

WAC 390-37-090 Enforcement procedures—Cases resolvable by stipulation after an investigation and prior to an enforcement hearing (adjudicative proceeding).

(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 informal 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 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) The executive director and respondent may also agree to a stipulation of facts, violations, and/or penalty. 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 their representative. The executive director shall sign for PDC 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 parties, the commission shall enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation or 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) As part of the commission's review of any proposed stipulation of facts, 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 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.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-090, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110(1). WSR 16-01-015, § 390-37-090, filed 12/4/15, effective 1/4/16. Statutory Authority: RCW 42.17.370. WSR 06-14-057, § 390-37-090, filed 6/29/06, effective 7/30/06; WSR 05-11-001, § 390-37-090, filed 5/4/05, effective 6/4/05; WSR 03-22-065, § 390-37-090, filed 11/4/03, effective 12/5/03; WSR 91-16-072, § 390-37-090, filed 8/2/91, effective 9/2/91. Statutory Authority: RCW 42.17.370(1). WSR 86-04-071 (Order 86-01), § 390-37-090, filed 2/5/86; WSR 84-12-017 (Order 84-03), § 390-37-090, filed 5/25/84; Order 81, § 390-37-090, filed 7/22/76.]