

WSR 23-07-003
EXPEDITED RULES
GREEN RIVER COLLEGE

[Filed March 1, 2023, 1:33 p.m.]

Title of Rule and Other Identifying Information: WAC 132J-126-230
Summary suspension.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Green River College is making a clerical change to update the intention of the rule. No anticipated effects on this proposal.

Reasons Supporting Proposal: Clerical change to make the rule more clear. Essentially fixing a typo replacing "conduct review officer" with "student conduct officer" in subsection (5).

Statutory Authority for Adoption: RCW 34.05.353.

Statute Being Implemented: RCW 34.05.320.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Green River College, governmental.

Name of Agency Personnel Responsible for Drafting: Shawn Percell, Student Affairs 206, 253-887-5404; Implementation: George Frasier, ZC111B, 253-833-9111 ext. 3338; and Enforcement: Deb Casey, Student Affairs 206, 253-833-9111 ext. 3328.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Clearing up confusion in subsection (5) to read the way the code was intended.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Clarifying a typographical error as described in this notice.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Shawn Percell, Green River College, Student Affairs, 12401 S.E. 320th Street, Auburn, WA 98092, phone 253-887-5404, email conduct@greenriver.edu, AND RECEIVED BY May 22, 2023.

March 1, 2023

Shawn Percell

Director of Judicial Affairs and Compliance

OTS-4407.1

AMENDATORY SECTION (Amending WSR 14-24-129, filed 12/3/14, effective 1/3/15)

WAC 132J-126-230 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

- (a) Has violated any provision of the code of conduct; and
- (b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or
- (c) Poses an ongoing threat of disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) An officer designated by the president, who shall be someone other than the student conduct (~~review~~) officer, shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(a) During the summary suspension hearing, the issue before the reviewing officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a

brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-230, filed 12/3/14, effective 1/3/15.]

WSR 23-07-093
EXPEDITED RULES
COUNTY ROAD

ADMINISTRATION BOARD

[Filed March 17, 2023, 10:07 a.m.]

Title of Rule and Other Identifying Information: Chapter 136-03 WAC, Public access to information and records. Updates to bring the county road administration board's WAC for Public Records Act requests current.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes made will bring the county road administration board's procedures, as codified in WAC, to the current requirements. This chapter was last updated in 1998.

Reasons Supporting Proposal: Brings the county road administration board's administrative procedures for Public Records Act requests to current requirements as specified in chapter 42.56 RCW. Specifically, RCW 42.56.040 Duty to publish procedures.

Statutory Authority for Adoption: RCW 36.78.050, 42.56.040.

Statute Being Implemented: Chapter 42.56 RCW, Public Records Act.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: County road administration board, governmental.

Name of Agency Personnel Responsible for Drafting: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98502, 360-753-5989; Implementation: Jason Bergquist, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98502, 360-753-5989; and Enforcement: Jane Wall, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98502, 360-753-5989.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This change will bring the county road administration board's policies and procedures for Public Records Act requests into compliance with chapter 42.56 RCW. Changes fix out-of-date references to RCW, formatting to current code reviser's office standards, and internal roles in processing Public Records Act requests.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Drew Woods,

Deputy Director, County Road Administration Board, 2404 Chandler Court S.W., phone 360-753-5989, email drew.woods@crab.wa.gov, AND RECEIVED BY May 22, 2023.

March 14, 2023
Jane Wall
Executive Director

OTS-4441.2

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-03-010 Purpose and authority. The purpose of this chapter is to establish rules for compliance by the Washington county road administration board with the provisions of chapter 42.56 RCW (~~(42.17.250 through 42.17.340)~~) dealing with public records. This chapter describes the places at which, the employees from whom, and the methods whereby persons may obtain information, make submittals or requests, or obtain copies of agency decisions. Other chapters in Title 136 WAC describe the general course and method of the board's operations and the nature and requirements of all ~~((of))~~ its formal and informal procedures. For a description of the board's organization, see chapter 136-01 WAC.

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-03-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 42.17.250 through [42.17].340. WSR 92-13-037 (Order 87), § 136-03-010, filed 6/10/92, effective 7/11/92.]

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-03-020 Public records officer. The board's public records officer shall be the executive assistant to the county road administration board. The public records officer shall be officed at 2404 Chandler Court S.W., Suite 240, Olympia, Washington. The public records officer shall be responsible for:

- (1) Implementation of chapter 42.56 RCW (~~(42.17.250 through 42.17.340)~~) and ~~((these rules and regulations))~~ this chapter regarding release of public records;
- (2) Coordinating staff efforts of the county road administration board in this regard; and
- (3) Ensuring compliance of the staff with ~~((RCW 42.17.250 through 42.17.340 and these regulations))~~ chapter 42.56 RCW and this chapter.
~~((The public records officer shall establish and maintain the index system required by RCW 42.17.260(4).))~~

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-03-020, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070

and 42.17.250 through [42.17].340. WSR 92-13-037 (Order 87), § 136-03-020, filed 6/10/92, effective 7/11/92.]

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-03-030 Public records available. ((All public records of the county road administration board not exempted by RCW 42.17.310, or other statute which exempts or prohibits disclosure (see RCW 47.17.260(1)), shall be available for public inspection and copying pursuant to these rules.)) Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 3:30 p.m. Monday through Friday, excluding legal holidays.

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-03-030, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 42.17.250 through [42.17].340. WSR 92-13-037 (Order 87), § 136-03-030, filed 6/10/92, effective 7/11/92.]

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-03-040 Requests for public records. ((Public records of the county road administration board shall be obtainable by persons who comply with the following procedures:

(1) A written request for public records shall be addressed to the public records officer. Such request shall include the following:

- (a) The name of the person requesting the records (requestor).
- (b) The calendar date on which the request was made.
- (c) If the requested records are referenced in the current index maintained by the county road administration board, a reference to the requested record as it is described in such current index.
- (d) If the requested records are not referenced in the current index, a statement that identifies the specific records requested.
- (e) Where the requested records might be used for such a purpose, a verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the requestor whether and when the requested records will be available for inspection or copying at 2404 Chandler Court S.W., Suite 240, Olympia, Washington. If the requestor asks that the records be mailed to him or her, the public records officer shall do so, provided the records can be copied and sent without unreasonably disrupting the operations of the county road administration board, as provided in RCW 42.17.270.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the county road administration board is also a party (or when such a request is made by or on behalf of an attorney for such a party) the request shall be referred to the assistant attorney general assigned to the county road administration board for appropriate response.))

(1) Website records: Persons seeking public records of the county road administration board under the act are strongly encouraged to,

before submitting a records request, first review the board's website at www.crab.wa.gov.

(2) Public Records Act requests: Public Records Act requests to the board must be sent or submitted only to the public records officer in the Olympia office, in one of the following ways:

Online form: www.crab.wa.gov/
Email: publicrecords@crab.wa.gov
U.S. Mail or Delivery:
County Road Administration Board
2404 Chandler Ct. S.W., Suite 240
Olympia, WA 98502

Requestors are strongly encouraged to make requests in writing. Requestors are encouraged to use the online Public Records Act request form, which, once completed, is automatically submitted to the board's public records officer. The board accepts in-person requests at the Olympia office during normal office hours, 9:00 a.m. to noon and 1:00 p.m. to 3:30 p.m. Monday through Friday, excluding holidays and days the agency is closed. If the agency receives an oral request, the agency will reduce the request in writing and verify in writing with the requestor that it correctly memorialized the request.

Communications seeking agency records, but which are sent or provided to unauthorized staff will not be accepted as or processed as Public Records Act requests. The agency will process such communications as general informal inquiries, general correspondence, general requests for information, or discovery, as appropriate. The requestor may resubmit their request to the public records officer.

This Public Records Act request procedure provides the fullest assistance to requestors by:

(a) Establishing a uniform point of contact for all Public Records Act requests to the agency and related inquiries, consistent with the public records officer contact information published in the *Washington State Register*, and pursuant to RCW 42.56.580; and

(b) Enabling the agency to promptly distinguish Public Records Act requests as high volume of other daily communications to the agency on multiple topics, so as to enable appropriate responses and thereby avoid excessive interference with other essential agency functions as provided in RCW 42.56.100; and

(c) Ensuring that records requests submitted under the act are centrally reviewed during business hours by the public records officer or designee, so the agency may more efficiently assign a tracking number to the request, log it in, review it, provide an initial or other response within five business days after receipt as provided in RCW 42.56.520, and otherwise timely process the request pursuant to the act and these rules.

(3) The public records officer will oversee compliance with the act, but a designee may process the request. The public records officer or designee and the agency will provide the fullest assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the agency. More information about submitting public records requests to the agency is in this chapter and on the board's website.

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-03-040, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070

and 42.17.250 through [42.17].340. WSR 92-13-037 (Order 87), § 136-03-040, filed 6/10/92, effective 7/11/92.]

NEW SECTION

WAC 136-03-045 Response to public records act requests. (1)

General. The agency shall respond promptly to requests for records made under chapter 42.56 RCW, the Public Records Act. Within five business days of receiving a Public Records Act request, the agency will assign the request a tracking number and log it in. The public records officer or designee will evaluate the request according to the nature of the request, clarity, volume, and availability of requested records.

