronic filing shall file reports using one of the following:

(a) The ORCA software (Online Reporting of Campaign Activity) provided free-of-charge by the PDC; or

(b) Any other electronic filing application provided or approved by the PDC.

NEW SECTION

**WAC 390-19-045 Electronic filing system—Inoperable.** (1) For the purpose of chapter 42.17A RCW, "electronic filing system" means the specific PDC-provided application or functionality necessary to file a specific report and does not include software provided by third parties;

(2) For the purpose of chapter 42.17A RCW, "inoperable" means the electronic filing system used by the filer is unable to prepare or receive the required report except as provided in subsection (3) of this section;

(3) The electronic filing system is not considered inoperable during regular maintenance periods lasting less than thirty minutes between the hours of 11:00 p.m. and 5:00 a.m. Pacific time or unscheduled events lasting less than fifteen minutes in any twenty-four-hour period;

(4) The PDC will provide notification for all periods of inoperability on its web site and will provide an option for individuals to also be notified by electronic notification upon request.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-19-050 Electronic filing—Exceptions.** (1) The ~~((commission))~~ PDC may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports electronically.

(2) A candidate seeking an exception under RCW 42.17A.245 shall file with the PDC a written statement of reasons why the authorized committee lacks the ability to file reports electronically.

### Chapter 390-37 WAC

#### ENFORCEMENT ~~((HEARING-ADJUDICATIVE-PROCEEDING))~~ RULES

AMENDATORY SECTION (Amending WSR 12-18-015, filed 8/24/12, effective 9/24/12)

**WAC 390-37-001 Enforcement cases—Jurisdiction.** The commission and its staff enforces chapter 42.17A RCW concerning campaign financing, lobbyist reporting, reporting of public officials' financial affairs, reporting by public treasurers, political advertising, campaign contribution limitations and the other provisions in chapter 42.17A RCW. The commission does not enforce the Public Records Act under chapter 42.56 RCW. RCW 42.56.550 provides for direct review by the superior courts for persons seeking to enforce chapter 42.56 RCW.

#### NEW SECTION

**WAC 390-37-005 Complaint review and categorization.** (1) Commission staff, upon receiving or initiating a complaint, will promptly conduct an initial review and preliminarily assign matters to certain categories.

(2) Upon initial review, a matter may be preliminarily categorized as:

(a) Unfounded or frivolous, pursuant to WAC 390-37-060 (1)(a);

(b) A remedial violation, pursuant to RCW 42.17A.005 (45);

(c) Appropriate for resolution as a technical correction, pursuant to RCW 42.17A.005(51);

(d) A minor violation, appropriate for alternative resolution alternatives, pursuant to WAC 390-37-061(2);

(e) Appropriate for investigation, as to whether or not there has been a material actual violation, appropriate for resolution pursuant to RCW 42.17A.005(2);

(f) Needing further review before preliminary categorization;

(g) Appropriate for referral to the attorney general, pursuant to WAC 390-37-042; or

(h) Other status as authorized and appropriate under chapter 42.17A RCW or Title 390 WAC.

(3) Each enforcement matter will be posted by PDC staff on the PDC's public case-tracking database, which will then be updated whenever the case status changes, until the matter is closed.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-010 Enforcement procedures—General.** This chapter provides the procedures for the commission's enforcement of compliance with chapter 42.17A RCW, including categorization of enforcement matters, complaint processes, alternative resolutions, investigations, and adjudicative proceedings (enforcement hearings) in compliance cases under the commission's jurisdiction. The procedures are also governed by RCW 42.17A.755, and the adjudicative proceedings provisions of chapter 34.05 RCW. Unless they differ or are otherwise specifically addressed in this chapter, the procedures, are supplemented by the model rules of procedure in chapter 10-08 WAC. In lieu of holding an adjudicative proceeding or issuing an order as a result of such a proceeding, the commission may refer the matter to the attorney general or other law enforcement agency at any time, pursuant to RCW 42.17A.105(5) and 42.17A.755.

In addition, the procedures for ~~((requesting))~~ a person required to file a report under this chapter to request a hearing on a petition to modify or suspend reporting requirements are provided in RCW 42.17A.120 and chapters 390-24 and 390-28 WAC.

The policy of the commission is to facilitate the resolution of compliance matters in a fair and expeditious manner. The commission encourages the parties to consider corrections, alternative resolution ((or)), partial resolution, statements of understanding, settlement and stipulation procedures as set forth in WAC 390-37-040, 390-37-060, 390-37-062, 390-37-075, ~~((or))~~ 390-37-090, ~~((when))~~ 390-37-142 whenever appropriate. Informal settlements are encouraged by RCW 34.05.060.

AMENDATORY SECTION (Amending WSR 15-12-079, filed 5/29/15, effective 6/29/15)

**WAC 390-37-020 Enforcement procedures—~~((Alleging a violation))~~ Who may allege a violation with the commission.** Alleged violations of chapter 42.17A RCW may be brought to the attention of the commission staff by:

(1) A member of the public;

(2) The commission staff;

(3) A commission member, who shall ~~((then be disqualified))~~ thereafter, in their discretion, determine whether disqualification from participating in the ~~((decision))~~ adjudication of an enforcement matter that may arise from a complaint regarding the alleged violation(s) is appropriate;

(4) Referral from the office of the attorney general or any other law enforcement agency; or

(5) A state agency, local agency or member of a state or local agency.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-030 Enforcement procedures—~~((Citizen complaints filed with the commission))~~ Standing and notice for complainants.** (1) When a ~~((citizen))~~ member of the public files a complaint ~~((has been filed with the agency))~~ with the PDC pursuant to WAC 390-37-040, neither the com-

plainant nor any other person shall have special standing to participate or intervene in ~~((the))~~ any investigation or consideration of the complaint by the commission or its staff. However, the staff shall give notice to the complainant of any open commission hearings on the matter and the complainant may be called as a witness in any enforcement hearing or investigative proceeding. The presiding officer has the discretion to allow comment by a person other than the respondent during the consideration of a complaint by the commission. Any person who wishes to comment should notify staff at least three business days before the proceeding.

(2) The complainant or any other person may submit documentary evidence and/or written factual or legal statements to the staff at any time up to and including the fifth calendar day before the date of any enforcement hearing or proceeding, but complainants are encouraged to provide as much information as possible at the time of filing a complaint to help ensure the complaint review and investigation processes are as thorough as possible.

~~((3) A person not satisfied with the dismissal of a complaint by the commission or its executive director may pursue an appropriate remedy under RCW 42.17A.765(4).))~~

AMENDATORY SECTION (Amending WSR 15-12-079, filed 5/29/15, effective 6/29/15)

**WAC 390-37-040 Enforcement procedures—Procedures for filing complaints with the commission.** (1) A complaint filed with the ~~((commission))~~ PDC must be ~~((in))~~ by electronic writing. Complainants ~~((are encouraged to))~~ must use the ~~((complaint form))~~ form(s) provided by the commission on its web site. The executive director may waive this requirement and allow for the use of another written format on the basis of hardship.

(2) A complaint must include:

(a) A statement of the nature of the alleged violation or violations referencing the violation under chapter 42.17A RCW and/or Title 390 WAC (if known), date, time and place of each occurrence and name of person or persons believed to be responsible, and a description of the impact of the alleged violation on the public;

(b) All available documentation and other evidence which the complainant is able to supply that supports the allegations made in the complaint. Information about where documents or evidence can be obtained and any relevant contact information should be included for any items that cannot be supplied with the complaint;

(c) The names and telephone numbers, email addresses, and U.S. mail address, if known, of any witnesses or other persons who have knowledge of facts ~~((that support))~~ related to the complaint;

(d) The complainant's name, email address which will be the PDC's official method of communication, U.S. mail address, and telephone number; ~~((and))~~

(e) The signature of the complainant certifying under penalty of perjury under the laws of the state of Washington that the information provided with the complaint is true and correct to the best of ~~((his or her))~~ their knowledge and belief; and

(f) Other pertinent information, as required by the commission or its staff.

(3) The person or entity against whom a complaint is filed is known as the respondent.

#### NEW SECTION

**WAC 390-37-042 Enforcement procedures—Process and criteria for referring enforcement matters to the attorney general.** (1) When a complaint is filed or initiated by the commission, the commission may refer the matter to the attorney general in accordance with RCW 42.17A.755 (1) and (4). The determination to refer a matter to the attorney general will be made by either:

(a) A majority vote of the commission at a regular or special commission meeting; or

(b) By the executive director with the documented concurrence of either the chair or vice chair of the commission.

Any referral to the attorney general will be made in writing and may be made by electronic transmission.

(2) Enforcement matters potentially appropriate for referral may be brought to the executive director's attention by members of the commission, by staff of the commission, by another party or by the attorney general.

(3) Where the attorney general has requested referral of a matter and addressed the relevant criteria under RCW 42.17A.755, the executive director shall respond to the request within two business days. Both the request and the response shall be in writing and may be by electronic transmission.

(4) The executive director shall report at each regular commission meeting all referrals made by the executive director to the attorney general and all requests for referral by the attorney general since the prior commission meeting.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-050 Enforcement procedures—Respondent's notice of complaint.** (1) Within ten days of receipt by the ~~((commission))~~ PDC of a complaint which on its face appears to have merit, the commission staff shall notify the respondent that a complaint has been filed, along with an explanation of possible next steps, including the categorization process under WAC 390-37-005. Sending the complaint to the respondent's email address of record as provided to the PDC shall constitute sufficient notice.

(2) The notice shall set forth the nature of the complaint and ~~((its origin (citizen complaint, commission or other) and the statutory provision alleged to have been violated.))~~ the statutory and/or rule provision(s) alleged to have been violated.

(3) Respondents who wish to respond must file their response electronically within fourteen days of being notified by commission staff, addressing the alleged noncompliance in the complaint. The response may address the respondent's view of which category(ies) appropriately address(es) the alleged noncompliance pursuant to WAC 390-37-005 (remedial, technical corrections, etc.).

(4) If an alternative response to the alleged violation has been issued as provided by this chapter, the notice shall also

describe that response, including any conditions the respondent is required to meet.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-060 Enforcement procedures—Alternative responses to noncompliance—Investigation of complaints—Initiation of adjudicative proceeding.** (1) Upon receipt of a complaint, the ~~((executive director))~~ PDC staff will conduct an initial review ~~((of the complaint to determine what action will be taken. An initial review is a preliminary investigation to determine whether the allegations are limited to minor or technical violations of chapter 42.17A or if there is sufficient ground indicating that a material violation of chapter 42.17A RCW may have occurred so as to warrant a formal investigation))~~ of the complaint pursuant to WAC 390-37-005.

(a) If the executive director determines that any complaint is obviously unfounded or frivolous, or outside of the PDC's jurisdiction, the executive director will inform the complainant and respondent why no further ~~((investigation))~~ action is warranted.

(b) The executive director may resolve a matter as a remedial violation or technical correction pursuant to RCW 42.17A.755.

(c) The executive director may resolve any complaint that alleges minor ~~((or technical))~~ violations of chapter 42.17A by issuing a formal written warning. If the resolution is conditioned upon the respondent reaching or maintaining compliance, specific expectations and any deadlines should be clearly explained in the written warning. A respondent's failure to meet conditions may result in a complaint being reopened.

~~((e))~~ (d) The executive director may use the complaint publication process set out in WAC 390-32-030 to resolve any complaint that alleges minor or technical violations of chapter 42.17A RCW.

~~((d))~~ (e) The executive director ~~((shall))~~ may initiate ~~((a formal))~~ an investigation whenever an initial review of a complaint indicates that a material violation ~~((of chapter 42.17A RCW))~~ may have occurred.

