

WSR 19-20-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-227—Filed September 18, 2019, 1:13 p.m., effective September 18, 2019, 1:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To repeal WAC 220-500-03000B, 220-500-04000B, 220-500-11000B, and 220-500-14000B.

Citation of Rules Affected by this Order: Repealing WAC 220-500-03000B, 220-500-04000B, 220-500-11000B, and 220-500-14000B.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The recent changes in weather with forecasting precipitation, lower temperatures and higher humidity levels, have abated high fire hazard conditions for the foreseeable future.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 4.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 18, 2019.

Kelly Susewind
 Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-500-03000B Behavior and conduct.

WAC 220-500-04000B Regulating public access.

WAC 220-500-11000B Fires and campfires.

WAC 220-500-14000B Firearms and target practicing.

WSR 19-20-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-224—Filed September 19, 2019, 9:41 a.m., effective September 19, 2019, 9:41 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule opens treaty set and drift gillnet fisheries throughout SMCRA 1F, 1G, and 1H (Zone 6) due to the availability of fish for harvest. This rule is consistent with actions of the Columbia River Compact on June 12, June 27, July 25, July 30, August 7, August 12, September 5, September 12, and September 17, 2019. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

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

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

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

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

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

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

Date Adopted: September 18, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-259-02000Q Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Areas: Zone 6 tributary fisheries

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

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

(c) Allowable sale: Salmon (any species), steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence. Sales of fish are allowed after the open period concludes, as long as the fish were landed during the open period.

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

(a) Season: Immediately until further notice.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon of legal size may be sold if landed during the open area and period for the setline fishery within that pool, otherwise sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

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

(a) Season:

6 AM Wednesday September 18 to 6 PM Thursday September 19

6 AM Monday September 23 to 6 PM Wednesday September 25

(b) Gear: Set and Drift gillnets with an 8-inch minimum mesh restriction

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

(d) Standard river mouth and dam sanctuary closures remain in place for this gear, including the Spring Creek Hatchery sanctuary.

(4) Open Areas: Drano Lake and Klickitat River

(a) Season: Immediately until further notice, and only during days and times open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be sold. Sturgeon from 38 to 54 inches fork length may be kept for subsistence.

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

(a) Season: Immediately through 11:59 PM October 31.

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

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

(6) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6 a.m. September 16, 2019:

WAC 220-359-02000P Columbia River salmon seasons above Bonneville Dam. (19-216)

WSR 19-20-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-225—Filed September 19, 2019, 10:31 a.m., effective September 23, 2019]

Effective Date of Rule: September 23, 2019.

Purpose: Closes the commercial harvest of sea cucumbers in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-340-73000Q; and amending WAC 220-340-730.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary to open the Puget Sound commercial sea cucumber fishery in Sea Cucumber Management District 1 (20A, 20B, 21A, 21B, 22A, 22B). This emergency rule is necessary to close the Puget Sound commercial sea cucumber fishery in Sea Cucumber Management District 2-1 (23A, 23C, 23D, 29). Harvestable surpluses of sea cucumbers remain [in] these areas. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 19, 2019.

Kelly Susewind
Director

[NEW SECTION]

WAC 220-340-73000R Commercial sea cucumber fishery. Notwithstanding the provisions of WAC 220-340-730, effective September 23, 2019, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in the following Marine Fish-Shellfish Catch Reporting Areas of Sea Cucumber District 1, Monday through Sunday of each week: 20A, 20B, 21A, 21B, 22A, and 22B.

(2) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 500 pounds per valid designated sea cucumber harvest license.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 23, 2019:

WAC 220-340-73000Q Sea cucumbers. (19-215)

WSR 19-20-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-226—Filed September 19, 2019, 11:04 a.m., effective September 19, 2019]

Effective Date of Rule: September 19, 2019.

Purpose: Amend recreational fishing rules for the Washougal River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000B; and amending WAC 220-312-030.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to increase the adult salmon daily limit and open hatchery steelhead retention in portions of the Washougal River. Hatchery broodstock collection for the Washougal fall Chinook program has been meeting weekly objectives and early indications are that the broodstock goal will be achieved. This action also expands steelhead fishing opportunity that had been restricted below the Washougal River weir to support fall Chinook broodstock collection efforts. Expanding retention of hatchery salmon and hatchery steelhead will provide additional angling opportunity while broodstock collection efforts continue. There is insufficient time to adopt permanent rules.

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

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

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

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

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

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

Date Adopted: September 19, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000C Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective September 19, 2019:

(1) Klickitat River (Klickitat Co.): From the mouth to Fisher Hill Bridge: Effective immediately through September 30, 2019: Release all steelhead.

(2) Toutle River, North Fork (Cowlitz Co.), from the mouth (confluence with South Fork) to posted markers downstream of the fish collection facility; salmon, effective immediately until further notice:

(a) Daily limit 6; up to 4 may be adults.

(b) Release all salmon other than hatchery coho.

(3) Washougal River (Clark/Skamania Co.), from the mouth to the bridge at Salmon Falls; effective immediately through December 31, 2019:

(a) Salmon: Daily limit 6. Up to 3 adult salmon may be retained, of which up to 1 may be a Chinook. Release all salmon other than hatchery Chinook and hatchery coho.

(b) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(4) White Salmon River (Klickitat/Skamania Co.): From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the powerhouse: Effective immediately through September 30, 2019: Release all steelhead.