(2) **Response.** Following the initial evaluation of the request, and within five business days of receipt of the request, the public records officer or designee will do one of the following:

(a) Make the records available for inspection or copying including:

(i) If copies are available on the agency's website, provide an internet address and link on the website to specific records requested;

(ii) If copies are requested and payment of a deposit for the copies, if any, is made or other terms of payment agreed upon and satisfied, send the copies to the requestor.

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available (the public records officer or designee may revise the estimate of when records will be available).

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for the request or part of a request that is unclear, to provide, to the greatest extent possible, a reasonable estimate of the time the agency will require to respond to the unclear request or unclear part of a request if it is not clarified.

(i) Such clarification may be requested and provided by telephone and memorialized in writing, or by email or letter;

(ii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the agency need not respond to it. The agency will respond to those portions of a request that are clear.

(d) Deny the request.

(3) **Additional time to respond.** Additional time for the agency to respond to a request may be based upon the need to clarify the request, locate and assemble the records requested, notify third persons or agencies affected by the request, or determine whether any of the information requested is exempt and that a denial should be made as to all or a part of the request.

(4) (a) **Communication encouraged.** If the requestor has not received a response in writing or has questions or concerns regarding the records request, the requestor is encouraged to contact the public records officer.

(b) **Reasonable estimate of time or costs.** The agency will provide an estimate of the time required to respond to the request, and may provide an estimate of copying costs pursuant to a specific request seeking an estimate of cost. If the requestor believes the amount of time or estimated costs stated are not reasonable, the requestor may

petition the public records officer for a formal review under WAC 136-03-090.

(5) **Third-party notice.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure under RCW 42.56.540. Such notice should be given so as to make it possible for those other persons to contact the requestor to revise their request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(6) **Exemptions from disclosure.** Some records are exempt from disclosure, in whole or in part. If the agency believes that a record or part of a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief written explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(7) **Inspection of records.**

(a) Consistent with other demands, the agency shall provide space to inspect public records at a location designated by the agency. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents they wish the agency to copy.

(b) The requestor must claim or review the assembled records within 30 days of the agency's notification to them that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that they should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30 day period or make other arrangements, the agency may close the request and refile the assembled records. Multiple public records requests from the same requestor can be processed in a manner so as not to interfere with essential agency functions, including processing records requests from other requestors.

(8) **Providing copies of records.** After inspection is complete, and the requestor asks for copies of some or all of the inspected records, or where copies are otherwise requested by the requestor, the public records officer or designee shall make the requested copies or arrange for copying.

(a) Where the agency charges for copies, the requestor must pay for the copies prior to the copies being provided to the requestor.

(b) Electronic records will be provided as a link to the records on the agency's website if the records are located on the website, or in a format used by the agency and which is generally commercially available. Records will generally not be provided by email, particularly for larger records responses with multiple records, or where records may not be successfully delivered or received via the agency's or the requestor's email systems.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if they reasonably determine that it would be practical to provide the records

in that way. If, within 30 days, the requestor fails to inspect or pay for the entire set of records or one or more of the installments, the public records officer or designee may stop searching for or producing the remaining records and close the request.

(10) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the agency has completed a reasonable search for the requested records and made any located nonexempt records available for inspection.

(11) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill their obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer or designee will close the request and, unless the agency has already indicated in previous correspondence that the request would be closed under the above circumstances, indicate to the requestor that the agency has closed the request.

(12) **Later discovered documents.** If, after the agency has informed the requestor that it has provided all available records, the agency becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

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AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-03-060 ((Inspection and)) Copying ((costs)) fees—Pay-
ments.** ((1) No fee shall be charged for inspection of public re-
cords.

~~(2) The county road administration board shall impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy records; such charges shall not exceed the amount necessary to reimburse the county road administration board for its actual costs incident to such copying. Actual costs shall include:~~

~~(a) The labor and overhead costs of staff associated with responding to the request;~~

~~(b) Computer and/or copying machine costs and overhead; and~~

~~(c) Paper and/or other duplicating medium costs.)~~

(1) The following copy fees and payment procedures apply to requests to the agency under chapter 42.56 RCW.

(2) Pursuant to RCW 42.56.120 (2) (b), the agency is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The agency does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs,

including for electronic records, provided in RCW 42.56.120 (2) (b) and (c), (3), and (4).

(3) The agency will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2) (b) and (c). The agency will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the agency may charge other copying fees authorized by statutes outside of chapter 42.56 RCW. The agency may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the agency are summarized in the fee schedule available on the agency's website at www.crab.wa.gov.

(4) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are 25 or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is undeliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of 10 percent of the estimated fees when the copying fees for an installment or entire request, or customized service charge, exceeds \$25.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The agency will notify the requestor when payment is due.

(7) Payment should be made by check or money order to the county road administration board. The agency prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The agency will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-03-060, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 42.17.250 through [42.17].340. WSR 92-13-037 (Order 87), § 136-03-060, filed 6/10/92, effective 7/11/92.]

NEW SECTION

WAC 136-03-081 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statutes" exempts or prohibits disclosure. The attorney general's office maintains a list of exemptions commonly applicable to records which can be found on the attorney general's office website www.atg.wa.gov. Requestors should view this list to be aware of some of the exemptions, some of which are outside of the Public Records Act, that restrict the availability of some records held by the agency

including, but not limited to, attorney-client privilege and work product doctrine.

(2) The agency is prohibited by statute from disclosing lists of individuals for commercial purposes.

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AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-03-090 Review of denial of public records request, estimates of time, estimates of cost. (~~((1) Any person who objects to the denial of a request for a public record may petition the public records officer for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.~~

~~(2) If the public records officer decides to affirm the denial, then the written request for review shall immediately be referred to the assistant attorney general assigned to the county road administration board. The assistant attorney general shall promptly consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision within two business days following the original denial.~~

~~(3) Administrative remedies shall not be considered exhausted until the public records officer has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.)~~

(1) The requestor is encouraged to communicate with the public records officer or assigned designee regarding denials of public records requests, estimates of time, or estimates of costs. If the requestor remains unsatisfied, the requestor may seek formal review of the issue.

(2) Any person who objects to the agency's denial or partial denial of a request for a public record or contends an estimate of time to provide records or copying costs to provide records is not reasonable, may petition for prompt review of such decision by submitting a written request for a formal internal administrative review to the public records officer.

(3) The written request for formal review shall specifically refer to the written statement by the public records officer or designee which constituted or accompanied the denial or estimate.

(4) The request for formal review is to be directed to:

Executive Director
County Road Administration Board
2404 Chandler Ct. S.W., Suite 204
Olympia, WA 98502

(5) After receiving a written request for formal review of a decision denying a public record or estimate, the public records officer or designee denying the request shall refer it to the executive director. The agency will, within two business days following receipt of written request, respond with an estimate of time to consider the matter. Following such review, the executive director will either affirm, reverse, or amend the denial or estimate.

(6) For purposes of WAC 136-03-115, the agency shall have concluded a public record is exempt from disclosure only after the review conducted under this section has been completed.

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-03-090, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 42.17.250 through [42.17].340. WSR 92-13-037 (Order 87), § 136-03-090, filed 6/10/92, effective 7/11/92.]

NEW SECTION

WAC 136-03-115 Requests for review. A person may request that the attorney general's office conduct a review pursuant to RCW 42.56.530 of the agencies denial of records requested. Requests for such review shall be directed to the attorney general's office in accordance with WAC 44-06-160.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 136-03-050	Availability for public inspection and copying of public records—Office hours.
WAC 136-03-070	Protection of public records.
WAC 136-03-080	Denial of request.
WAC 136-03-100	Records index.
WAC 136-03-110	Availability.

WSR 23-07-098
EXPEDITED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 17, 2023, 2:33 p.m.]

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-414-0001 Do I have to meet all eligibility requirements for basic food?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments replace an obsolete link with a newer Health and Human Services (HHS) poverty guideline website and do not change the effect of the rule.

Reasons Supporting Proposal: These amendments meet the criteria for expedited adoption as set forth in RCW 34.05.353, specifically subsection (1)(c): "The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect."

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.010, 74.08A.120, and 74.08A.250; and 7 C.F.R. 273.11(r).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Troy Burgess, P.O. Box 45470, Olympia, WA 98504-5770, 360-584-5162.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed amendment updates the link to the correct HHS poverty guidelines website and does not change the effect of the rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, DSHS, P.O. Box 45850, Olympia, WA 98504, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m. on May 23, 2023.

March 17, 2023
Katherine I. Vasquez
Rules Coordinator

SHS-4975.1

AMENDATORY SECTION (Amending WSR 20-02-018, filed 12/19/19, effective 1/20/20)

WAC 388-414-0001 Do I have to meet all eligibility requirements for basic food? (1) What is "categorically eligible" (CE)?

(a) Being categorically eligible (CE) means that you have already met requirements for the program. If you are CE, you do not have to meet **every** program requirement to be eligible for basic food.