(2) If the executive director determines ~~((a formal))~~ an investigation will require the expenditure of substantial resources, the executive director may request review and concurrence by the commission before proceeding.

(3) ~~((The executive director shall initiate an adjudicative proceeding or provide a report to the commission whenever a formal investigation reveals facts that the executive director has reason to believe are a material violation of chapter 42.17A RCW and do not constitute substantial compliance.~~

~~((4))~~ If the executive director determines an investigation is warranted, an initial hearing (case status review) shall be held pursuant to WAC 390-37-071 within ninety days.

(4) Following the initial hearing (case status review), and further investigation if needed, the executive director may initiate an adjudicative proceeding whenever the facts support that an actual violation has occurred and the matter is not appropriate for a dismissal or an alternative resolution.

(5) The respondent and complainant shall be notified of the date of the adjudicative proceeding or a report on an enforcement matter resulting from a complaint no later than ten calendar days before that date. The notice shall contain the information required by RCW 34.05.434, the staff investigative report, and any charges to be adjudicated. The notice, whenever possible, will be delivered electronically.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-061 Enforcement procedures—Alternative responses to noncompliance—Goals and objectives—Factors to be considered.** (1) In considering appropriate responses to ~~((noncompliance with chapter 42.17A RCW or Title 390 WAC,))~~ actual violations the commission staff considers whether ~~((a formal))~~ an investigation or adjudicative proceeding constitutes an efficient and effective use of public funds; or whether an alternative response better meets the commission's mission and public expectations by allowing the expedited resolution of minor ~~((and technical alleged))~~ violations, and the focusing of staff and commission resources on ~~((major alleged))~~ more significant violations of chapter 42.17A RCW and Title 390 WAC.

(2) A minor violation is an actual violation that occurs:

(a) When required information is not timely disclosed, ((however)) but the public is not deprived of critical information((:

A technical violation occurs when)); or

(b) When incomplete information is disclosed, but a good faith effort to comply with disclosure is made, ((but incomplete information is disclosed)) and the public is not deprived of critical information.

~~((2))~~ (3) In authorizing an alternative response to alleged noncompliance, the executive director may consider the nature of the alleged violation and any relevant circumstances including, but not limited to, the factors described in subsection ~~((3))~~ (4) of this section: Provided, that, if after weighing the relevant circumstances and factors, the executive director determines that there is evidence that so warrants, the allegations shall be addressed through ~~((a formal))~~ an investigation as provided by WAC 390-37-060.

~~((3))~~ (4) The factors the executive director may consider in permitting an alternative response to noncompliance, ~~((a formal))~~ an investigation, or an adjudicative proceeding include, but are not limited to:

<p><b>An alternative response to noncompliance may be appropriate if ...</b></p>	<p><del>((A formal))</del> <b>An investigation and possible adjudicative hearing may be appropriate if ...</b></p>
<p>It appears that noncompliance resulted from a good-faith error, omission, or misunderstanding.</p>	<p>It appears that the noncompliance may have resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior.</p>

An alternative response to noncompliance may be appropriate if ...	<del>((A formal))</del> An investigation and possible adjudicative hearing may be appropriate if ...
The respondent is a first-time filer.	The respondent has experience in complying with the applicable requirements.
The respondent's compliance history indicates the noncompliance was isolated or limited in nature, and not indicative of systematic or ongoing problems.	The noncompliance is part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization.
The impact of the noncompliance on the public was minimal.	The noncompliance deprived the public of timely or accurate information during a time-sensitive period in a campaign, legislative session, etc., or otherwise had a significant or material impact on the public.
The respondent's organization or campaign was relatively unsophisticated or small.	The respondent or the respondent's organization or campaign demonstrated a relatively high level of sophistication, or was well financed and staffed.
The total expenditures by the respondent in the campaign or statement period were relatively modest.	The campaign or statement period involved significant expenditures by the respondent.
The amount of late-reported activity, or the duration of the untimely disclosure, was small in proportion to the amount of activity that was timely reported by the respondent.	The late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period.
There is no evidence that any person, including an entity or organization, benefited politically or economically from the noncompliance.	It appears the respondent or anyone else benefited politically or economically from the noncompliance.
Personal emergency or illness of the respondent or member of his or her immediate family contributed to the noncompliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
Other emergencies such as fire, flood, or utility failure prevented compliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
Commission staff or equipment error, including technical problems at the agency prevented or delayed electronic filing.	Commission staff or equipment error did not appear to contribute to the noncompliance.
The noncompliance resulted from the respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions, a lack of clarity in the rule or statute, or uncertainty concerning the valid application of the commission's rules.	It appears the respondent understood the application of staff's guidance or instructions, and did not dispute the valid application of the commission's rules.
The respondent quickly took corrective action or initiated other remedial measures prior to any complaint, or when noncompliance was brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or over limit contributions).	The respondent appeared negligent or unwilling to address the noncompliance.
The respondent made a good-faith effort to comply, including by consulting with commission staff following a complaint and cooperating during any preliminary investigation, or demonstrated a wish to acknowledge and take responsibility for the alleged violation.	The respondent failed to provide a timely or adequate response to the complaint, or was otherwise uncooperative.
The alleged violation was or is being addressed under an analogous local ordinance, regulation, or policy.	The commission has primary jurisdiction over the alleged violation.
The alleged violation presents a new question or issue for the commission's interpretation.	The alleged violation does not present a case of first impression.
Other factors relevant to a particular case	

NEW SECTION

**WAC 390-37-062 Enforcement procedures—Alternative responses—Cases resolvable by stipulation prior to investigation—Penalty schedule.** (1) The purpose of WAC 390-37-062 is to set forth a schedule of violations and penalties that may be agreed to by a respondent pursuant to a stipulation prior to an investigation, as authorized by RCW 42.17A.755. That schedule appears in subsection (7) of this section.

(2) A violation not set forth in the schedule may be resolved pursuant to a stipulation, provided that the proposed penalty amount is within the dollar ranges listed in the schedule.

(3) "Occasion" as used in the schedule means an "actual violation," as defined in RCW 42.17A.005, found by the commission.

(4) Only actual violations within the last five years will be considered for determining whether the violation under consideration shall be deemed a second or third occasion.

(5) Any proposed stipulation shall be in writing, must include a brief recitation of the facts, violations, and penalty, and be signed by each party to the stipulation or their representative and provided by 4:00 p.m. three business days preceding the commission meeting. The executive director shall sign for commission staff.

(6) The commission has the option of accepting, modifying or rejecting the proposed stipulation. If the commission accepts the stipulation, or modifies the stipulation with the agreement of the parties, the commission shall enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation, the commission staff may consider whether:

- (a) An investigation should be initiated; or
- (b) The matter may appropriately be resolved in another manner.

(7) In determining whether to accept the stipulation, the commission may consider the nature of the violation(s), and any aggravating and/or mitigating factors as provided in WAC 390-37-182.

<b>Violations:</b>			
<b>Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report); (2) Candidate Registration (C-1 report); (3) Lobbyist Monthly Expense Report (L-2 report); (4) Lobbyist Employer Annual Report (L-3 report); and (5) Local Treasurer's Annual Report (T-1 report).</b>			
	<b>1st Occasion</b>	<b>2nd Occasion</b>	<b>3rd Occasion</b>
Filed missing report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Report is filed late and is incomplete or inaccurate.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
<b>Respondent failed to file or timely file accurate and complete campaign disclosure reports:</b>			
<b>Cash Receipts Monetary Contributions Report (C-3 report)</b>			
Filed missing C-3 report or amended C-3 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to timely deposit monetary contributions within five business days of receipt.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to include employer and occupation information for contributors of more than \$100.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Campaign Summary Receipts and Expenditures Report (C-4 report)</b>			
Filed missing C-4 report or amended C-4 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to report a contractual contingent liability.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly dispose of surplus funds.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250



<b>Violations:</b>			
<b>Independent Expenditure Report (C-6 report)</b>			
Filed missing C-6 report or amended C-6 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Report is incomplete or inaccurate.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Out-of-State Political Committee Report (C-5 report)</b>			
Filed missing C-5 report or amended C-5 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Last Minute Contribution Report (LMC report)</b>			
Filed missing LMC report or amended LMC report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Exceeding contribution limits</b>			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Other Alleged Violations</b>			
<b>Exceeding mini reporting threshold</b>			
Filed C-3 and C-4 reports for full reporting after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Failure to file electronically</b>			
Filed C-3 and C-4 reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition</b>			
Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
<b>Failure to file Lobbyist Registration Report (L-1 report)</b>			
Filed missing L-1 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - 1,000
<b>Failure to file Agency Lobbying Report (L-5 report)</b>			
Filed missing L-5 report or amended L-5 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
<b>Grassroots Lobbying Report (L-6 report)</b>			
Filed missing L-6 report or amended L-6 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
<b>Sponsor identification requirements for political advertising</b>			

<b>Violations:</b>			
Political advertising failed to include any sponsor identification, or included improper or misleading sponsor identification.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Commercial advertisers—Public inspection of documents			
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain documents or books of account as required by WAC 390-18-050.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Candidates and political committees—Public inspection of books of accounts			
Candidates or political committees who fail to accommodate requests for public inspection as required by WAC 390-16-043.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400

(8) In a matter where the commission staff have initiated an investigation or resolved the matter as a technical correction, as authorized in RCW 42.17A.755, the schedule set forth in subsection (7) of this section is not applicable.

**AMENDATORY SECTION** (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-37-063 Enforcement procedures—Demand for information—Subpoenas.** (1) During the course of ~~((an))~~ a PDC audit or ~~((an))~~ investigation, the executive director may issue a subpoena directed to any person

who probably possesses information which is relevant and material to the audit or the investigation. The subpoena shall:

(a) Specifically describe the information which is sought ~~((, and))~~;

(b) Set forth a reasonable time and place for the production of the information ~~((s))~~; and

(c) Notify the person that if the information is not produced, the executive director will apply to the superior court for an appropriate order or other remedy.

The subpoena may be personally delivered or sent by certified mail, return receipt requested.

(2) The commission or presiding officer may issue a subpoena under RCW 42.17A.110(6) and WAC 390-37-120 to

compel persons to appear and give testimony and may require the production of any books, papers, correspondence, ~~((memorandums))~~ memoranda or other ~~((documents which))~~ evidence that the commission deems relevant and material.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-070 Enforcement procedures—Complaints dismissed by executive director after an investigation has been commenced.** The executive director, ~~((with the concurrence of the chair or the chair's designee commissioner,))~~ at any time prior to consideration by the commission, may dismiss a complaint which on its face, or as shown by investigation, does ~~((not show))~~ provide reason to believe that a ~~((material))~~ violation ~~((of the sections of chapter 42.17A RCW that are enforced by the commission))~~ has occurred, shows that the respondent is in substantial compliance with the relevant statutes or rules, or shows that formal enforcement action is not warranted. The executive director shall report at each regular commission meeting all complaints dismissed.

#### NEW SECTION

**WAC 390-37-071 Enforcement procedures—Initial hearing—Case status review prior to ninety days.** (1) After initiating an investigation pursuant to WAC 390-37-060, the commission executive director will conduct case status review, referred to as an initial hearing, in RCW 42.17A.-755(3). The case status review is not an adjudicative proceeding conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW. Its purpose is to ensure the investigation is being conducted expeditiously and to provide an opportunity to discuss possible alternative resolutions.

(2) The case status review will be conducted within ninety days of the complaint being filed in the matter, and may be held by telephone conference or in-person at a time and place specified by commission staff. Notice of the case status review will be delivered electronically whenever possible.

