

WSR 24-03-102  
PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION  
[Filed January 18, 2024, 3:08 p.m.]

Subject of Possible Rule Making: The public disclosure commission (PDC) will consider rules regarding the use of synthetic media in electioneering communications and the implementation of SB [ESSB] 5152 (2023).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.62.040 and 42.17A.125.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 2023, the legislature enacted SB [ESSB] 5152, creating a civil cause of action for a candidate who is the subject of electioneering communications using synthetic media, otherwise known as "deepfakes." The new law did not create any additional regulatory jurisdiction for PDC, but the legislature instructed PDC to adopt rules in furtherance of the purpose of the new law.

Rule making can help to explore the issues related to the emergence of synthetic media technology and the increased use of synthetic media by political campaigns. Potential areas for rule making may include the methods for identifying synthetic media, the scope of disclaimer requirements in electioneering communications, and how the courts should apply the new law.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Federal Elections Commission (FEC), which regulates federal election campaigns, has received a petition for rule making regarding "deepfake" technology that is under consideration. PDC will track what action FEC proposes, as well as contact FEC staff to share information and research as relevant to rule making.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sean Flynn, 711 Capitol Way South, Suite 206, Olympia, WA 98504, phone 360-753-1111, fax 360-753-1112, email pdc@pdc.wa.gov, website www.pdc.wa.gov.

January 18, 2024  
Sean Flynn  
General Counsel