(b) If your assistance unit (AU) is CE, you automatically meet the following requirements for basic food:

- (i) Countable resource limit under WAC 388-470-0005;
- (ii) Maximum gross monthly income under WAC 388-478-0060; and
- (iii) Maximum net monthly income under WAC 388-478-0060.

(c) If your AU is CE and the information is available from another program, you do not need to provide the following for basic food:

- (i) Social Security number information under WAC 388-476-0005;
- (ii) Sponsored alien information under WAC 388-450-0155; and
- (iii) Residency under WAC 388-468-0005.

(d) Being CE does not mean that your AU is guaranteed to get basic food benefits. If your AU is CE:

(i) You must still meet the other basic food program requirements under WAC 388-400-0040; and

(ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) **Who is categorically eligible for basic food?** Your basic food AU is CE when your household meets the conditions in subsection (2)(a) or (b) (~~below~~) of this section:

(a) Your AU's income that we do not exclude under WAC 388-450-0015 is at or under (~~two hundred percent~~) 200% of the federal poverty guidelines we use for department programs.

(i) The federal government publishes the federal poverty guidelines on the health and human services website. These are currently posted at <http://aspe.hhs.gov/poverty/index.shtml>) <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

(ii) The department uses the monthly value of the income guidelines for the current year beginning the first of April every year.

(iii) If your income is not over (~~two hundred percent~~) 200% of the federal poverty guidelines, we provide your AU information about the department programs and resources in the community.

(b) Everyone in your AU receives one of the following cash assistance programs:

(i) Temporary assistance for needy families (TANF)/state family assistance (SFA) or tribal TANF under WAC 388-400-0005 and WAC 388-400-0010;

(ii) Aged, blind, or disabled (ABD) cash assistance under WAC 388-400-0060;

(iii) Supplemental security income (SSI) under Title XVI of the Social Security Act; or

(iv) Diversion cash assistance (DCA) under WAC 388-432-0005. DCA makes the basic food AU CE for the month it receives DCA and the following three months.

(3) **Who is not CE even if my AU meets the above criteria?**

(a) Even if your AU is CE, members of your AU are not eligible for basic food if they:

- (i) Are not eligible because of their alien or student status;

(ii) Were disqualified from basic food under WAC 388-444-0055 for failing work requirements;

(iii) Are not eligible for failing to provide or apply for a Social Security number;

(iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or

(v) Live in an institution not eligible for basic food under WAC 388-408-0040.

(b) If a person in your AU is not eligible for basic food, we do not include them as an **eligible member** of your CE AU.

(c) Your AU is not CE if:

(i) Your AU lost eligibility due to substantial lottery or gambling winnings as indicated under WAC 388-483-0005;

(ii) Your AU is not eligible because of striker requirements under WAC 388-480-0001;

(iii) Your AU is ineligible for knowingly transferring countable resources in order to qualify for benefits under WAC 388-488-0010;

(iv) Your AU refused to cooperate in providing information that is needed to determine your eligibility;

(v) The head of household for your AU failed to meet work requirements; or

(vi) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.010, 74.08A.120, 74.08A.250, and 7 C.F.R. 273.11(r), 84 F.R. 15083. WSR 20-02-018, § 388-414-0001, filed 12/19/19, effective 1/20/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090 and 7 C.F.R. 273.2 and 273.3. WSR 15-05-010, § 388-414-0001, filed 2/5/15, effective 3/8/15. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and 7 C.F.R. 273.2(j). WSR 14-15-070, § 388-414-0001, filed 7/15/14, effective 8/15/14. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 7 C.F.R. 273.2(j), 273.8(a), 273.9(a), 273.10. WSR 08-15-137, § 388-414-0001, filed 7/22/08, effective 10/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 05-23-081, § 388-414-0001, filed 11/15/05, effective 1/1/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 24. WSR 04-14-038, § 388-414-0001, filed 6/29/04, effective 8/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 04-07-139, § 388-414-0001, filed 3/22/04, effective 5/1/04. Statutory Authority: RCW 74.08.090, 74.04.510. WSR 01-07-054, § 388-414-0001, filed 3/16/01, effective 3/29/01; WSR 00-11-035, § 388-414-0001, filed 5/10/00, effective 8/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-414-0001, filed 7/31/98, effective 9/1/98.]

WSR 23-07-099
EXPEDITED RULES
PUBLIC DISCLOSURE COMMISSION
[Filed March 17, 2023, 4:30 p.m.]

Title of Rule and Other Identifying Information: Updating the references in the rules to reflect the inflationary adjustments made to the campaign finances laws.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making follows up on the recently adopted rules making inflationary adjustments to the monetary limits and reporting values of the campaign finance category. See WSR 23-07-004 adopting changes to WAC 390-05-400 and 390-16-034. This proposed rule updates the references to the newly adjusted values throughout the public disclosure commission (PDC) rules, Title 390 WAC. The proposed changes are technical in nature simply to reflect the newly adopted values.

Reasons Supporting Proposal: The recently adopted rules that make inflationary adjustments to the reporting values and contribution limits do not change the references to those amounts in the remainder of the rules. This new rule making is necessary to update the references to the new (correct) values in order to provide consistency and clarity throughout the rules.

Statutory Authority for Adoption: RCW 42.17A.110 and [42.17A.]125.

Statute Being Implemented: RCW 42.17A.125.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting and Implementation: Sean Flynn, 711 Capitol Way South, Suite 206, Olympia, WA 98504, 360-753-1111; and Enforcement: Kim Bradford, 711 Capitol Way South, Suite 206, Olympia, WA 98504, 360-753-1111.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed changes are technical, do not have substantive effect, and will clarify references with the recently adopted adjusted monetary values.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Sean Flynn, PDC, 711 Capitol Way South, Suite 206, Olympia, WA 98504, phone 360-753-1111, fax 360-753-1112, email pdc@pdc.wa.gov, AND RECEIVED BY May 22, 2023.

March 17, 2023
Sean Flynn
General Counsel

OTS-4410.2

AMENDATORY SECTION (Amending WSR 19-08-092, filed 4/3/19, effective 5/4/19)

WAC 390-16-013 Incidental committees—Registration and reporting requirements and method for reporting. (1) Chapter 42.17A RCW requires the disclosure of monetary and in-kind contributions and expenditures by nonprofit organizations that participate significantly in candidate and ballot proposition campaigns in Washington state. Nonprofit organizations that make contributions or expenditures in Washington elections above specified thresholds, and are not otherwise defined under the law as political committees, must file organizational statements with the PDC and disclose certain contributors, regardless of the organization's primary purpose. These are referred to in the law as "incidental committees." To be an incidental committee, triggering the requirements to file a statement of organization with the PDC and then file the required disclosure reports, an organization must expect to make contributions or expenditures of at least (~~twenty-five thousand dollars~~) \$35,000 in a calendar year for an election campaign and receive a payment of at least (~~ten thousand dollars~~) \$15,000 from a single source.

(2) The official form for providing the statement of organization by incidental committees as required by RCW 42.17A.207 is designated the incidental committee registration report, or "C-1-IC."

(3) The official form for reporting top (~~ten~~) 10 payments and expenditures by incidental committees as required under RCW 42.17A.240 is designated the incidental committee payments and political expenditures report, or "C-8."

(4) These reporting forms must be filed electronically when the PDC has provided an electronic method to do so. Until an electronic method is provided, the reporting forms should be downloaded from the PDC's website, www.pdc.wa.gov, or obtained at the PDC office, in Olympia, Washington, and submitted by postal mail or hand delivery. The executive director may make exceptions on a case-by-case basis for an incidental committee that lacks the technological ability to file reports electronically.

(5) For purposes of determining whether a nonprofit organization has the expectation of making contributions or expenditures aggregating at least (~~twenty-five thousand dollars~~) \$35,000 in a calendar year that then triggers the reporting requirements:

(a) Contributions include any monetary or in-kind contributions made to a political committee, including a political committee that the nonprofit organization sponsors; and

(b) Contributions do not include contributions made to an out-of-state political committee, unless the contribution is earmarked or otherwise designated specifically for any in-state election campaign or political committee.

(6) The sources of the top (~~ten~~) 10 largest cumulative payments of (~~ten thousand dollars~~) \$15,000 or greater, as required to be reported on the C-8 report, must include:

(a) The top (~~ten~~) 10 sources of payments within the current calendar year through the applicable reporting period, including any changes to the top (~~ten~~) 10 sources from the previous reporting period; and

(b) The total cumulative payment value, within the current calendar year through the applicable reporting period, made from a person who is reported on the current report as a source of a top ~~((ten))~~ 10 payment.

(7) For purposes of reporting the sources of the top ~~((ten))~~ 10 largest cumulative payments of ~~((ten-thousand-dollars))~~ \$15,000 or greater, for payments received from multiple persons in an aggregated form, only a payment of more than ~~((ten-thousand-dollars))~~ \$15,000 from any single person must be reported, but not the aggregated payment to the nonprofit organization itself or through any intermediary aggregated payment.

(8) An incidental committee may request a modification or suspension of reporting requirements in cases of manifestly unreasonable hardship pursuant to RCW 42.17A.120, as set forth in chapter 390-28 WAC.