(3) Participation in the case status review by the respondent is not mandatory. The failure to participate in the hearing will not prejudice any rights of the respondent with respect to the investigation or potential adjudication of the matter.

(4) The case status review shall have a set time limit as determined by the executive director.

(5) At the case status review, the executive director shall have the authority to:

(a) Provide the respondent with a brief opportunity to explain the respondent's view of the matter, including why further investigation may not be warranted;

(b) Identify any available options to resolve the matter;

(c) When appropriate, encourage the parties to enter into a stipulated agreement as authorized by RCW 42.17A.755(2) and WAC 390-37-062; and

(d) Consider such other matters as may aid in the investigation, disposition or resolution of the matter.

(6) Following the case status review, the executive director shall direct commission staff to update the PDC's public case-tracking database pursuant to WAC 390-37-005.

(7) The executive director shall report to the commission, no later than the next regular commission meeting, case status reviews held. The executive director's report shall include an overview of matters addressed and any review outcomes.

(8) Nothing in this rule shall limit the authority of the commission or its staff to resolve a complaint or refer a matter to the attorney general at any time.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-075 Enforcement procedures—Deferred enforcement(~~(Process))~~ after an investigation has been commenced.** (1) As provided by WAC 390-37-060, the chair or the chair's designee commissioner may authorize deferred enforcement:

(a) Following a ~~((formal investigation,))~~ case status review provided for in WAC 390-37-071, referred to as initial hearing in RCW 42.17A.755(3), in lieu of a formal investigation;

(b) Following an investigation, in lieu of a notice of administrative charges for an adjudicative proceeding; or

~~((b))~~ (c) After a notice of administrative charges, prior to an adjudicative proceeding.

(2) The executive director will recommend to the chair or the chair's designee commissioner the conditions of a deferred enforcement. The conditions shall be clearly defined and agreed to by the respondent, along with the consequences for failure to meet the conditions of the deferral. Negotiations regarding deferred enforcement shall be informal and without prejudice to rights of a participant in the negotiations.

(3) With concurrence of the chair or the chair's designee commissioner, the executive director or designee (commission staff) shall memorialize the pertinent facts and the conditions of the deferral ~~((in))~~ by electronic writing to the respondent, together with the consequences for failure to meet the conditions of the deferral. The agreement shall be signed by ~~((staff))~~ the executive director and the respondent. Staff shall notify the respondent that any administrative charges issued in the matter are stayed pending satisfaction of the deferral conditions.

(4) Once the deferral conditions are met, the complaint shall be dismissed with no further investigation or action as provided by WAC 390-37-070.

(5) If the deferral conditions are not met, the complaint shall proceed in accordance with WAC 390-37-060.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-090 Enforcement procedures—Cases resolvable by stipulation after an investigation and prior to an enforcement hearing (adjudicative proceeding)~~((or by other alternative dispute mechanisms))~~.** (1) RCW 34.05.060 authorizes agencies to establish by rule specific procedures for attempting and executing informal settlement of matters. The following procedures are available for infor-

mal dispute resolution prior to an adjudicative proceeding that may make more elaborate proceedings under the Administrative Procedure Act unnecessary.

(a) Any enforcement matter before the commission which has not yet been heard in an adjudicative proceeding may be resolved by settlement. The respondent shall communicate (~~(his or her)~~) their request to the executive director or designee (commission staff), setting forth all pertinent facts and the desired remedy. Settlement negotiations shall be informal and without prejudice to rights of a participant in the negotiations.

(b) (~~(When)~~) The executive director and respondent may also agree to (~~(terms of any)~~) a stipulation of facts, violations, and/or penalty(~~(s)~~). The commission staff shall prepare the stipulation for presentation to the commission.

(c) Any proposed stipulation shall be in writing, must include a brief recitation of the facts, violations and penalty, and be signed by each party to the stipulation or (~~(his or her)~~) their representative. The executive director shall sign for commission staff. Any stipulation to facts, violations, or penalty shall be provided by 4:00 p.m. three business days preceding the hearing. The commission has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the commission accepts the stipulation or modifies the stipulation with the agreement of the (~~(opposing party)~~) parties, the commission shall enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation or (~~(the opposing)~~) either party does not agree to the commission's proposed modifications to the stipulation, and if no revised stipulation or staff report is presented to the commission, then an adjudicative proceeding shall be scheduled and held.

(2) Parties are encouraged to be creative in resolving cases without further litigation where appropriate.

(3) (~~(Following a)~~) As part of commission review of any proposed stipulation of facts (~~(or)~~), violations and law or other alternative resolution ruled on at a hearing, if the commission determines certain additional sanctions or other steps are required by the respondent (~~(as a result of the alternative dispute resolution including stipulations)~~) and states on the record that (~~(#)~~) the commission intends to enter an order, and the respondent does not timely raise an objection at the hearing, it shall be presumed that the respondent has waived objections and appeals, and agrees to the entry of the order.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-100 Enforcement procedures—Conduct of hearings (adjudicative proceedings).** (1) An enforcement hearing (adjudicative proceeding) shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW). Chapter 390-37 WAC further governs these proceedings, as supplemented by chapter 10-08 WAC. To the extent chapters 390-37 and 10-08 WAC differ, chapter 390-37 WAC controls.

(2) An adjudicative proceeding shall be heard by the commission, except for brief adjudicative proceedings which are conducted by the chair or the chair's designee.

(3) The commission or the presiding officer shall have the authority to:

(a) Determine the order of presentation of evidence;  
 (b) Administer oaths and affirmations;  
 (c) Rule on procedural matters, objections, and motions;  
 (d) Rule on offers of proof and receive relevant evidence;

(e) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(h) Take official notice of facts pursuant to RCW 34.05.-452(5);

(i) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

(j) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Issue an order of default pursuant to RCW 34.05.440;  
 (l) Take any other action necessary and authorized by any applicable statute or rule;

(m) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver; and

(n) The commission chair or the chair's designee may conduct the procedural aspects of the adjudicative proceeding under (a) through (m) of this subsection, unless a majority of members present vote to seek a full commission decision on any particular matter.

(4) The commission may decide dispositive motions, and any other matters referred to it by the presiding officer at a prehearing conference.

(5) After an adjudicative proceeding by the commission, the commission may (~~(find that)~~):

(a) Find that the respondent did not violate (~~(the act)~~) chapter 42.17A RCW, as alleged, and dismiss the case; or

(b) Find that the respondent violated chapter 42.17A RCW, as alleged, and determine the sanction, if any, to be imposed; or

(c) Find that the respondent is in apparent violation of chapter 42.17A RCW, (~~(its own)~~) and that the commission's statutory remedies are inadequate, and enter (~~(its)~~) an order referring the matter to the attorney general or another appropriate law enforcement agency as provided in RCW 42.17A.-105 and 42.17A.755.

(6) Upon the conclusion of an adjudicative proceeding or after submission of memos, briefs or proposed findings when requested by the presiding officer, the commission:

(a) Shall set forth in writing its findings of fact, conclusions of law and decision on the merits of the case and enter an order within thirty days, unless extended by the presiding officer due to the complexity of the case; and

(b) Shall serve the (~~(respondent)~~) parties by electronic communication a copy of the findings of fact, conclusions of law and decision and order.

(7) The executive director is authorized to sign orders on behalf of the commission at the discretion of the commission.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-103 Enforcement procedures—Commission options following receipt of a staff report on alleged violations.** Upon receipt of a staff report concerning alleged violations (~~(of those sections of chapter 42.17A RCW that the commission enforces)~~), the commission may:

- (1) Direct the executive director to (~~(issue)~~) pursue an alternative (~~(response)~~) resolution as provided in WAC 390-37-060;
- (2) Defer enforcement as provided in WAC 390-37-075;
- (3) Issue an order; or
- (4) Refer the matter or apparent violations to the attorney general or other enforcement agency pursuant to RCW 42.17A.105(5) and (~~(42.17A.750)~~) 42.17A.755.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-105 Enforcement hearings (adjudicative proceedings)—Prehearing conference(~~—Rule~~).** (1) In any prehearing conference prior to an enforcement hearing (adjudicative proceeding), the (~~(chair or the chair's designee upon his/her)~~) presiding officer upon their own motion or upon request by one of the parties or their qualified representative, may direct the parties to appear at a specified time and place for a conference to consider:

- (a) Identifying and simplifying issues;
- (b) The necessity of any amendments to the (~~(pleadings)~~) case documents;
- (c) The possibility of obtaining stipulations, admissions of facts and of documents;
- (d) Limiting the number and consolidation of the examination of witnesses; (~~(and)~~)
- (e) Submitting proposed orders;
- (f) Deadlines for briefs, exhibit and witness lists and objections thereto, proposed orders, and other procedural (~~(and such other)~~) matters as may aid in the conduct of the proceeding.

(2) Prehearing conferences may be presided over by the chair or (~~(his/her)~~) designee commissioner as presiding officer.

(3) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(4) In a prehearing conference, the presiding officer may hear prehearing motions regarding preliminary matters such as motions *in limine*, discovery motions, and other similar matters. The presiding officer shall not consider dispositive motions in a prehearing conference and such motions will automatically be scheduled for consideration before the commission.

(5) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken and decisions made at the conference and the date on which objections to the order are to be filed and served. If no objection to the order is timely filed with the presiding officer, the order

shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(6) When the chair or (~~(his/her)~~) designee commissioner presides over a prehearing conference, (~~(he or she)~~) the presiding officer is acting as a quasi-judicial body which relates to a quasi-judicial matter between named parties. Therefore, a prehearing conference is not subject to chapter 42.30 RCW, Open Public Meetings Act.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

**WAC 390-37-130 Enforcement hearings (adjudicative proceedings)—Depositions and interrogatories—Right to take.** Unless otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the hearing. The deposition of a commissioner, the executive director, or (~~(assistant director)~~) other staff, may only be taken upon application to the commission, for good cause shown, and only in those circumstances where the statements or depositions of other staff members would not reveal the information, evidence, or details needed by the party for the case. The attendance of witnesses to a deposition may be compelled by use of a subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas.

AMENDATORY SECTION (Amending WSR 03-18-003, filed 8/20/03, effective 9/20/03)

**WAC 390-37-134 Enforcement hearings (adjudicative proceedings)—Depositions and interrogatories (~~(in enforcement hearings (adjudicative proceedings))~~)—Protection of parties and deponents.** After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the commission or the presiding officer in a prehearing conference may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or the commission may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or the deponent, and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the commission or the presiding officer in a prehearing conference may order the officer conducting the examination to cease forthwith from taking the deposition or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed only upon the order of the agency. Upon demand of the objecting party or deponent, the taking of the deposition

shall be suspended for the time necessary to make a motion for an order.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-136 Enforcement hearings (adjudicative proceedings)—Production of documents and use at hearing and other hearing procedures ((~~adjudicative proceedings~~)).** (1) Unless a prehearing order states otherwise, the provisions of this rule apply to evidence and written argument (legal briefs) filed and served in hearings (adjudicative proceedings). Parties or the executive director may request a prehearing conference if provisions of this rule need to be adjusted or if the provisions are not adhered to by the parties.

(2) The parties are encouraged to exchange copies of proposed exhibits, exhibit lists and witness lists prior to the deadline specified in subsection (3)(a) of this section. The parties are encouraged to exchange documents by email whenever possible. The parties are encouraged to confer and determine whether there are any objections to the evidence and whether any agreements or stipulations can be reached regarding proposed exhibits, witnesses, and legal and factual issues.

(3)(a) Unless the commission determines otherwise, when evidence is to be offered at the adjudicative proceeding or when briefs are to be submitted at the adjudicative proceeding, the party offering the evidence or brief shall file with the commission and serve on all parties a copy of proposed exhibits, exhibit lists, witness lists, and briefs with the commission via an email to the executive director or his or her designee by the date and time designated by the executive director or designee, which is typically by 1:00 p.m. Pacific Time at least eight days prior to the hearing. The email shall provide the name of the party submitting the documents, the total number of pages, the software used to prepare the document, and the name, address, telephone number and email address of the person sending the email message.

(b) In the event electronic submission is not readily available to a *pro se* respondent or the evidence is not suited to email transmission, other means of providing these materials to the commission may be approved by the chair or the executive director, or their designees if requested in advance of the date and time in (a) of this subsection.

(c) ~~((On the day the parties provide these materials electronically to the commission, they shall also mail or otherwise deliver a paper (or hard copy) set of the materials to the commission.~~

~~(d))~~ The parties shall confirm in advance with the executive director that any documents provided electronically are able to be accessed by software available at the agency. If they are not accessible, the executive director shall direct how the documents are to be submitted.

~~((e))~~ (d) The documents are considered filed when received during actual business hours at the commission office. If received after actual business hours, they will be deemed filed the next business day.

(4) Respondent's exhibits shall be numbered R-1, R-2, etc. Commission staff exhibits shall be numbered S-1, S-2,

etc. Jointly submitted exhibits shall be numbered J-1, J-2, etc. If an exhibit is not jointly submitted but there is no objection to it by the responding party, the party offering the exhibit shall designate agreed-to exhibits on the party's exhibit list.

(5) Briefs shall contain the name of the respondent in the caption and the cause number. Briefs shall be no more than twenty-five pages, double-spaced, excluding attachments or exhibits.

(6) The parties shall inform the executive director of any special equipment necessary for the adjudicative proceeding at the time documents are filed with the commission.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-140 Brief enforcement hearings (brief adjudicative proceedings)—Authority.** (1) The commission may provide a brief adjudicative proceeding for violations ~~((of the sections of chapter 42.17A RCW that it enforces))~~ in which the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than \$1,000 will be assessed for the violations. Typical matters to be heard in a brief adjudicative proceeding include, but are not limited to, the following:

- (a) Failure to file or late filing of required reports;
- (b) Failure to report or accurately report campaign contributions or expenditures or funds spent in lobbying;
- (c) Use of public office facilities in election campaigns when the value of public funds expended was minimal; and
- (d) Infractions of political advertising law regarding sponsor identification or political party identification.

(2) The commission may utilize a penalty schedule for brief adjudicative proceedings.

(3) Brief adjudicative proceedings are set forth in RCW 34.05.482 through 34.05.494.

AMENDATORY SECTION (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-142 Brief enforcement hearing (brief adjudicative proceeding)—Procedure.** (1) A brief adjudicative proceeding may be presided over by the chair, or a member of the commission designated by the chair.

(2) When a violation, as described in WAC 390-37-140, is alleged, before taking action, the executive director shall send the ~~((alleged violator))~~ respondent notice, which shall include:

- (a) Alleged violation;
- (b) The maximum amount of the penalty that can be imposed at the hearing, relevant penalty schedules, and the amount of any proposed fine; and
- (c) Person's right to respond either ~~((#))~~ by electronic writing or in person to explain his/her view of the matter.

(3) As provided in RCW 34.05.050, a respondent who has been notified of a brief adjudicative proceeding may waive the hearing by providing the following prior to the hearing:

- (a) A signed statement of understanding;
- (b) Any missing required reports; and
- (c) A penalty payment specified by the executive director in accordance with the penalty authority of WAC 390-37-

140 and the brief enforcement hearing penalty schedules of this chapter.

(4) As used in this section, the term "statement of understanding" means a written statement signed by the respondent that:

(a) Acknowledges a violation of chapter 42.17A RCW and any relevant rules; and

(b) Expresses the respondent's understanding that the commission will not hold any adjudicative proceeding concerning the violation.

(5) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than one thousand dollars, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an adjudicative proceeding by the full commission.

(6) ~~((At the time any unfavorable action is taken))~~ Within thirty days after the hearing, the ((presiding officer)) commission shall serve upon each party a written statement describing the violation, the reasons for the decision, ((and))

the penalty imposed ~~((Within ten days, the presiding officer shall give the parties a brief written statement of the reasons for the decision))~~, and information about any internal administrative review or reconsideration available. The executive director is authorized to sign the decision on behalf of the presiding officer.

(7) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

AMENDATORY SECTION (Amending WSR 18-10-088, filed 5/1/18, effective 6/1/18)

**WAC 390-37-143 Brief enforcement hearings (brief adjudicative proceeding)—Penalty schedule.** The presiding officer may assess a penalty up to one thousand dollars upon finding a violation of chapter 42.17A RCW or Title 390 WAC.

(1) Base penalty amounts:

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to timely file an accurate and complete statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Candidate's failure to timely file an accurate and complete registration statement (C-1)/statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 per report	\$150 - \$300 per report	\$300 - \$600 per report up to \$1,000
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 per report	\$300 per report	\$600 per report up to \$1,000
Failed to file report by date of enforcement hearing.	\$250 per report	\$500 per report	consideration by full commission
Failure to timely file an accurate and complete lobbyist monthly expense report (L-2):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Failure to timely file an accurate and complete lobbyist employer report (L-3):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Failure to timely file accurate and complete disclosure reports:			

<b>Violation</b>	<b>1st Occasion</b>	<b>2nd Occasion</b>	<b>3rd Occasion</b>
Political committee registration (C-1pc).	\$150	\$300	\$600
Statement of contributions deposit (C-3).	\$150	\$300	\$600
Summary of total contributions and expenditures (C-4).	\$150	\$300	\$600
Independent expenditures and electioneering communications (C-6).	\$150	\$300	\$600
Last minute contribution report (LMC).	\$150	\$300	\$600
Out-of-state committee report (C-5).	\$150	\$300	\$600
Annual report of major contributors (C-7).	\$150	\$300	\$600
Failure to timely file accurate and complete reports disclosing lobbying activities:			
Lobbyist registration (L-1).	\$150	\$300	\$600
Public agency lobbying report (L-5).	\$150	\$300	\$600
Grass roots lobbying report (L-6).	\$150	\$300	\$600
Failure to file electronically.	\$350	\$650	\$1,000
Exceeding contribution limits.	\$150	\$300	\$600
Exceeding mini reporting threshold.	\$150	\$300	\$600
Failure to comply with political advertising sponsor identification requirements.	\$150	\$300	\$600
Failure to include required candidate's party preference in political advertising.	\$150	\$300	\$600
Failure to comply with other political advertising requirements, RCW 42.17A.330 through 42.17A.345.	\$150	\$300	\$600
Use of public facilities to assist a campaign for election or promote a ballot measure.	\$150	\$300	\$600
Treasurer's failure to timely file an accurate and complete annual treasurer's report (T-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000

"Occasion" means established violation. Only violations in the last five years will be considered for the purpose of determining second and third occasions.

(2) In determining the appropriate penalty, the presiding officer may consider the nature of the violation and aggravating and mitigating factors, including:

- (a) Whether the respondent is a first-time filer;
- (b) The respondent's compliance history for the last five years, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;
- (c) The respondent's unpaid penalties from a previous enforcement action;
- (d) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;

(e) The amount of financial activity by the respondent during the statement period or election cycle;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(g) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention;

(h) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;

(i) Personal emergency or illness of the respondent or member of his or her immediate family;

(j) Other emergencies such as fire, flood, or utility failure preventing filing;

(k) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;



(l) Commission staff, third-party vendor, or equipment error, including technical problems at the agency preventing or delaying electronic filing.

(3) The presiding officer has authority to suspend all or a portion of an assessed penalty under the conditions to be determined by that officer including, but not limited to, payment of the nonsuspended portion of the penalty within five business days of the date of the entry of the order in that case.

(4) If, on the third occasion, a respondent has outstanding penalties or judgments, the matter will be directed to the full commission for consideration.

(5) The presiding officer may direct a matter to the full commission if the officer believes one thousand dollars would be an insufficient penalty or the matter warrants consideration by the full commission. Cases will automatically be scheduled before the full commission for an enforcement action when the respondent:

(a) Was found in violation during a previous reporting period;

(b) The violation remains in effect following any appeals; and

(c) The person has not filed the disclosure forms that were the subject of the prior violation at the time the current hearing notice is being sent.

**AMENDATORY SECTION** (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-144 Brief enforcement hearing (brief adjudicative proceedings)—(~~Administrative review procedures~~) Process for full commission review.** (1) The commission shall conduct a review of the initial order upon the written or oral request of a party if the commission receives the request within twenty-one days after the service of the initial order. "Service" is defined as the date the order was deposited in the U.S. mail per RCW 34.05.010(19), electronically distributed or personally served. The party seeking review shall state the reason for the review, and identify what alleged errors are contained in the initial order.

(2) If the parties have not requested review, the commission may conduct a review of the initial order upon its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(3) The order on review shall be ~~((it))~~ by electronic writing stating the findings made, and the reasons for the decision, and notice that reconsideration and judicial review are available. The order on review shall be entered within twenty days after the date of the initial order or of the request for review, whichever is later.

(4) If the commission is not scheduled to meet within twenty days after the date of the initial order or request for review and therefore cannot dispose of the request within that time period, the request is:

(a) Deemed denied under RCW 34.05.491(5) and the initial order becomes final;

(b) Considered a request for reconsideration under WAC 390-37-150; and

(c) Scheduled for consideration and disposition at the next commission meeting at which it is practicable to do so.

**AMENDATORY SECTION** (Amending WSR 17-03-004, filed 1/4/17, effective 2/4/17)

**WAC 390-37-150 Commission reconsideration and judicial review of decisions.** (1) For purposes of this rule, "decision" means any findings, conclusions, order, or other action by the commission which is reviewable by a court.

(2) A decision may be reconsidered only upon (a) the written request of a party thereby or (b) the motion or written request of a commissioner who voted on the prevailing side when that decision was made.

(3) Such a request for reconsideration shall be filed electronically at the office of the public disclosure commission, or motion made, within ten days of service of the decision of which reconsideration is sought. Copies of the request or motion shall be served electronically on all parties of record at the time the request for reconsideration or motion is filed.

(4) A request or motion for reconsideration shall specify the grounds therefor. Grounds for reconsideration shall be limited to:

(a) A request for review was deemed denied in accordance with WAC 390-37-144(4);

(b) New facts or legal authorities that could not have been brought to the commission's attention with reasonable diligence. If errors of fact are alleged, the requester must identify the specific evidence in the prior proceeding on which the requester is relying. If errors of law are alleged, the requester must identify the specific citation; or

(c) Significant typographical or ministerial errors in the order.

(5) Upon being served with a decision, the respondent may treat that decision as final for the purpose of petitioning for judicial review. The commission may not reconsider any decision after being served with a petition for judicial review.

(6) When a request for reconsideration is served, or motion made, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the commission has acted on the reconsideration.

(7) The commission is deemed to have denied request for reconsideration or motion if, within twenty days from the date the request or motion is filed, the commission does not either (a) dispose of the request or motion, or (b) serve the parties with written notice specifying the date it will act upon the request or motion.

(8) The commission shall act on the reconsideration request or motion, at the next meeting at which it practicably may do so, by:

(a) Deciding whether to reconsider its decision; and

(b) If it decides to do so, either:

(i) Affirming its decision; or

(ii) Withdrawing or modifying the final order; or

(iii) Setting the matter for further hearing.