(9) Each incidental committee is automatically dissolved at the end of the calendar year in which it was registered, or upon completion of all reporting requirements for that year, whichever is later. Dissolution does not absolve the nonprofit organization that registered as an incidental committee from responsibility for any obligations resulting from a finding before or after dissolution of a violation committed prior to dissolution. Dissolution in this context refers only to the termination of an incidental committee created to fulfill the nonprofit's reporting responsibilities under chapter 42.17A RCW, and is not intended to affect the legal status of the nonprofit organization itself.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 111. WSR 19-08-092, § 390-16-013, filed 4/3/19, effective 5/4/19.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-16-042 Debts and obligations—Contingent liabilities—How to report. (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))~~ \$1,000, and the vendor has not been paid in full for the goods received, invoices submitted, or services performed within the time periods specified below:

(i) For reports due within ~~((thirty))~~ 30 days of an election, debts or obligations of more than ~~((seven hundred fifty dollars))~~ \$1,000 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))~~ \$1,000 must

be reported if the debt or obligation has been outstanding for more than (~~ten~~) 10 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 conditioned upon the candidate winning the election) is reportable as a debt or obligation from the time the contract or agreement 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.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-042, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-042, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17.370. WSR 89-20-068, § 390-16-042, filed 10/4/89, effective 11/4/89.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

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~~) 10 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. If the treasurer and requestor are unable to agree on a location and the treasurer has not provided digital access to the books of account, the default location for an appointment must be a place of public accommodation selected by the treasurer within a reasonable distance from the treasurer's office. However, if the treasurer is located out-of-state, the default loca-

tion must be within the state of Washington and reasonably accessible to both parties. The inspection must be allowed within (~~forty-eight~~) 48 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.

(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. The books of account must include the underlying source documents such as receipts, invoices, copies of contribution checks, copies of canceled checks for expenditures, digital transactions, notes, or other documentation concerning expenditures, orders placed, and loans. The campaign or committee is not required to provide the name and address of contributors who gave (~~twenty-five dollars~~) \$100 or less in the aggregate in total contributions.

(7) The candidate or political committee is not required to make copies of its books of account for the requestor. Videorecording, 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.

(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.

(9) The records required by this section must be available for audit or examination by the PDC at any time upon request from the PDC.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-043, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-043, filed 11/30/18, effective 12/31/18.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-16-058 Independent expenditure—Definition and application. (1) "Independent expenditure," as that term is used in chapter 42.17A RCW, other than RCW 42.17A.255, and as used in these rules, 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 subject to the filing requirements in chapter 42.17A RCW, 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.

(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;

(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;

(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 of (~~one thousand dollars~~) \$2,000 or more. A series of expenditures, each of which is under (~~one thousand dollars~~) \$2,000, constitutes one independent expenditure if their cumulative value is (~~one thousand dollars~~) \$2,000 or more; and

(e) The expenditure is not a contribution as defined in RCW 42.17A.005 and provided in 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 interest to the 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) 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 assessed must be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the person providing the facility; or
- (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~~) \$350 personally paid by the worker.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-058, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-058, filed 11/30/18, effective 12/31/18.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-16-059 Electioneering communication reporting threshold.

(1) A "sponsor" of an electioneering communication is defined in RCW 42.17A.005.

(2) For the purposes of RCW 42.17A.005, 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 (21) (a) (i) and (ii) or these 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~~) 60 days before an election, has a fair market or aggregate value of (~~one thousand dollars~~) \$2,000 or more; and

(d) Is not a communication excluded from the meaning of "expenditure" under RCW 42.17A.005 or by these rules.

(3) When the communications (including radio, television, electronic, mailings, billboards, newspapers, online, or periodicals) reach the (~~one thousand dollar~~) \$2,000 threshold, the sponsor must report to the commission as required by RCW 42.17A.305 within (~~twenty-four~~) 24 hours of, or on the first working day after, the date the communication is first broadcast, transmitted electronically, erected, distributed, published online or by other media, or otherwise presented to the public.

(4) Once the (~~one thousand dollar~~) \$2,000 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 (~~one thousand dollar~~) \$2,000 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 the PDC C-6 Report, a prorated portion of independent expenditure and electioneering communications expenditures must be attributed to each candidate or ballot proposition identified in the advertisement or communication. That proration must 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.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-059, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-059, filed 11/30/18, effective 12/31/18.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

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~~) \$1,000 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~~) \$2,000 or more that is presented to the public within (~~twenty-one~~) 21 days of an election, that supports or opposes a ballot proposition, or that qualifies as an independent expenditure and supports or opposes a candidate.

(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, including 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 must comply with the "no candidate authorized this ad" sponsor identification and, if applicable, the "top 5" contributors required by RCW 42.17A.320 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 the sources of any funds received by the committee for an electioneering communication, unless the committee received funds that were earmarked or otherwise designated for the communication.

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

(4) The sponsor of an electioneering communication must report pursuant to RCW 42.17A.305 and these 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, must file pursuant to RCW 42.17A.305 and these rules regarding electioneering communications.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-063, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-063, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110(1). WSR 14-12-012, § 390-16-063, filed 5/22/14, effective 6/22/14. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-063, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370 and 42.17.562. WSR 06-11-132, § 390-16-063, filed 5/23/06, effective 6/23/06.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-16-105 Mini campaign reporting—Eligibility. (1) A candidate or candidate's authorized committee, as those terms are defined in the act and these rules, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125, if the committee selects the mini reporting option on its registration and meets both of the following conditions:

(a) Neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed (~~(five thousand dollars)~~) \$7,000; and

(b) No contribution or contributions from any person other than the candidate exceed (~~(five hundred dollars)~~) \$500 in the aggregate. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17A.005, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125, if the committee selects the mini reporting option on its registration and meets both of the following conditions:

(a) Neither aggregate contributions nor aggregate expenditures exceed (~~five thousand dollars~~) \$7,000; and

(b) No contribution or contributions from any person exceed (~~five hundred dollars~~) \$500 in the aggregate.

(3) A continuing political committee, as that term is defined in the act and these rules, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125, if the committee selects the mini reporting option on its registration and meets both of the following conditions:

(a) Neither aggregate contributions nor aggregate expenditures during a calendar year exceed (~~five thousand dollars~~) \$7,000; and

(b) No contribution or contributions from any person exceed (~~five hundred dollars~~) \$500 in the aggregate.

(4) A candidate or political committee that exceeds one or both of the thresholds set out in either subsection (1), (2), or (3) of this section after registering as a mini reporting campaign will no longer qualify for the mini reporting option and must comply with the provisions of chapter 42.17A RCW including, but not limited to, disclosure of contributions and expenditures, disclosure of last minute contributions, applicable contribution limits, false political advertising, sponsor identification, and public inspection of campaign books of account.

(5) Candidates and political committees eligible for mini campaign reporting are required to comply with all applicable provisions of chapter 42.17A RCW including, but not limited to, false political advertising, sponsor identification, and public inspection of campaign books of account unless specifically exempted under subsections (1) through (3) of this section.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-105, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-105, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110(8). WSR 14-12-010, § 390-16-105, filed 5/22/14, effective 6/22/14. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-105, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370 (1) and (8). WSR 08-01-058, § 390-16-105, filed 12/14/07, effective 1/14/08. Statutory Authority: RCW 42.17.370. WSR 05-11-001, § 390-16-105, filed 5/4/05, effective 6/4/05. Statutory Authority: RCW 42.17.370(1). WSR 02-03-018, § 390-16-105, filed 1/4/02, effective 2/4/02. Statutory Authority: RCW 42.17.370. WSR 01-10-050, § 390-16-105, filed 4/26/01, effective 6/1/01. Statutory Authority: RCW 42.17.370(1). WSR 86-04-071 (Order 86-01), § 390-16-105, filed 2/5/86; Order 91, § 390-16-105, filed 7/22/77; Order 62, § 390-16-105, filed 8/26/75.]

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

WAC 390-16-226 Loans. (1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17A.005 and 42.17A.430 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17A RCW and, unless the loan meets the exemption provided in RCW 42.17A.465(3) and this subsection, the contribution is subject to the contribution limits provided in chapter 42.17A RCW, as adjusted by WAC 390-05-400.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the contribution limits of RCW 42.17A.405 and WAC 390-16-310, as adjusted by WAC 390-05-400, only if all the following criteria are met:

(i) The loan is not guaranteed by any other person;
(ii) The loan is made in the regular course of business; and,
(iii) The loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

(3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17A.445(3) as adjusted by WAC 390-05-400. For purposes of the loan repayment limit, these loans are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of their campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within (~~twenty-one~~) 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-226, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-226, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370(1). WSR 02-03-018, § 390-16-226, filed 1/4/02, effective 2/4/02; WSR 00-22-056, § 390-16-226, filed 10/27/00, effective 11/27/00. Statutory Authority:

RCW 42.17.370. WSR 93-16-064, § 390-16-226, filed 7/30/93, effective 8/30/93.]

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

WAC 390-16-236 Surplus funds accounts—Disclosure. (1) **Registering a surplus funds account.**

(a) Any person who opens an account into which surplus funds will be deposited shall register the account by filing PDC Form C-1, Candidate Registration with the commission. The committee name on the C-1 will be the name used by the campaign committee that raised the surplus funds followed by the designation, "surplus funds account." The C-1 must identify by name the treasurer of the account and the bank or depository where the account is held.