Provided, that before a decision may be amended other than by lowering a penalty, the respondent shall be given notice and an opportunity to be heard if, and in the same manner as, required for the original decision.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-182 Penalty factors.** (1) In assessing a penalty, the commission considers the purposes of chapter 42.17A RCW, including the public's right to know of the financing of political campaigns, lobbying and the financial affairs of elected officials and candidates as declared in the policy of RCW 42.17A.001; and, promoting compliance with the law. The commission also considers and applies RCW 42.17A.755 and may consider any of the additional factors described in subsection (3) of this section.

(2) Under RCW 42.17A.755, the commission:

(a) May waive a penalty for a first-time actual violation;

(b) Shall assess a penalty for a second actual violation (~~(of the same rule)~~) by the same person or individual, regardless if the person or individual committed the violation for a different political committee;

(c) Shall assess successively increased penalties for succeeding actual violations (~~(of the same rule.)~~) pursuant to the following schedule:

<b><u>Violations:</u></b>			
<b><u>Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report); (2) Candidate Registration (C-1 report); (3) Lobbyist Monthly Expense Report (L-2 report); (4) Lobbyist Employer Annual Report (L-3 report); and (5) Local Treasurer's Annual Report (T-1 report).</u></b>			
	<b><u>1st Occasion</u></b>	<b><u>2nd Occasion</u></b>	<b><u>3rd Occasion</u></b>
<u>Filed missing report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Report is filed late and is incomplete or inaccurate.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,000 - \$3,000</u>
<b><u>Respondent failed to file or timely file accurate and complete campaign disclosure reports:</u></b>			
<b><u>Cash Receipts Monetary Contributions Report (C-3 report)</u></b>			
<u>Filed missing C-3 report or amended C-3 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to timely deposit monetary contributions within five business days of receipt.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to include employer and occupation information for contributors of more than \$100.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<b><u>Campaign Summary Receipts and Expenditures Report (C-4 report)</u></b>			
<u>Filed missing C-4 report or amended C-4 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to report a contractual contingent liability.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly dispose of surplus funds.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<u>Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<b><u>Independent Expenditure Report (C-6 report)</u></b>			
<u>Filed missing C-6 report or amended C-6 report after being notified about the complaint, and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Report is filed late and is incomplete or inaccurate.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>

<b>Violations:</b>			
<u>Out-of-State Political Committee Report (C-5 report)</u>			
<u>Filed missing C-5 report or amended C-5 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Last Minute Contribution Report (LMC report)</u>			
<u>Filed missing LMC report or amended LMC report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Exceeding contribution limits</u>			
<u>Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$2,500</u>	<u>\$2,500 - \$10,000</u>
<b><u>Other Alleged Violations</u></b>			
<u>Exceeding mini reporting threshold</u>			
<u>Filed C-3 and C-4 reports for full reporting after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Failure to file electronically</u>			
<u>Filed C-3 and C-4 reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition</u>			
<u>Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.</u>	<u>\$0 - \$1,000</u>	<u>\$1,000 - \$2,000</u>	<u>\$2,500 - \$10,000</u>
<u>Failure to file Lobbyist Registration Report (L-1 report)</u>			
<u>Filed missing L-1 report after being notified about the complaint, and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Failure to file Agency Lobbying Report (L-5 report)</u>			
<u>Filed missing L-5 report or amended L-5 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Grassroots Lobbying Report (L-6 report)</u>			
<u>Filed missing L-6 report or amended L-6 report after being notified about the complaint and provided written explanation with mitigating circumstances.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Sponsor identification requirements for political advertising</u>			
<u>Political advertising failed to include any sponsor identification or included improper or misleading sponsor identification.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Party preference requirement for political advertising</u>			
<u>Political advertising failed to include a candidate's party preference.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>

<b>Violations:</b>			
<u>Use of current picture requirement in political advertising</u>			
<u>Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,000</u>	<u>\$1,000 - \$1,500</u>
<u>Political advertising or electioneering communication—Libel or defamation per se</u>			
<u>Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.</u>	<u>\$0 - \$500</u>	<u>\$500 - \$1,500</u>	<u>\$1,500 - \$2,500</u>
<u>Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.</u>	<u>\$0 - \$600</u>	<u>\$600 - \$1,200</u>	<u>\$1,200 - \$2,400</u>
<u>Commercial advertisers—Public inspection of documents</u>			
<u>Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain documents or books of account as required by WAC 390-18-050.</u>	<u>\$0 - \$600</u>	<u>\$600 - \$1,200</u>	<u>\$1,200 - \$2,400</u>
<u>Candidates and political committees—Public inspection of books of accounts</u>			
<u>Candidates or political committees who fail to accommodate requests for public inspection as required by WAC 390-16-043.</u>	<u>\$0 - \$600</u>	<u>\$600 - \$1,200</u>	<u>\$1,200 - \$2,400</u>
<u>Limitations on employers or labor organizations</u>			
<u>Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.</u>	<u>\$0 - \$600</u>	<u>\$600 - \$1,200</u>	<u>\$1,200 - \$2,400</u>

(3) In addition to the requirements of RCW 42.17A.755, the commission may consider the nature of the violation and any relevant circumstances, including the following factors:

(a) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;

(b) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;

(c) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;

(d) Amount of financial activity by the respondent during the statement period or election cycle;

(e) Whether the noncompliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(g) Whether the respondent or any person, including an entity or organization, benefited politically or economically from the noncompliance;

(h) Personal emergency or illness of the respondent or member of his or her immediate family;

(i) Other emergencies such as fire, flood, or utility failure preventing filing;

(j) Commission staff or equipment error, including technical problems at the agency preventing or delaying electronic filing;

(k) The respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions;

(l) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);

(m) Whether the respondent is a first-time filer;

(n) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;

(o) Penalties imposed in factually similar cases; and

(p) Other factors relevant to a particular case.

(4) The commission(~~, and the presiding officer in brief adjudicative proceedings,~~) may consider the factors in subsections (1) through (3) of this section in determining whether to suspend a portion or all of a penalty upon identified conditions, and whether to accept, reject, or modify a stipulated penalty amount recommended by the parties.

(5) (~~The presiding officer in brief adjudicative proceedings may consider whether any of the factors in subsections (1) through (3) of this section are factors that warrant directing a case to the full commission.~~) Notwithstanding the schedule in subsection (2)(c) of this section, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755(3), based on the aggravating factors set forth in subsections (1) through (3) of this section.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-37-041 Citizen action notice procedures—Allegations submitted to the attorney general's office and/or prosecuting attorneys.

**WSR 18-13-007**  
**EMERGENCY RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed June 6, 2018, 3:59 p.m., effective June 7, 2018]

Effective Date of Rule: June 7, 2018.

Purpose: SSB 5996 was passed during the 2018 legislative session with an effective date of June 7, 2018. This bill states that an employer may not require an employee, as defined in chapter 49.44 RCW, as a condition of employment, to sign a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing sexual harassment or sexual assault.

Citation of Rules Affected by this Order: Amending WAC 357-25-027.

Statutory Authority for Adoption: RCW 43.01.135.

Under RCW 34.05.350 the agency for good cause finds 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: Places new provisions in Title 357 WAC so there are clear expectations of what is and what is not acceptable.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 6, 2018.

Roselyn Marcus  
Assistant Director of  
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 07-23-010, filed 11/8/07, effective 12/11/07)

**WAC 357-25-027 What must be included in the agency's sexual harassment policy?** Agencies as defined in RCW 41.06.020 must at a minimum include the following in their policy on sexual harassment:

- (1) Indicate who is covered by the policy;
- (2) Provide that the employer is committed to providing a working environment free from sexual harassment of any kind;
- (3) State that sexual harassment is an unlawful employment practice prohibited by Title VII of the Civil Rights Act of 1964 and RCW 49.60;
- (4) The definition of sexual harassment as defined by the Equal Employment Opportunity Commission;
- (5) Notify the employee or individual of their right to file a complaint with the Washington State Human Rights Commission under RCW 49.60.230 or the Federal Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964;
- (6) Identify how and to whom employees or individuals may raise concerns or file complaints. The policy should allow multiple avenues for an employee or individual to raise complaints or concerns and should clearly identify the positions or entities charged with receiving these complaints;
- (7) Advise all individuals covered by the policy that the employer is under a legal obligation to respond to allegations concerning a violation of the policy;
- (8) Identify the manner by which the employer will respond to alleged violations of the policy, including a formal investigation if necessary;
- (9) State that the complainant shall be informed of the status and the outcome of an investigation;

(10) Identify the agency's investigation or response procedure;

(11) Define the roles and responsibilities of employees, managers, supervisors, and others covered by the policy with respect to the following:

- (a) Preventing or not engaging in sexual harassment;
- (b) Responding to concerns or allegations of violations of the policy;
- (c) Participation in an investigation under the policy; and
- (d) The prohibition against retaliation.

(12) State that confidentiality cannot be guaranteed;

(13) Advise that retaliation against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation is prohibited;

(14) Advise that any employee found to have violated the policy will be subject to corrective and/or disciplinary action, up to and including dismissal; ~~((and))~~

(15) Advise that any employee found to have retaliated against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation will be subject to corrective and/or disciplinary action, up to and including dismissal; and

(16) State an employer may not require an employee, as a condition of employment, to sign a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises in accordance with section 1, chapter 117, Laws of 2018.

For the purposes of this subsection, "employee" has the same meaning as defined in section 1, chapter 117, Laws of 2018.

**WSR 18-13-008**  
**EMERGENCY RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed June 6, 2018, 3:59 p.m., effective June 7, 2018]

Effective Date of Rule: June 7, 2018.

Purpose: HB 2851 passed during the 2018 legislative session with an effective date of June 7, 2018. This bill amends RCW 38.40.060 which clarifies the calculation of military leave for officers and employees that work shifts spanning more than one calendar day.

Citation of Rules Affected by this Order: Amending WAC 357-31-360.

Statutory Authority for Adoption: Chapter 43.01 RCW.

Under RCW 34.05.350 the agency for good cause finds 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: To align WAC 357-31-360 with the changes made to RCW 38.40.060 resulting from HB 2851.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 6, 2018.

Roselyn Marcus  
Assistant Director of  
Legal and Legislative Affairs

**AMENDATORY SECTION** (Amending WSR 10-23-041, filed 11/10/10, effective 12/13/10)

**WAC 357-31-360 Must employees who have been ordered to required military duty, training, drills, or required to appear for a physical examination be granted paid military leave?** (1) Employees must be granted military leave with pay not to exceed twenty-one working days during each year, beginning October 1st and ending the following September 30th, in order to report for required military duty, training duty in the Washington National Guard or the Army, Navy, Air Force, Coast Guard, or Marine Corps reserves of the United States or any organized reserve or armed forces of the United States, or to report for drills including those in the National Guard under Titles 10 and 32 U.S.C., or state active status.

~~((2))~~ (2) The employee is charged military leave only for the days that ~~((they are))~~ the employee is scheduled to work. If the employee is scheduled to work a shift that begins on one calendar day and ends on the next calendar day, the employee is charged military leave only for the first calendar day. If the employee is scheduled to work a shift that begins on one calendar day and ends later than the next calendar day, the employee is charged military leave for each calendar day except the calendar day on which the shift ends.

~~((2))~~ (3) Military leave with pay is in addition to any vacation and sick leave to which an employee is entitled and does not reduce benefits, performance ratings, privileges~~((s))~~ or pay.

~~((3))~~ (4) During paid military leave, the employee must receive the normal base salary.

~~((4))~~ (5) Employees required to appear during working hours for a physical examination to determine physical fitness for military service must receive full pay for the time required to complete the examination.