(b) The C-1 must be filed within two weeks after the date the account is opened.

(2) **Depositing surplus funds.**

(a) After a surplus funds account is established, a candidate may deposit into the account all surplus funds from subsequent campaigns.

(b) Only surplus funds may be deposited in a surplus funds account.

(c) A candidate who deposits surplus funds into a surplus funds account discloses an expenditure of campaign funds with the description "transfer to surplus funds account," the amount transferred, and the date the transfer occurred.

(3) **Reporting surplus funds expenditures.**

(a) The treasurer shall file with the commission a report on the (~~tenth~~) 10th day of each month detailing expenditures made in the preceding calendar month. This report need only be filed if the total expenditures made since the last such report exceeded (~~two hundred dollars~~) \$750. The report shall be on PDC Form C-4, Campaign Summary Receipt & Expenditures.

(b) The treasurer shall file reports as required by (a) of this subsection until the account is closed, at which time a final report shall be filed.

(c) All reports filed disclosing expenditures from the surplus funds account shall be certified as correct by the treasurer.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-236, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110 and 42.17A.240(11). WSR 17-01-160, § 390-16-236, filed 12/21/16, effective 1/21/17.]

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

WAC 390-16-245 Pledges. (1) "Pledge," as that term is used in the act and these rules, means a promise to make a future contribution. A pledge shall not be made or redeemed within (~~twenty-one~~) 21 days of an election specified in RCW 42.17A.420 if the amount of the pledge or redemption exceeds the maximum amount provided in RCW

42.17A.420, as adjusted by WAC 390-05-400. However, if payment of a pledge is in the possession of the recipient (~~(twenty-two)~~) 22 or more days before the election, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220.

(2) If a pledge is made in an election campaign subject to the contribution limits provided in RCW 42.17A.405 and 42.17A.410, as adjusted by WAC 390-05-400:

(a) Except as provided in WAC 390-17-302, a pledge made with respect to the primary election shall not be made or redeemed after the date of the primary; however, if the payment of a pledge is made on or before the date of the primary, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220; and

(b) A pledge made with respect to the general election shall not be made or redeemed after the final day of the applicable election cycle; however, if the payment of a pledge is made on or before the final day of the election cycle, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220.

(3) During the time limit specified in RCW 42.17A.560, a state official or a person employed by or acting on behalf of a state official shall not solicit or accept a pledge or the redemption of a pledge for any purpose specified in RCW 42.17A.560.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-245, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-245, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 03-12-033, § 390-16-245, filed 5/29/03, effective 6/29/03. Statutory Authority: RCW 42.17.390. WSR 94-07-141, § 390-16-245, filed 3/23/94, effective 4/23/94.]

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

WAC 390-16-309 Identification of affiliated entities. (1) Two or more entities are treated as a single person and share one contribution limit under RCW 42.17A.405 and 42.17A.410, as adjusted by WAC 390-05-400, if one of the entities is:

(a) A corporation and the other is a subsidiary, branch or division of the corporation;

(b) A national or international labor union, or state body of such national or international labor union, and the other is a local union or other subordinate organization of such national or international labor union or state body;

(c) A trade association or state body of such trade association and the other is a branch or local unit of such trade association;

(d) A national or state collective bargaining organization and the other is a branch or local unit of such national or state collective bargaining organization;

(e) A national or international federation of labor unions, or a state federation of labor unions, and the other is a local body of such federation;

(f) A membership organization and the other is a local unit or branch of such membership organization;

(g) Any entity referenced in (a) through (f) above and a political committee established, financed, maintained or controlled by that entity.

(2) For purposes of RCW 42.17A.405 and 42.17A.410, two entities shall not be treated as a single entity solely because one of the entities is a dues paying member of the other entity.

(3) In addition to subsection (1) of this section, two or more entities shall be treated as one entity and share a contribution limit under RCW 42.17A.405 and 42.17A.410, as adjusted by WAC 390-05-400, if one of the entities is established, financed, maintained or controlled by the other, as evidenced by any one or more of the following factors:

(a) Whether one entity owns a controlling interest in the voting stock or securities of another entity; or

(b) Whether one entity has authority or the ability to direct or participate, other than through a vote as a member, in the governance of another entity through provisions of constitution, bylaws, contract or other formal or informal procedure or has authority or the ability to hire, appoint, demote or otherwise control, other than through a vote as a member, the officers or other decision making employees or members of another entity; or

(c) Whether (i) one entity has a common or overlapping membership with another which indicates either a formal or ongoing relationship between the two organizations or the creation of a successor entity; and (ii) the entity has an active or significant role in the formation of the other entity; and (iii) the entities have similar patterns of contributions or contributors which indicate a formal or ongoing relationship between the entities; or

(d) Whether one entity provides, causes or arranges, funds, services or goods in a significant amount or on an ongoing basis, through direct or indirect means to the other entity, for less than full consideration. Full consideration includes the payment of membership dues.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-309, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-309, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370(1). WSR 10-20-012, § 390-16-309, filed 9/24/10, effective 10/25/10. Statutory Authority: RCW 42.17.390. WSR 94-11-016, § 390-16-309, filed 5/5/94, effective 6/5/94.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-16-310 Limitations on contributions. The limitations on contributions as provided in RCW 42.17A.420, 42.17A.405, and 42.17A.410, as adjusted by WAC 390-05-400, are as follows:

(1) (a) The limitation on contributions in RCW 42.17A.405 or 42.17A.410, as adjusted by WAC 390-05-400, do not apply to a "candidate" as that term is defined in RCW 42.17A.005 when the candidate is contributing to the candidate's own campaign using the candidate's own personal funds as defined in WAC 390-17-305.

(b) The limitation on contributions in RCW 42.17A.420, 42.17A.405, or 42.17A.410, as adjusted by WAC 390-05-400, apply to contributions to the candidate from the candidate's spouse, domestic partner or other immediate family members.

(2) Contributions by spouses are considered separate contributions. Contributions by domestic partners are considered separate contributions.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions and the contribution is properly attributed to the emancipated minor child if:

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemancipated minor children will be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to that parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship must be aggregated for purposes of determining the limitations of contributions under RCW 42.17A.420, 42.17A.405, or 42.17A.410, as adjusted by WAC 390-05-400.

(5) The limitations on contributions apply separately to the contributions made by a partnership, limited liability partnership and limited liability corporation from the contributions made by an individual partner or member. However, contributions made from or charged against the capital account of an individual partner, or member of a limited liability partnership or limited liability corporation must be aggregated with the partner's or member's individual contributions for purposes of determining the limitations on contributions under RCW 42.17A.420, 42.17A.405, or 42.17A.410, as adjusted by WAC 390-05-400.

(6) The limitations on contributions in RCW 42.17A.420, 42.17A.405, and 42.17A.410, as adjusted by WAC 390-05-400, apply separately to the contributions made by an entity (corporation, subsidiary or branch, national union and local unions, collective bargaining organizations and local units, membership organizations and local units and other organizations and their local units) unless the criteria in RCW 42.17A.455 and WAC 390-16-309 are met.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-310, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-310, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-310, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 09-09-126, § 390-16-310, filed 4/22/09, effective 5/23/09; WSR 05-06-070, § 390-16-310, filed 3/1/05, effective 4/1/05. Statutory Authority: RCW

42.17.370(1). WSR 96-05-001, § 390-16-310, filed 2/7/96, effective 3/9/96. Statutory Authority: RCW 42.17.390. WSR 94-11-016, § 390-16-310, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 42.17.370. WSR 93-16-064, § 390-16-310, filed 7/30/93, effective 8/30/93; WSR 92-05-079, § 390-16-310, filed 2/18/92, effective 3/20/92; WSR 90-20-088, § 390-16-310, filed 9/28/90, effective 10/29/90.]

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

WAC 390-16-312 Handling contributions of uncertain origin. No contribution shall be deposited by any candidate or treasurer who believes, from the face of the contribution instrument or for any other reason, the contribution was made in a fictitious name, by one person through an agent, relative, political committee, or any other person so as to conceal the source of the contribution or to exceed the contribution limits provided in RCW 42.17A.420, 42.17A.405, or 42.17A.410, as adjusted by WAC 390-05-400, or otherwise violate the act. The candidate or treasurer shall return such contributions within ~~((ten))~~ 10 days to the original contributor if his or her identity is known. Otherwise, the contribution instrument shall be endorsed and made payable to "Washington state treasurer" and the contribution sent to the commission for deposit in the state's general fund.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-312, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 17-03-028, § 390-16-312, filed 1/6/17, effective 2/6/17; WSR 12-03-002, § 390-16-312, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 93-16-064, § 390-16-312, filed 7/30/93, effective 8/30/93; WSR 91-14-041, § 390-16-312, filed 6/27/91, effective 7/28/91.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-16-320 Candidates in small political subdivisions—Reporting. (1) As provided in RCW 42.17A.200 and 42.17A.135(7), a candidate for election in any political subdivision must fully report if the candidate receives ~~((five thousand dollars))~~ \$7,000 or more in contributions or expects to receive ~~((five thousand dollars))~~ \$7,000 or more in contributions during an election cycle.

(2) It is presumed the candidate "expects to receive" ~~((five thousand dollars))~~ \$7,000 or more when any one of the following first occurs:

(a) The candidate or candidate's authorized committee receives at least ~~((five thousand dollars))~~ \$7,000 in aggregate contributions, including contributions from the candidate;

(b) The candidate is seeking the same office last sought, the candidate's election is in the current calendar year, and the candidate's campaign contributions in the previous election for the same office were ~~((five thousand dollars))~~ \$7,000 or more in the aggregate;

- (c) The contributions received on or before March 31st of the election year total (~~(one thousand two hundred fifty dollars)~~) \$1,250 or more;
- (d) The contributions received on or before June 30th of the election year total (~~(two thousand five hundred dollars)~~) \$2,500 or more;
- (e) The contributions received on or before September 30th of the election year total (~~(three thousand seven hundred fifty dollars)~~) \$3,750 or more; or
- (f) The candidate otherwise anticipates that (~~(five thousand dollars)~~) \$7,000 or more will be received during the election cycle.
- (3) Surplus funds carried over from a candidate's previous campaign are not contributions to the candidate's new campaign and do not count toward the (~~(five thousand dollars)~~) \$7,000 reporting threshold.
- (4) A candidate or candidate's authorized committee that receives, or expects to receive, (~~(five thousand dollars)~~) \$7,000 or more must:
- (a) Within two weeks of the date the reporting obligation begins under subsection (1) or (2) of this section, file:
- (i) A candidate registration, PDC C-1 Report;
- (ii) A personal financial affairs statement, PDC F1 Report and, if relevant, the F1 Supplement; and
- (iii) Contribution and expenditure reports, PDC C3 and C4 reports with appropriate attachments and schedules; and
- (b) Otherwise comply with the campaign finance reporting and other provisions of chapter 42.17A RCW and Title 390 WAC.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-16-320, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-320, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-320, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 07-08-044, § 390-16-320, filed 3/28/07, effective 4/28/07.]

OTS-4396.1

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-18-010 Sponsor identification of advertising, political advertising, electioneering communications, and independent expenditures. (1) For the purposes of chapter 42.17A RCW and Title 390 WAC:

(a) "Sponsor of political advertising, electioneering communication, or independent expenditure" is, as used in the act and in these rules, and defined in RCW 42.17A.005.

(b) Unless the context clearly provides otherwise, "advertising" or "advertisement" means political advertising, independent expenditures that are for political advertising, or electioneering communications, subject to the provisions of chapter 42.17A RCW and as defined in RCW 42.17A.005 or 42.17A.255.

(2) All advertising must clearly state, in an area set apart from any other printed matter, that it has been paid for by the sponsor

(Example: (1) Paid for by the XYZ committee, mailing address, city, state, zip code; (2) Vote for John Doe, paid for by John Doe, mailing address, city, state, zip code). Additional requirements apply for the following:

(a) Political committees that sponsor political advertising costing or having a fair market value of (~~one thousand dollars~~) \$2,000 or more supporting or opposing a ballot proposition must clearly identify the "top five contributors" to that political committee, as well as the "top three donors" of all political committees identified as a "top five contributor," pursuant to WAC 390-18-025.

(b) Advertising undertaken as an independent expenditure or electioneering communication must comply with the "no candidate authorized this ad" sponsor identification and, if relevant, the "top five contributors," as well as the "top three donors" to political committee contributors, and identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee provisions of RCW 42.17A.320.

(c) Political committees that sponsor independent expenditure or electioneering communication printed advertising are required to identify the "top five contributors" to that political committee, as well as the "top three donors" to political committee contributors. This requirement does not apply to bona fide political parties sponsoring independent expenditures.

(3) Required sponsor identification must be displayed in printed advertisements:

(a) In an area set apart from other printed matter;

(b) On the first page or fold of advertising consisting of more than one page that is intended to be presented as a single item (e.g., 3-page letter with return envelope). Identification on an enclosed return envelope or the envelope in which the advertising is sent is not sufficient;

(c) By respective sponsor on advertising which is a collection of several items relating to more than one candidate or committee and distributed simultaneously.

(4) Required sponsor identification must be clearly identified or spoken in advertising on radio, by telephone, or on television.

(5) Required sponsor identification must be clearly identified, spoken or displayed on advertising on websites, social media and other digital communication. Political committee websites and other online forums created by a political committee must include sponsor identification.

(6) With advertising for which no payment is demanded or for which a cost or fair market value is not readily ascertainable, the sponsor is the candidate, political committee or person who solicits or arranges for the advertising to be displayed, disseminated or broadcast.

(7) If more than one person sponsors specific advertising, the identity of each sponsor must be identified. However, if a person contributes in cash or in-kind to a candidate or political committee to assist in paying the cost of advertising, that person is not deemed a sponsor, provided the contribution is not earmarked for the advertising and is reported in accordance with applicable provisions of chapter 42.17A RCW and Title 390 WAC.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-18-010, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, §

390-18-010, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110 and 42.17A.320. WSR 13-12-015, § 390-18-010, filed 5/24/13, effective 6/24/13. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-18-010, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 11-05-051, § 390-18-010, filed 2/10/11, effective 3/13/11. Statutory Authority: RCW 42.17.370 and 42.17.562. WSR 06-11-132, § 390-18-010, filed 5/23/06, effective 6/23/06. Statutory Authority: RCW 42.17.370. WSR 03-12-034, § 390-18-010, filed 5/29/03, effective 6/29/03. Statutory Authority: RCW 42.17.370(1). WSR 00-22-055, § 390-18-010, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 42.17.370. WSR 93-16-064, § 390-18-010, filed 7/30/93, effective 8/30/93. Statutory Authority: RCW 42.17.370(1). WSR 85-15-020 (Order 85-03), § 390-18-010, filed 7/9/85.]

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-18-025 Advertising—Identification of "top five contributors" and "top three donors to PAC contributors." Sponsors must identify the "top five contributors" when required to be included in political advertising, as provided in WAC 390-18-010. When the "top five contributor" list includes one or more political committees, the sponsor must further identify and separately include in the advertisement the collective "top three donors to PAC contributors" to all such political committees. This section explains how the sponsor should identify such "top three donors to PAC contributors."

(1) For purposes of RCW 42.17A.320, "top five contributors" means the five persons, as defined in RCW 42.17A.005, giving the largest aggregate contributions of (~~one thousand dollars~~) \$2,000 or more during the (~~twelve~~) 12-month period preceding the date on which the advertisement is published or otherwise presented to the public. The sponsor may calculate the (~~twelve~~) 12-month period from the date the advertisement is submitted to a third-party publisher for reasonably prompt publication, so long as there is no anticipated or intentional delay in the publication or presentation. If more than five contributors give an amount equal to the largest aggregate contribution exceeding the threshold value and the funds are received during the relevant (~~twelve~~) 12-month period, the political committee sponsoring the advertisement must select five of these contributors to identify as the top five contributors.

(2) (a) If a political committee keeps records necessary to track contributions used according to the use intended by its contributors, that committee may identify the top contributions to the advertisement, as opposed to identifying the overall top five contributors to the committee, if such identified contributors made contributions that were intended and actually used to pay for the advertisement.

(b) For purposes for identifying the top five contributors, the sponsor should not include contributions earmarked, tracked, and used for purposes other than paying for the advertisement. However, if a sponsor uses a contributor's contributions earmarked for advertising for a different candidate or slate of candidates than the candidate or candidates intended by the contributor, the sponsor must include such contribution in determining the "top five contributors" of the actual advertisement for which the contribution was used.

(3) For purposes of RCW 42.17A.350 "top three donors to PAC contributors" means the three individuals or entities, other than political committees, who gave the largest aggregate contributions to one or more political committee listed as a "top five contributor," totaling (~~one thousand dollars~~) \$2,000 or more during the (~~twelve~~) 12-month period preceding the date on which the advertisement was published or otherwise presented to the public. The sponsor may calculate the (~~twelve~~) 12-month period from the date the advertisement is submitted to a third-party publisher for reasonably prompt publication, so long as there is no anticipated or intentional delay in the publication or presentation.

(a) If any of the contributors to a "top five" political committee is itself a political committee, the sponsor must identify the top three contributors to that political committee. Such process continues until the sponsor has identified the top three nonpolitical committee contributors for each "top five" political committees. If more than three contributors to a "top five" political committee have given an amount equal to the largest aggregate contribution, the sponsor may select three of these contributors to identify as the "top three donors to PAC contributors."

(b) If there is more than one political committee identified as a "top five contributor," the sponsor must identify the top three nonpolitical committee contributors to each "top five" political committee, and then determine the "top three donors to PAC contributors" collectively from that list.

(c) The sponsor should not include contributions to a "top five" political committee contributor for purposes of identifying the "top three donors to PAC contributors" if both:

(i) The contribution to the "top five" committee was reported as an earmarked contribution for a purpose other than the advertisement in question; and

(ii) The "top five" committee has provided written verification to the sponsor before the initial publication or public presentation of the advertisement, confirming that such contribution was tracked and used for such other purpose.