Employees who are not yet in the military may use paid miscellaneous leave for this purpose. Employees who are already in the military may use paid military leave as described in this section. An employee who is currently in the military may use paid miscellaneous leave for this purpose if they do not have paid military leave available.

**WSR 18-13-011**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed June 7, 2018, 10:20 a.m., effective June 7, 2018]

Effective Date of Rule: June 7, 2018.

Purpose: The department is adopting emergency rules to implement Part I of SSB 6334 (chapter 150, Laws of 2018). The effective date of Part I of the act is June 7, 2018.

Part I of SSB 6334 amended various statutes dealing with medical child support obligations as required under the final rule entitled flexibility, efficiency, and modernization in child support enforcement programs ("final rule"), which was published on December 20, 2016, in the Federal Register, Volume 81, Number 244, on page 93492. Under the final rule, 45 C.F.R. 303.31 (a)(2) defines "health care coverage" to include "fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren)."

The statutory change introduces new terminology, but does not change the way that medical support obligations are established, either in court or in the administrative process. However, there are changes in the policies and procedures regarding how the division of child support (DCS) enforces medical support obligations, most notably that an obligated parent can satisfy his or her health care coverage obligation by enrolling the child or children in public health care coverage. In Washington, "public health care coverage" means medicaid and the other programs included in the apple health program.

At the same time the department adopts emergency rules, the department is filing a CR-101 Preproposal notice of inquiry, to commence the permanent rule-making process under chapter 34.05 RCW.

Citation of Rules Affected by this Order: Amending WAC 388-14A-1020, 388-14A-3312, 388-14A-3324, 388-14A-3925, 388-14A-4100, 388-14A-4110, 388-14A-4111, 388-14A-4112, 388-14A-4120, 388-14A-4160, 388-14A-4175, 388-14A-4180, and 388-14A-6300.

Statutory Authority for Adoption: Part I of SSB 6334 (chapter 150, Laws of 2018), effective date June 7, 2018; RCW 26.09.105, 26.18.170, 26.23.050, 34.05.220 (1)(a), 34.05.350(1), 74.08.090, 74.20.040(9).

Under RCW 34.05.350 the agency for good cause finds 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; and 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: The department is implementing Part I of SSB 6334 (chapter 150, Laws of 2018), which takes effect on June 7, 2018.

Part I of SSB 6334 amended various statutes dealing with medical child support obligations as required under the

final rule entitled flexibility, efficiency, and modernization in child support enforcement programs ("final rule"), which was published on December 20, 2016, in the Federal Register, Volume 81, Number 244, on page 93492. Under the implementation schedule for the final rule, 45 C.F.R. 303.31 (a)(2) was required to be implemented on or before July 1, 2018. In light of that requirement, the Washington legislature passed SSB 6334 and made Part I of the bill effective on June 7, 2018. Other parts of the bill take effect January 1, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 13, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 13, Repealed 0.

Date Adopted: June 5, 2018.

Katherine I. Vasquez  
Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 18-14 issue of the Register.

**WSR 18-13-014**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-123—Filed June 7, 2018, 1:24 p.m., effective June 7, 2018, 1:24 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends commercial coastal troll rules - seasons and areas.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000H; and amending WAC 220-354-300.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet, and sufficient quota remains to reopen Catch Reporting Areas 3 and 4 for an additional period with a reduced landing and possession limit. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason

fishing plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 7, 2018.

Joe Stohr  
Director

## NEW SECTION

**WAC 220-354-300001 Coastal salmon troll seasons—Commercial.** Notwithstanding the provisions of WAC 220-354-300, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided below:

(1) Salmon Management and Catch Reporting Areas 1 and 2 open:

May 1 through June 30, 2018.

(2) Salmon Management and Catch Reporting Areas 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open:

June 8 through June 11, 2018.

(3) In Washington Catch Reporting Areas 3 and 4, landing and possession limit of 30 Chinook per vessel per open period.

(4) In Washington Catch Reporting Area 2, landing and possession limit of 200 Chinook per vessel per landing week, defined as Thursday through Wednesday.

(5) In Washington Catch Reporting Area 1, landing and possession limit of 100 Chinook per vessel per landing week, defined as Thursday through Wednesday.

(6) The Cape Flattery and Columbia River Control Zones are closed. The Mandatory Yelloweye Rockfish Conservation Area is closed.

(7) Minimum size for Chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(5) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(6) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beehley@dfw.wa.gov with Area fished, total Chinook and

halibut catch aboard, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beehley@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(7) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and east of 125°05'00" W longitude.

(8) The Columbia Control Zone is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long., to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(9) The Mandatory Yelloweye Rockfish Conservation Area is defined as the area in Washington Marine Catch Area 3 from 48°00.00'N latitude; 125°14.00'W longitude to 48°02.00'N latitude; 125°14.00'W longitude to 48°02.00'N latitude; 125°16.50'W longitude to 48°00.00'N latitude; 125°16.50'W longitude and connecting back to 48°00.00'N latitude; 125°14.00'W longitude.

(10) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(11) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.



**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-354-30000H Coastal salmon troll seasons—  
Commercial. (18-112)

**WSR 18-13-017**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed June 7, 2018, 5:16 p.m., effective July 1, 2018]

Effective Date of Rule: July 1, 2018.

Purpose: The department is amending chapter 388-25 WAC, Child welfare services—Foster care, in order to align with recent changes in legislation regarding the eligibility requirements for the extended foster care program. These changes go into effect on July 1, 2018.

Citation of Rules Affected by this Order: Repealing WAC 388-25-0508 and 388-25-0510; and amending WAC 388-25-0502, 388-25-0504, 388-25-0506, 388-25-0528, and 388-25-0534.

Statutory Authority for Adoption: RCW 13.34.267, 13.34.268, 74.13.020, 74.13.031, 74.13.336.

Under RCW 34.05.350 the agency for good cause finds 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: These changes in SSB 6222 go into effect on July 1, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 2.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 2.

Date Adopted: June 7, 2018.

Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 16-14-065, filed 6/30/16, effective 7/31/16)

**WAC 388-25-0502 What is the purpose of the extended foster care program?** The extended foster care program provides an opportunity for young adults (~~in foster~~

~~care~~)) who are dependent at age eighteen to voluntarily agree to continue receiving foster care services, including placement services, while the youth:

(1) Completes a high school or a high school equivalency program;

(2) Completes a secondary or post-secondary academic or vocational program;

(3) Participates in a program or activity designed to promote employment or remove barriers to employment;

(4) Is engaged in employment for eighty hours or more per month; or

(5) Is unable to engage in subsections (1) through (4) of this section due to a documented medical condition.

**AMENDATORY SECTION** (Amending WSR 16-14-065, filed 6/30/16, effective 7/31/16)

**WAC 388-25-0504 What is extended foster care?** Extended foster care is a program offered to young adults, age eighteen to twenty-one, who turn eighteen while in (~~foster care~~) a dependency, to enable them to:

(1) Complete a high school diploma or high school equivalency certificate;

(2) Complete a post-secondary academic or vocational program;

(3) Participate in a program or activity designed to promote employment or remove barriers to employment;

(4) Be employed for eighty hours or more per month; or

(5) Participate in the program if unable to engage in subsections (1) through (4) of this section due to a documented medical condition.

**AMENDATORY SECTION** (Amending WSR 18-01-048, filed 12/12/17, effective 1/12/18)

**WAC 388-25-0506 Who is eligible for extended foster care?** (1) To be eligible for the extended foster care program, a youth, on his or her eighteenth birthday must be dependent under chapter 13.34 RCW (~~(, placed in foster care as defined in WAC 388-25-0508 by CA,))~~) and:

(a) Enrolled in school as described in WAC 388-25-0512;

(b) Have applied for, or can demonstrate intent to timely enroll in a post-secondary academic or vocational education program as described in WAC 388-25-0514;

(c) Participating in a program or activity designed to promote employment or remove barriers to employment as described in WAC 388-25-0515;

(d) Engaged in employment for eighty hours or more per month;

(e) Unable to engage in subsection (1)(a) through (d) of this section due a documented medical condition as described in WAC 388-25-0519; or

(f) Did not enroll in the extended foster care program; and

(i) Had their dependency dismissed on their eighteenth birthday;

(ii) Is requesting to enroll in the extended foster care program through a voluntary placement agreement (VPA) prior to reaching the age of (~~nineteen~~) twenty-one; and

(iii) Meets one of the criteria found in subsection (1)(a) through (e) of this section.

(2) A youth is not eligible to enroll in extended foster care while in the care and custody of juvenile rehabilitation, county detention, or in the department of corrections. Youth meeting EFC eligibility in subsection (1)(a) through (e) of this section may enroll when they are released from juvenile rehabilitation, county detention, of department of corrections custody.

(3) If the youth was in the extended foster care program but then unenrolled or lost their eligibility, the youth may reenroll in the extended foster care program through a VPA (~~(one time)~~) before the age of twenty-one. The youth must meet one of the criteria in subsection (1)(a) through (e) when requesting to reenroll in the extended foster care program.

**AMENDATORY SECTION** (Amending WSR 18-01-048, filed 12/12/17, effective 1/12/18)

**WAC 388-25-0528 How does a youth agree to participate in the extended foster care program?** (1) An eligible dependent youth can agree to participate by:

(a) Signing an extended foster care agreement; or

(b) For developmentally disabled youth, remaining in the foster care placement and continuing in an appropriate educational program.

(2) An eligible nondependent youth who did not elect to participate in the program on their eighteenth birthday can agree to participate by:

(a) Signing a voluntary placement agreement (VPA) before reaching age (~~(nineteen)~~) twenty-one; or

(b) Establishing a nonminor dependency before reaching age (~~(nineteen)~~) twenty-one if the department denied entry into the program.

(3) An eligible (~~(nondependent)~~) nonminor dependent youth requesting to reenter the program may agree to participate by signing a VPA prior to reaching age twenty-one (~~(as long as the youth has not previously entered into a VPA for extended foster care services)~~).

(4) In order to continue receiving extended foster care services after entering into a VPA with the department, the youth must agree to the entry of an order of dependency within one hundred eighty days of the date that the youth is placed in foster care pursuant to a VPA.

**AMENDATORY SECTION** (Amending WSR 18-01-048, filed 12/12/17, effective 1/12/18)

**WAC 388-25-0534 If an extended foster care participant loses his or her eligibility before he or she turns twenty-one, may he or she reapply for extended foster care?** (1) Yes. If a youth was receiving extended foster care services and lost eligibility, he or she may reapply as long as the youth:

(a) Has not turned twenty-one;

(b) Meets one of the conditions for eligibility in WAC 388-25-0506 (1)(a) through (e)(~~); and~~

(c) ~~Has not entered into a prior voluntary placement agreement with the department for the purposes of participating in the extended foster care program.~~

~~(2) Youth may reenter the extended foster care program one time between the ages of eighteen to twenty-one).~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-25-0508 When is a youth considered to be "in foster care"?

WAC 388-25-0510 When is a youth not "in foster care"?

#### **WSR 18-13-018 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 18-121—Filed June 8, 2018, 9:17 a.m., effective June 8, 2018, 9:17 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational crab rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000C; and amending WAC 220-330-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is needed to open the recreational crab harvest in the marine areas listed to achieve the 50/50 harvest defined by the federal court order. Recreational crab fisheries will open at 12:01 a.m. on the first day instead of 7:00 a.m. in each of the marine areas as stipulated by the permanent rule. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 8, 2018.