(4) For purposes of determining the "top three donors to PAC contributors," the sponsor must make reasonable efforts to identify the contributions made to a political committee. Reasonable efforts include searching through reports of contributions filed with the commission or any other state, as well as requests made to any political committee that has not disclosed its contributions to the commission or in any other state. After making reasonable efforts, the sponsor may reasonably rely on the information reported to the commission, and will not be liable for any omission or miscalculation because a contribution to any "top five" political committee has not been reported to the commission.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-18-025, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-18-025, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110 and 42.17A.320. WSR 13-12-015, § 390-18-025, filed 5/24/13, effective 6/24/13. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-18-025, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 07-08-044, § 390-18-025, filed 3/28/07, effective 4/28/07. Statutory Authority: RCW 42.17.370 and 42.17.562. WSR 06-11-132, § 390-18-025, filed 5/23/06, effective 6/23/06. Statu-

tory Authority: RCW 42.17.370(1). WSR 02-12-007, § 390-18-025, filed 5/23/02, effective 6/23/02.]

OTS-4395.1

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

WAC 390-17-315 Political committees—Qualifications to contribute. (1) Within (~~one hundred eighty~~) 180 days of making a contribution to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official, a political committee shall have received contributions of \$10 or more each from at least (~~ten~~) 10 individuals registered to vote in Washington state.

(2) A political committee shall have received contributions of (~~\$10~~) \$25 or more each from at least (~~ten~~) 10 individuals registered to vote in Washington state before contributing to a Washington state political committee.

(3) A political committee shall maintain a list of the names and addresses of these registered voters from whom contributions are received, the amount of each contribution, and the date each contribution is received. Upon written request of the commission or other person seeking this information, the political committee shall provide the list within (~~fourteen~~) 14 days.

[Statutory Authority: RCW 42.17.130 and 42.17.093. WSR 12-01-047, § 390-17-315, filed 12/14/11, effective 1/14/12. Statutory Authority: RCW 42.17.370. WSR 07-07-005, § 390-17-315, filed 3/8/07, effective 4/8/07. Statutory Authority: RCW 42.17.370(1). WSR 02-03-018, § 390-17-315, filed 1/4/02, effective 2/4/02; WSR 96-05-001, § 390-17-315, filed 2/7/96, effective 3/9/96. Statutory Authority: RCW 42.17.390. WSR 94-07-141, § 390-17-315, filed 3/23/94, effective 4/23/94. Statutory Authority: RCW 42.17.370. WSR 93-16-064, § 390-17-315, filed 7/30/93, effective 8/30/93.]

WSR 23-07-121
EXPEDITED RULES
OFFICE OF
FINANCIAL MANAGEMENT
[Filed March 21, 2023, 12:15 p.m.]

Title of Rule and Other Identifying Information: WAC 82-50-021
Official state lagged semimonthly pay dates established.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 82-50-021 publishes the official lagged, semimonthly pay dates for state officers and employees. This WAC, which provides pay dates for the current and ensuing calendar years, is amended each year to add pay dates for the ensuing year and delete the pay dates for the previous year. The purpose of this filing is to establish official pay dates for state officers and employees for calendar year 2024 and delete the obsolete pay dates for calendar year 2022.

Reasons Supporting Proposal: The statute requires that the office of financial management (OFM) annually update and publish state pay dates.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Statute Being Implemented: RCW 42.16.010(1) and 42.16.017.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting: Elizabeth Smith, 106 11th Avenue S.W., Olympia, 360-725-0226; Implementation and Enforcement: Brian Tinney, 106 11th Avenue S.W., Olympia, 360-725-0171.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The rule change is internal to state government and only affects state employee paydates.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Roselyn Marcus, OFM, P.O. Box 43113, Olympia, WA 98504-3113, phone 360-688-3462, email Roselyn.Marcus@ofm.wa.gov, AND RECEIVED BY May 23, 2023.

March 21, 2023
Nathan Sherrard
Legal Affairs Counsel
Rules Coordinator

AMENDATORY SECTION (Amending WSR 22-15-018, filed 7/11/22, effective 8/11/22)

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years (~~(2022 and)~~) 2023 and 2024:

<u>((CALENDAR YEAR 2022</u>	<u>CALENDAR YEAR 2023</u>
<u>Monday, January 10, 2022</u>	<u>Tuesday, January 10, 2023</u>
<u>Tuesday, January 25, 2022</u>	<u>Wednesday, January 25, 2023</u>
<u>Thursday, February 10, 2022</u>	<u>Friday, February 10, 2023</u>
<u>Friday, February 25, 2022</u>	<u>Friday, February 24, 2023</u>
<u>Thursday, March 10, 2022</u>	<u>Friday, March 10, 2023</u>
<u>Friday, March 25, 2022</u>	<u>Friday, March 24, 2023</u>
<u>Monday, April 11, 2022</u>	<u>Monday, April 10, 2023</u>
<u>Monday, April 25, 2022</u>	<u>Tuesday, April 25, 2023</u>
<u>Tuesday, May 10, 2022</u>	<u>Wednesday, May 10, 2023</u>
<u>Wednesday, May 25, 2022</u>	<u>Thursday, May 25, 2023</u>
<u>Friday, June 10, 2022</u>	<u>Friday, June 9, 2023</u>
<u>Friday, June 24, 2022</u>	<u>Monday, June 26, 2023</u>
<u>Monday, July 11, 2022</u>	<u>Monday, July 10, 2023</u>
<u>Monday, July 25, 2022</u>	<u>Tuesday, July 25, 2023</u>
<u>Wednesday, August 10, 2022</u>	<u>Thursday, August 10, 2023</u>
<u>Thursday, August 25, 2022</u>	<u>Friday, August 25, 2023</u>
<u>Friday, September 9, 2022</u>	<u>Monday, September 11, 2023</u>
<u>Monday, September 26, 2022</u>	<u>Monday, September 25, 2023</u>
<u>Friday, October 7, 2022</u>	<u>Tuesday, October 10, 2023</u>
<u>Tuesday, October 25, 2022</u>	<u>Wednesday, October 25, 2023</u>
<u>Thursday, November 10, 2022</u>	<u>Thursday, November 9, 2023</u>
<u>Wednesday, November 23, 2022</u>	<u>Wednesday, November 22, 2023</u>
<u>Friday, December 9, 2022</u>	<u>Monday, December 11, 2023</u>
<u>Friday, December 23, 2022</u>	<u>Friday, December 22, 2023</u>)
<u>CALENDAR YEAR 2023</u>	<u>CALENDAR YEAR 2024</u>
<u>Tuesday, January 10, 2023</u>	<u>Wednesday, January 10, 2024</u>
<u>Wednesday, January 25, 2023</u>	<u>Thursday, January 25, 2024</u>
<u>Friday, February 10, 2023</u>	<u>Friday, February 9, 2024</u>
<u>Friday, February 24, 2023</u>	<u>Monday, February 26, 2024</u>
<u>Friday, March 10, 2023</u>	<u>Monday, March 11, 2024</u>
<u>Friday, March 24, 2023</u>	<u>Monday, March 25, 2024</u>
<u>Monday, April 10, 2023</u>	<u>Wednesday, April 10, 2024</u>
<u>Tuesday, April 25, 2023</u>	<u>Thursday, April 25, 2024</u>
<u>Wednesday, May 10, 2023</u>	<u>Friday, May 10, 2024</u>
<u>Thursday, May 25, 2023</u>	<u>Friday, May 24, 2024</u>
<u>Friday, June 9, 2023</u>	<u>Monday, June 10, 2024</u>
<u>Monday, June 26, 2023</u>	<u>Tuesday, June 25, 2024</u>
<u>Monday, July 10, 2023</u>	<u>Wednesday, July 10, 2024</u>
<u>Tuesday, July 25, 2023</u>	<u>Thursday, July 25, 2024</u>
<u>Thursday, August 10, 2023</u>	<u>Friday, August 9, 2024</u>
<u>Friday, August 25, 2023</u>	<u>Monday, August 26, 2024</u>
<u>Monday, September 11, 2023</u>	<u>Tuesday, September 10, 2024</u>
<u>Monday, September 25, 2023</u>	<u>Wednesday, September 25, 2024</u>
<u>Tuesday, October 10, 2023</u>	<u>Thursday, October 10, 2024</u>
<u>Wednesday, October 25, 2023</u>	<u>Friday, October 25, 2024</u>
<u>Thursday, November 9, 2023</u>	<u>Friday, November 8, 2024</u>

CALENDAR YEAR 2023CALENDAR YEAR 2024Wednesday, November 22, 2023Monday, November 25, 2024Monday, December 11, 2023Tuesday, December 10, 2024Friday, December 22, 2023Tuesday, December 24, 2024