Nate Pamplin  
for Joe Stohr  
Director

NEW SECTION**WAC 220-330-04000C Crab—Areas and seasons—**

**Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective immediately until further notice, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas, 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:

(1) Marine Areas 4 east of the Bonilla-Tatoosh line, and 5: Effective 12:01 a.m. June 16, 2018, through 11:59 p.m. September 3, 2018, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(2) Marine Areas 6, 8-1, 8-2, 9, 10, and 12: Effective 12:01 a.m. June 30, 2018, through 11:59 p.m. September 3, 2018, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(3) Those waters of Marine Area 7 south and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence true west to the international boundary and south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. July 14, 2018, through 11:59 p.m. September 30, 2018, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(4) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. August 16, 2018, through 11:59 p.m. September 30, 2018, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

REPEALER

The following section of the Washington Administrative Code is repealed effective October 1, 2018:

WAC 220-330-04000C Crab—Areas and seasons—Personal use.

**WSR 18-13-033****EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 18-124—Filed June 11, 2018, 1:54 p.m., effective June 12, 2018, 6:00 p.m.]

Effective Date of Rule: June 12, 2018, 6:00 p.m.

Purpose: Amends Puget Sound commercial shrimp rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000N; and amending WAC 220-340-520.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: The 2018 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) maintains the opening of the Regions 1 and 3 trawl fishery season; (2) maintains the opening of the pot fishery season for nonspot shrimp in Regions 2E, 2W and 3 with weekly harvest limits; (3) closes the pot fishery season for nonspot shrimp in Region 1A, 1B and 1C; and (4) maintains the changes to the shrimp catch reporting and purchase reporting requirements. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 11, 2018.

Amy H. Windrope  
for Joe Stohr  
Director

NEW SECTION

**WAC 220-340-52000P Commercial shrimp fishery—Puget Sound.** Notwithstanding the provisions of WAC 220-340-520, effective 6:00 p.m. June 12, 2018, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

## (1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 2E, 2W and 3 are open to the harvest of all non-spot shrimp species, effective immediately, until further notice, except as provided for in this section:

i. All water of Marine Fish/Shellfish Management and Catch Reporting Area 23 A-E, 23A-W, 23A-C and the Discovery Bay Shrimp District are closed.

ii. All waters of Shrimp Management Areas 1A, 1B and 1C are closed. This includes all waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island, following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Blakely Island.

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 600 pounds per catch accounting week from Shrimp Management Areas 2E and 2W combined.

(c) Effective immediately, until further notice, the shrimp catch accounting week is Wednesday through Tuesday.

(d) It is unlawful to pull shellfish pots in more than one catch area per day.

## (2) Shrimp trawl gear:

(a) Shrimp Management Area (SMA) 3 (outside of the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open, effective immediately, until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) That portion of Catch Area 22A within SMA 1B east of a line projected 122.47°W longitude and west of a line projected 122.43°W longitude in Rosario Strait is open.

(c) That portion of Catch Area 22A within SMA 1B is open effective 6:00 a.m. May 16, 2018, until further notice.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 p.m., June 12, 2018:

WAC 220-340-52000N Puget Sound shrimp pot and beam trawl fishery—Season. (18-75)

**WSR 18-13-046**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Children's Administration)

[Filed June 12, 2018, 9:08 a.m., effective June 14, 2018]

Effective Date of Rule: June 14, 2018.

**Purpose:** The department is amending WAC 388-06A-0110 Who must have background checks?, to align with changes in RCW 74.15.030 and 43.43.832 which allow the department to complete background checks on individuals younger than sixteen years old when it is warranted to ensure the safety of children in foster care. The department has completed the permanent rule filing process and is therefore extending the current emergency WAC filed as WSR 18-05-052 on February 14, 2018, until the permanent WAC goes into effect on July 6, 2018.

**Citation of Rules Affected by this Order:** Amending WAC 388-06A-0110.

**Statutory Authority for Adoption:** RCW 74.15.030, 43.43.832.

Under RCW 34.05.350 the agency for good cause finds 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:** Changes were made to RCW 74.15.030 and 43.43.832 by section 5, chapter 20, Laws of 2017, that went into effect on October 19, 2017. WAC 388-06A-0110 is being amended to align with these revised RCW.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 1, Repealed 0.

**Number of Sections Adopted at the Request of a Non-governmental Entity:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted on the Agency's own Initiative:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted using Negotiated Rule Making:** New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 0, Amended 1, Repealed 0.

**Date Adopted:** June 11, 2018.

Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 15-03-071, filed 1/15/15, effective 2/15/15)

**WAC 388-06A-0110 Who must have background checks?** (1) Per RCW 74.15.030, the department requires background checks on all providers who may have unsupervised access to children. This includes licensed, certified or contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33.020.

(2) Per RCW 74.15.030, the department also requires background checks on other individuals who may have unsupervised access to children in department licensed or contracted homes, or facilities which provide care. The department requires background checks on the following people:

(a) A volunteer or intern with regular or unsupervised access to children;

(b) Any person who regularly has unsupervised access to a child. However, a background check is not required when a caregiver approves the unsupervised access for a normal childhood activity that lasts less than seventy-two hours, per RCW 74.13.710;

(c) A relative other than a parent who may be caring for a child; ~~(and)~~

(d) A person who is at least sixteen years old and resides in a foster, relative, or other suitable person's home and is not a foster child; and

(e) A person who is younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out-of-home care.

(3) Per RCW 13.34.138, prior to returning a dependent child home the department requires a background check on all adults residing in the home.

### WSR 18-13-050

#### EMERGENCY RULES

#### HEALTH CARE AUTHORITY

[Filed June 13, 2018, 9:25 a.m., effective June 13, 2018, 9:25 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is creating new WAC 182-546-4600 under chapter 182-546 WAC for ambulance transportation for involuntary substance use disorder treatment as directed by the Washington state legislature in E3SHB 1713, also known as the Ricky Garcia Act.

Citation of Rules Affected by this Order: New WAC 182-546-4600.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, ESHB [E3SHB] 1713 chapter 29, Laws of 2016 1st sp. sess.

Under RCW 34.05.350 the agency for good cause finds 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: As directed by the Washington state legislature to implement under E3SHB 1713, this emergency filing continues the current emergency rule filed under WSR 18-05-045 which is set to expire on June 14, 2018. Finalizing the permanent rule was delayed because of issues in implementing a training program for designated crisis responders who are licensed and credentialed to provide both mental health and substance use disorder services. This training program is directly related to the permanent rule making for WAC 182-546-4600. The training issues have been resolved and the permanent rule making is moving forward. Since the last emergency filing, the agency has scheduled a public hearing for July 25, 2018, under WSR 18-13-022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: June 13, 2018.

Wendy Barcus  
Rules Coordinator

#### NEW SECTION

**WAC 182-546-4600 Ambulance transportation—Involuntary substance use disorder treatment—Ricky Garcia Act.** (1) Definitions. For the purposes of this section, the following definitions and those found in chapter 182-500 WAC apply:

(a) **"Behavioral health organization (BHO)"** - See WAC 182-500-0015.

(b) **"Designated chemical dependency specialist"** means a person appointed by the behavioral health organization (BHO) or by the BHO-designated county substance use disorder treatment program coordinator to perform the duties specified in this section.

(c) **"Detention" or "detain"** means the lawful confinement of a person, under the provisions of this chapter.

(d) **"Evaluation and treatment facility"** means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to people suffering from a mental disorder, and which is certified as such by the department of social and health services (DSHS). DSHS may certify single beds as temporary evaluation and treatment beds under RCW 71.05.-745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, DSHS or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility under this chapter.

(e) **"Gravely disabled"** means that a person experiences a loss of cognition or control over the person's actions, is not receiving care essential for the person's health or safety, and is in danger of serious physical harm.

(f) **"Involuntary Treatment Act"** means, for adults, chapter 71.05 RCW; for juveniles, chapter 71.34 RCW. See also chapter 388-865 WAC.

(g) **"Less restrictive alternative treatment"** means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585.

(h) **"Nearest and most appropriate destination"** means the nearest facility able and willing to accept the involuntarily detained person for treatment, not the closest facility based solely on driving distance.

(2) The medicaid agency pays for transportation services for a person detained for involuntary chemical dependency treatment when the following apply:

(a) The person has been assessed by a designated chemical dependency specialist and found to be:

- (i) A danger to self;
- (ii) A danger to others;
- (iii) Gravely disabled as a result of chemical dependency.

(b) The transportation is from:

- (i) The site of the initial detention;
- (ii) An evaluation and treatment facility designated by DSHS; or
- (iii) A court hearing.

(c) The transportation is to:

- (i) An evaluation and treatment facility;
- (ii) A less restrictive alternative setting, except when ambulance transport to a client's home is not covered; or
- (iii) A court hearing.

(d) The transportation is provided by a qualified transportation provider. The qualified transportation provider must:

(i) Be substance use disorder treatment provider designated as such by:

- (A) The local community mental health center; or
- (B) The BHO.

(ii) Comply with DSHS requirements for drivers, driver training, vehicle and equipment standards and maintenance.

(3) The transportation must be to the nearest and most appropriate destination. The reason for the diversion to a more distant facility must be clearly documented in the person's file.

(4) The designated chemical dependency specialist authorizes the level of transportation provided to and from covered facilities based on the person's need. A copy of the agency's Authorization for Substance Use Disorder (SUD) Ambulance Transportation form by the designated chemical dependency specialist must be kept in the person's file.

(5) The DSHS chemical dependency division establishes payment for substance use disorder transportation. Providers must clearly identify Involuntary Treatment Act transportation on the claim form when submitting claims to the agency.

**WSR 18-13-051**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-122—Filed June 13, 2018, 9:57 a.m., effective June 16, 2018]

Effective Date of Rule: June 16, 2018.

Purpose: Amends recreational fishing rules for the Klickitat River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000U; and amending WAC 220-312-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: To date, the number of hatchery-origin spring Chinook that have returned to Klickitat Salmon Hatchery is much lower than needed to meet hatchery egg collection goals. Closing the Chinook fishing season will increase the number of hatchery fish available for broodstock and help ensure future hatchery returns. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 13, 2018.

Joe Stohr  
Director

NEW SECTION

**WAC 220-312-03000U Freshwater exceptions to statewide rules—Southwest.** Notwithstanding the provisions of WAC 220-312-03000R and WAC 220-312-030, effective June 16 through July 31, 2018, it is unlawful to retain hatchery adult Chinook salmon in the waters of the Klickitat River from the mouth (Burlington Northern Railroad Bridge) to the boundary markers below Klickitat Salmon Hatchery. Unless otherwise amended, all permanent rules remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2018:

WAC 220-312-03000U Freshwater exceptions to statewide rules—Southwest.

**WSR 18-13-052**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-125—Filed June 13, 2018, 9:58 a.m., effective June 13, 2018, 9:58 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational coastal salmon rules.

Citation of Rules Affected by this Order: Amending WAC 220-313-070.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 13, 2018.

Joe Stohr  
Director

## NEW SECTION

**WAC 220-313-07000F Coastal salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-070, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

**(1) Catch Record Card Area 1:**

(a) Immediately through June 22: Closed.

(b) June 23 through September 3:

(i) Daily limit of 2 salmon; no more than one may be a Chinook.

(ii) Release wild coho.

(c) September 4 until further notice: Closed.

(d) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-56-195.

**(2) Catch Record Card Area 2:**

(a) Immediately through June 30: Closed.

(b) July 1 through September 3:

(i) Open Sundays through Thursdays, closed Fridays and Saturdays

(ii) Daily limit of 2 salmon; no more than one may be a Chinook.

(iii) Release wild coho.