[Statutory Authority: RCW 42.16.010(1) and 42.16.017. WSR 22-15-018, § 82-50-021, filed 7/11/22, effective 8/11/22; WSR 21-16-019, § 82-50-021, filed 7/23/21, effective 8/23/21; WSR 20-10-059, § 82-50-021, filed 4/30/20, effective 5/31/20; WSR 19-12-008, § 82-50-021, filed 5/23/19, effective 6/23/19; WSR 18-10-052, § 82-50-021, filed 4/26/18, effective 5/27/18; WSR 17-13-073, § 82-50-021, filed 6/16/17, effective 7/17/17; WSR 16-12-057, § 82-50-021, filed 5/26/16, effective 6/26/16; WSR 15-10-025, § 82-50-021, filed 4/27/15, effective 5/28/15; WSR 14-12-007, § 82-50-021, filed 5/22/14, effective 6/22/14; WSR 13-08-078, § 82-50-021, filed 4/2/13, effective 5/3/13; WSR 12-09-016, § 82-50-021, filed 4/5/12, effective 5/6/12; WSR 11-10-019, § 82-50-021, filed 4/26/11, effective 5/27/11; WSR 10-10-011, § 82-50-021, filed 4/22/10, effective 5/23/10; WSR 09-11-008, § 82-50-021, filed 5/7/09, effective 6/7/09; WSR 08-09-038, § 82-50-021, filed 4/9/08, effective 5/10/08; WSR 07-11-015, § 82-50-021, filed 5/3/07, effective 6/3/07; WSR 06-11-053, § 82-50-021, filed 5/11/06, effective 6/11/06; WSR 05-11-038, § 82-50-021, filed 5/11/05, effective 6/11/05; WSR 04-15-006, § 82-50-021, filed 7/7/04, effective 8/7/04; WSR 03-11-073, § 82-50-021, filed 5/20/03, effective 6/20/03; WSR 02-13-087, § 82-50-021, filed 6/18/02, effective 7/19/02; WSR 01-12-007, § 82-50-021, filed 5/24/01, effective 6/24/01; WSR 00-09-088, § 82-50-021, filed 4/18/00, effective 5/19/00; WSR 99-12-081, § 82-50-021, filed 5/28/99, effective 6/28/99; WSR 98-14-079, § 82-50-021, filed 6/30/98, effective 6/30/98; WSR 97-13-064, § 82-50-021, filed 6/17/97, effective 7/18/97; WSR 96-15-039, § 82-50-021, filed 7/11/96, effective 8/11/96; WSR 95-15-031, § 82-50-021, filed 7/11/95, effective 8/11/95; WSR 94-13-097, § 82-50-021, filed 6/15/94, effective 7/16/94; WSR 93-24-041, § 82-50-021, filed 11/23/93, effective 12/24/93; WSR 92-20-038, § 82-50-021, filed 9/29/92, effective 10/30/92; WSR 91-20-061 (Order 91-73), § 82-50-021, filed 9/24/91, effective 10/25/91; WSR 90-17-017 (Order 90-72), § 82-50-021, filed 8/7/90, effective 9/7/90; WSR 89-17-090 (Order 89-70), § 82-50-021, filed 8/22/89, effective 9/22/89; WSR 89-03-063 (Order 89-67), § 82-50-021, filed 1/18/89; WSR 88-16-027 (Order 88-66), § 82-50-021, filed 7/27/88; WSR 87-16-060 (Order 87-65), § 82-50-021, filed 7/30/87; WSR 86-17-001 (Order 86-63), § 82-50-021, filed 8/8/86; WSR 85-16-014 (Order 85-62), § 82-50-021, filed 7/26/85; WSR 84-14-046 (Order 84-61), § 82-50-021, filed 6/29/84; WSR 83-17-118 (Order 83-59), § 82-50-021, filed 8/24/83.]

WSR 23-07-131

EXPEDITED RULES

DEPARTMENT OF ECOLOGY

[Order 22-17—Filed March 22, 2023, 8:18 a.m.]

Title of Rule and Other Identifying Information: Chapter 173-442 WAC, Clean air rule (CAR).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of ecology (ecology) proposes to repeal chapter 173-442 WAC, CAR. The rule is no longer necessary because its functions have been preempted and replaced by chapter 173-446 WAC, Climate Commitment Act (CCA) (RCW 70A.65.200 (9)(c)).

Reasons Supporting Proposal: CCA directs ecology to repeal chapter 173-442 WAC, CAR.

CAR was a previous effort to address climate change. On August 13, 2015, Governor Inslee directed ecology to "develop and adopt a rule to place a binding cap on carbon pollution emissions" in Washington state. As a result, chapter 173-442 WAC, CAR, was adopted in September 2016.

After the rule was successfully challenged in court by a coalition of utility and industry groups, ecology appealed the decision.

In January 2020, the Washington supreme court agreed in part with the lower court and ruled that ecology had exceeded its authority to regulate fuel importers since the fuel had not yet been combusted. The supreme court sent the case back to the lower court to consider other issues in the case.

In spring 2021, the Washington legislature passed CCA, which explicitly provides ecology the authority to regulate transportation fuel providers. CCA preempts the provisions of CAR and directs ecology to repeal CAR (RCW 70A.65.200 (9)(c)).

Given all these developments, the rule is no longer in effect and for these reasons, ecology is preparing to repeal CAR using an expedited rule-making process.

Statutory Authority for Adoption: Washington Clean Air Act, chapter 70A.15 RCW; CCA, chapter 70A.65 RCW.

Statute Being Implemented: RCW 70A.65.200 (9)(c).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Gopika Patwa, Lacey, 360-338-2419.

This notice meets the following criteria to use the expedited repeal process for these rules:

The rule is no longer necessary because of changed circumstances.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The rule is no longer necessary because its functions have been replaced by the 2021 CCA.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Bari Schreiner, Agency Rules Coordinator, Department of Ecology, Governmen-

tal Relations, P.O. Box 47600, Olympia, WA 98503-7600, phone 360-480-1106, email ecyrerulemaking@ecy.wa.gov, AND RECEIVED BY May 22, 2023.

March 21, 2023
Heather R. Bartlett
Deputy Director

OTS-4253.1REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 173-442-010	Scope.
WAC 173-442-020	Definitions.
WAC 173-442-030	Applicability.
WAC 173-442-040	Exemptions.
WAC 173-442-050	Baseline GHG emissions value for non-EITE covered parties.
WAC 173-442-060	GHG emission reduction pathway.
WAC 173-442-070	GHG emission reduction pathway and emission reduction requirement for EITE covered parties.
WAC 173-442-100	Emission reduction units.
WAC 173-442-110	Generating emission reduction units.
WAC 173-442-120	Recording emission reduction units.
WAC 173-442-130	Banking emission reduction units.
WAC 173-442-140	Exchanging emission reduction units.
WAC 173-442-150	Criteria for activities and programs generating emission reduction units.
WAC 173-442-160	Activities and programs recognized as generating emission reduction units.
WAC 173-442-170	Limitations on the use of allowances.
WAC 173-442-200	Demonstrating compliance.
WAC 173-442-210	Compliance report.
WAC 173-442-220	Verification.
WAC 173-442-230	Registry.
WAC 173-442-240	Reserve.
WAC 173-442-250	Compliance report and verification due date.
WAC 173-442-320	Program review.
WAC 173-442-330	Air operating permit.
WAC 173-442-340	Enforcement.

WAC 173-442-350 Confidentiality.
WAC 173-442-360 Addresses.
WAC 173-442-370 Severability.

WSR 23-07-138
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE
(Cranberry Commission)
[Filed March 22, 2023, 9:28 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-565 WAC, Washington cranberry commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making amends the Washington cranberry commission marketing order by adding the word "state" to the legal name of the commission, changing it to the Washington state cranberry commission.

Reasons Supporting Proposal: The Washington cranberry commission wants to ensure the industry is recognized nationwide as well as internationally as a top producer of cranberries. Including the word state in the legal title of the commission ensures there are no questions about the location of the commission or the commodity it represents.

Statutory Authority for Adoption: RCW 15.65.047.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington cranberry commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Jack Stein, 1111 Washington Street S.E., Olympia, 360-902-1887.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Using the expedited rule-making process is appropriate because the subject matter does not rise to the importance of a referendum of affected producers.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Megan Finkenbinder, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, AND RECEIVED BY May 22, 2023.

March 22, 2023
Derek I. Sandison
Director

OTS-4432.1

Chapter 16-565 WAC
WASHINGTON STATE CRANBERRY COMMISSION

AMENDATORY SECTION (Amending WSR 22-12-077, filed 5/28/22, effective 6/28/22)

WAC 16-565-080 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to Washington State Cranberry Commission, P.O. Box 597, Grayland, Washington, 98547. The written request should include:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee.

(c) Public records may not be marked or altered in any manner during the inspection.

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 22-12-077, § 16-565-080, filed 5/28/22, effective 6/28/22.]

AMENDATORY SECTION (Amending WSR 22-12-077, filed 5/28/22, effective 6/28/22)

WAC 16-565-090 Fees—Inspection and copying. (1) No fee will be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate actual costs and the commission lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW

42.56.120. For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within 15 days of receipt of invoice payable to the Washington state cranberry commission. The commission may require that all charges be paid in advance of release of the copies of the records.

[Statutory Authority: RCW 15.65.047 and chapter 34.05 RCW. WSR 22-12-077, § 16-565-090, filed 5/28/22, effective 6/28/22.]