(iv) Beginning August 13, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18'N latitude, 124°07.01'W longitude) to Buoy #2 (46°52.42'N latitude, 124°12.42'W longitude) to Buoy #3 (46°55.00'N latitude, 124°14.48'W longitude) to the Grays Harbor north jetty (46°55.36'N latitude, 124°10.51'W longitude).

(c) September 4 until further notice - Closed.

**(3) Willapa Bay (Catch Record Card Area 2-1):**

(a) Immediately through June 30: Closed.

(b) July 1 through July 31: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(c) August 1 until further notice:

(i) Daily limit of 6 salmon; no more than 3 may be adult salmon of which only 1 may be a coho.

(ii) Release wild Chinook.

(iii) Beginning August 1, the Willapa Bay Control Zone is closed. The Willapa Bay Control Zone area is defined as waters east of a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) due west to 46°39.20'N, 124°5.3'W then due north to the westerly most landfall on Cape Shoalwater (46°44.66'N, 124°5.3'W) and west of a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) through green marker 11 to landfall.

(iv) Anglers may fish with two poles August 1, 2018 through January 31, 2019, provided they possess a valid two-pole endorsement.

(v) Waters north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green) then, northeasterly to the power transmission pole located at 46°43.19'N, 123°50.83'W are closed August 1 through September 30.

**(4) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):**

(a) Immediately through July 31: Closed.

(b) August 1 until further notice:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(iii) Waters south of a line running from the south end of the eastern jetty at Ocean Shores Marina to the fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) are closed.

(c) The Westport Boat Basin and Ocean Shores Boat Basin are open August 16 until further notice.

(i) Daily limit of 6 salmon; no more than 4 may be adult salmon.

(ii) Release Chinook.

(iii) Night closure and anti-snagging rule in effect.

**(5) Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):**

(a) Immediately through June 30: Closed.

(b) July 1 through August 12: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(c) August 13 until further notice: Closed.

**(6) Catch Record Card Area 3:**

(a) Immediately through June 22: Closed

- (b) June 23 through September 3:
- (i) Daily limit of 2 salmon.
- (ii) Release wild coho.
- (c) September 4 until further notice: Closed.

**(7) Catch Record Card Area 4:**

- (a) Immediately through June 22: Closed.
- (b) June 23 through September 3:
- (iii) Daily limit of 2 salmon; no more than one may be a

Chinook.

- (iv) Release wild coho.

(v) Waters east of a true north-south line through Sail Rock are closed through July 31.

(vi) No chinook retention in waters east of the Bonilla-Tatoosh line beginning August 1.

- (vii) Release chum salmon beginning August 1.

(c) September 4 until further notice: Closed.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 18-13-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-127—Filed June 13, 2018, 3:40 p.m., effective June 18, 2018]

Effective Date of Rule: June 18, 2018.

Purpose: Amends recreational fishing rules for the Yakima River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000K; and amending WAC 220-312-050.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is needed to close two areas for salmon fishing which were opened by WSR 18-11-049. Spring Chinook daily counts at Prosser have declined substantially, signaling the end of the 2018 run in this area of the Yakima River. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 13, 2018.

Joe Stohr  
Director

NEW SECTION

**WAC 220-312-05000M Exceptions to statewide rules—Yakima River.** Notwithstanding the provisions of WAC 220-312-05000B and WAC 220-312-050, effective June 18, 2018 until further notice it is permissible to fish for salmon in waters of the Yakima River from the Interstate 82 Bridge at Union Gap (river mile 107.1) to the BNSF railroad bridge approximately 600 feet downstream of Roza Dam (river mile 127.8). The following rules apply:

(1) Daily limit of two hatchery Chinook, minimum size 12 inches in length. Terminal gear is restricted to two, single (point), barbless hooks with a hook gap from point to shank of 3/4 inch or less when fishing for salmon. Use of bait is allowed.

(2) The Selective Gear Rules requirement prohibiting use of bait and knotted nets is suspended for all species for the duration of the salmon fishery. Night closure in effect.

(3) The Columbia River Salmon/Steelhead Endorsement is required to participate in this fishery.

(4) The use of two (2) fishing poles is permitted during the salmon fishery provided the participating angler has purchased a "Two-Pole Endorsement" (in addition to the freshwater fishing license and Columbia River salmon/steelhead endorsement).

REPEALER

The following section of the Washington Administrative Code is repealed effective June 18, 2018:

WAC 220-312-05000K Exceptions to statewide rules—  
Yakima River. (18-95)

**WSR 18-13-056**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-126—Filed June 13, 2018, 4:05 p.m., effective June 13, 2018,  
4:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Snake River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000L.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is necessary because Snake River salmon fisheries have reached allowable impact levels for natural origin fish and must close immediately. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 13, 2018.

Joe Stohr  
Director

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.

Reasons for this Finding: In order to comply with the legislative mandate, an emergency rule is needed to ensure that we have a rule in place prior to the implementation date of June 13, 2018, for the disabled veteran donation program. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 14, 2018.

Joe Stohr  
Director

## REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-312-05000L Freshwater exceptions to statewide rules—Eastside. (18-111)

## WSR 18-13-062 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 18-88—Filed June 14, 2018, 8:59 a.m., effective June 14, 2018, 8:59 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The emergency rule is necessary to implement the disabled veteran donation program as passed by the legislature. The implementation date is June 13, 2018, and the emergency rule is necessary to ensure that the agency has a rule in place by this date. This emergency rule describes the license products available.

Citation of Rules Affected by this Order: New WAC 220-220-250.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, 77.32.480, 77.32.470, and 77.32.555.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or

## NEW SECTION

**WAC 220-220-25000A Donation program for resident disabled veterans.** (1) The department is authorized to create a special program for resident disabled veterans qualifying under RCW 77.32.480 to participate in a donation program. Qualifying resident disabled veteran will have the opportunity to use available funds in the donation pool to purchase current recreational hunting and fishing license.

(2) Donated funds will be deposited into the disabled veterans donation fund account.

(3) Qualifying resident disabled veterans will be eligible to purchase, as funds allow, the following licenses:

**(a) Hunting Licenses:**

- (i) Deer;
- (ii) Deer and elk;
- (iii) Deer, elk, bear, cougar;
- (iv) Elk;
- (v) Small game;
- (vi) Deer and elk with small game;
- (vii) Deer with small game;
- (viii) Deer, elk, bear, cougar with small game;
- (ix) Elk with small game;
- (x) Bear with small game;
- (xi) Cougar with small game;
- (xii) Bear;
- (xiii) Cougar.

**(b) Fishing Licenses:**

- (i) Annual combination fishing;
- (ii) Three-day razor clam.

(4) Per RCW 77.32.480(1), qualifying resident disabled veterans will be issued hunting licenses at the reduced rate of a youth hunting license.

(5) An annual combination fishing license will be issued at the reduced rate of five dollars and includes rockfish and biotoxin fees as outlined in RCW 77.32.470 and 77.32.555. The three-day razor clam license will be issued at the rate of seven dollars and includes biotoxin fees as outlined in RCW 77.32.555.

(6) The transaction and dealer fees associated with the eligible license items may be paid through the donation program, as funds allow.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 18-13-066**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-128—Filed June 14, 2018, 2:50 p.m., effective June 23, 2018]

Effective Date of Rule: June 23, 2018.

Purpose: Amend recreational shrimping rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000I; and amending WAC 220-330-070.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. A sufficient amount of spot shrimp remains available in Marine Area 12 to allow one more day of fishing on June 23. In addition, harvestable amounts of nonspot shrimp are available in several marine areas, and the depth restrictions and area closures are in effect to protect spot shrimp. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 14, 2018.

Nate Pamplin  
for Joe Stohr  
Director

NEW SECTION

**WAC 220-330-07000J Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-330-070, effective June 23, 2018, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6 (excluding the Discovery Bay Shrimp District) and 7 West are open to the harvest of all shrimp species.

(2) All waters equal to or less than 200 feet in depth in Marine Area 7 East are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

(3) All waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

(4) All waters equal to or less than 250 feet in depth in Marine Area 13 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 250 feet deep.

(5) Marine Area 12: Open June 23, 2018, from 9:00 a.m. through 1:00 p.m.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective June 23, 2018:

WAC 220-330-07000I Shrimp—Areas and seasons. (18-109)

**WSR 18-13-077**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-129—Filed June 15, 2018, 1:51 p.m., effective June 18, 2018]

Effective Date of Rule: June 18, 2018.

Purpose: Amend fishing rules for the Lewis River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000T and 220-312-03000V; and amending WAC 220-312-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is needed to meet hatchery broodstock goals and Chinook reintroduction targets for the Lewis River. Summer steelhead broodstock goals are expected to reach target, therefore, a restriction to fishing from a floating device is no longer necessary for the Lewis River. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 15, 2018.

Amy H. Windrope  
for Joe Stohr  
Director

#### NEW SECTION

**WAC 220-312-03000V Freshwater exceptions to statewide rules—Southwest.** Notwithstanding the provisions of WAC 220-312-03000R and WAC 220-312-030, effective June 18 through June 30, 2018:

(1) Cowlitz River (Cowlitz/Lewis Counties) from the boundary markers at the mouth to Lexington Drive Bridge:

(a) It is permissible to fish 24 hours/day, except for sturgeon.

(b) Steelhead daily limit is 3 hatchery steelhead.

(2) Lewis River (Clark/Cowlitz County) from the mouth to Johnson Creek:

(a) Steelhead daily limit is 3 hatchery steelhead.

(b) It is permissible to fish 24 hours/day, except for sturgeon.

(3) White Salmon River (Klickitat/Skamania Counties) from mouth to the county road bridge below the former location of the powerhouse:

(a) It is permissible to fish 24 hours/day, except for sturgeon.

(b) Salmon and Steelhead:

(i) Daily limit is 2 salmon or 2 steelhead or 1 of each.

(ii) Release all wild salmon and wild steelhead.

(4) Wind River (Skamania County) from the mouth upstream to 400' below Shipherd Falls fish ladder:

(a) Night Closure

(b) Salmon and steelhead:

(i) Daily limit is 2 salmon or 2 steelhead or 1 of each.

(ii) Release wild salmon and wild steelhead.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective June 18, 2018:

WAC 220-312-03000T Freshwater exceptions to statewide rules—Southwest. (18-107)

The following section of the Washington Administrative Code is repealed effective July 1, 2018:

WAC 220-312-03000V Freshwater exceptions to statewide rules—Southwest. (18-129)

#### **WSR 18-13-091**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 18-130—Filed June 18, 2018, 3:20 p.m., effective June 18, 2018, 3:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Skagit.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000I and 220-312-04000M; and amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds 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.

Reasons for this Finding: This emergency rule is needed to close a portion of the Skagit River to all fishing to avoid gear conflicts with treaty fisheries on those scheduled dates. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 18, 2018.

Joe Stohr  
Director

#### NEW SECTION

**WAC 220-312-04000M Freshwater exceptions to statewide rules—Puget Sound.** Notwithstanding the provisions of WAC 220-312-04000E and WAC 220-312-040:

(1) Skagit River, from the Highway 536 Bridge at Mt. Vernon to the mouth of Gilligan Creek:

(a) Salmon open through July 15, 2018 - **except closed** to all fishing June 28, 29 and July 2 and 3, 2018.

(b) Daily limit 3, minimum length 12 inches, release all salmon other than sockeye.

(2) Skagit River, from the mouth to the Highway 530 Bridge in Rockport - closed to all fishing June 28, 29 and July 2 and 3, 2018.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000I Freshwater exceptions to statewide rules—Puget Sound. (18-93)

The following section of the Washington Administrative Code is repealed effective July 16, 2018:

WAC 220-312-04000M Freshwater exceptions to statewide rules—Puget Sound.