(5) Wind River (Skamania Co.):

(a) From the mouth to 400 feet downstream of Shipherd Falls fish ladder: Effective immediately through September 30, 2019: Release all steelhead.

(b) From 100 feet above Shipherd Falls to Moore Bridge: Effective immediately through November 30, 2019: Closed waters.

REPEALER

The following sections of the Washington Administrative Code are repealed effective September 19, 2019:

WAC 220-312-03000B Freshwater exceptions to statewide rules—Southwest. (19-218)

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

WSR 19-20-011

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed September 19, 2019, 3:37 p.m., effective September 19, 2019, 3:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the interest of protecting domestic rabbits in Washington state from rabbit hemorrhagic disease (RHD), movement restrictions are being placed on rabbits and rabbit products on Lopez, Orcas, and San Juan islands.

Citation of Rules Affected by this Order: New WAC 16-51-005, 16-51-006, 16-51-007, 16-51-008, 16-51-009, 16-51-010, 16-51-011, 16-51-012, and 16-51-013.

Statutory Authority for Adoption: RCW 16.36.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: In July and August 2019, the department received positive diagnosis of RHD found in domestic rabbits and domestic feral rabbits on Orcas Island and San Juan Island within Washington state. A die off and reports of sick and dead rabbits consistent with RHD was also reported on Lopez Island. RHD is an extremely infectious and almost universally fatal viral disease that is not endemic to Washington. It is reportable to the OIE (Office International de [des] Epizooties, also known as the World Health Organization for Animal Health [World Organization for Animal Health]). Under chapter 16.36 RCW, domestic rabbits are considered livestock.

The establishment of RHD in Washington mainlands would be costly to the rabbit industry and consumers. It is of particular concern due to potential partial loss of livelihood for rabbit breeders, loss of companion animals, loss of animals for 4-H participants and loss of primary protein source for individuals raising rabbits for consumption. The RHD virus is very contagious and easily spread through numerous means including direct contact with infected live or dead rabbits and/or contact with contaminated equipment, tools, hutches, and bedding. The director of agriculture, pursuant to authorities in chapter 16.36 RCW, has determined that the containment of RHD on the above islands is necessary to protect domestic rabbits on the Washington mainland and unaffected islands.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 9, Amended 0, Repealed 0.

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

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

Date Adopted: September 19, 2019.

Derek I. Sandison
Director

Chapter 16-51 WAC

Quarantine Zones for Rabbit Hemorrhagic Disease

NEW SECTION

WAC 16-51-005 Definitions. "Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture.

"Premises" means any property where rabbits are raised, held, or boarded.

"RHD" means Rabbit Hemorrhagic Disease

"USDA, APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.

NEW SECTION

WAC 16-51-006 Necessity of establishing a quarantine zone for RHD—Purpose. This chapter is authorized by RCW 16.36.040. In July and August 2019, the department confirmed positive diagnoses of Rabbit Hemorrhagic Disease (RHD) found in domestic rabbits and domestic feral rabbits on Orcas Island and San Juan Island in San Juan County within Washington State. A die off and reports of sick and dead rabbits consistent with RHD was also reported on Lopez Island. RHD is an extremely infectious and almost universally fatal viral disease that is not endemic to Washington. It is reportable to the OIE (Office International de Epizooties, also known as the World Health Organization for Animal Health) under WAC 16-70-010.

The establishment of RHD in Washington mainlands would be costly to the rabbit industry and consumers. It is of particular concern due to potential partial loss of livelihood for rabbit breeders, loss of companion animals, loss of animals for 4-H participants and loss of primary protein source for individuals raising rabbits for consumption. The RHD virus is very contagious and easily spread through numerous means including direct contact with infected live or dead rabbits and/or contact with contaminated equipment, tools, hutches, and bedding. The director of agriculture, pursuant to authorities in chapter 16.36 RCW, has determined that the containment of RHD on the above islands is necessary to protect domestic rabbits on the Washington mainland and unaffected islands.

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

NEW SECTION

WAC 16-51-007 Zone 1 under quarantine for RHD.

A quarantine zone is created within Lopez Island. All premises lying within the boundaries of Lopez Island fall under movement restrictions per WAC 16-51-010 and WAC 16-51-011.

NEW SECTION

WAC 16-51-008 Zone 2 under quarantine for RHD.

A quarantine zone is created within Orcas Island. All premises lying within the boundaries of Orcas Island fall under movement restrictions per WAC 16-51-010 and WAC 16-51-011.

NEW SECTION

WAC 16-51-009 Zone 3 under quarantine for RHD.

A quarantine zone is created within San Juan Island. All premises lying within the boundaries of San Juan Island fall under movement restrictions per WAC 16-51-010 and WAC 16-51-011.

NEW SECTION

WAC 16-51-010 Prohibition on moving rabbits from the quarantine zones established for RHD. Movement of living or dead rabbits out of the quarantine zones listed in sections 16-51-007, 16-51-008, and 16-51-009 is prohibited.

NEW SECTION

WAC 16-51-011 Prohibition on moving rabbit products, crates, and rabbit equipment from the quarantine zones established for RHD. Movement of rabbit products, crates, and rabbit equipment out of the quarantine zones listed in sections 16-51-007, 16-51-008, and 16-51-009 is prohibited.

NEW SECTION

WAC 16-51-012 Disposal of dead rabbits originating within the quarantine zones. Dead rabbits may only be disposed of by burial or landfill in accordance with WAC 16-25-025(1) and WAC 16-25-025(5).

(1) Burial.

(a) A carcass may be disposed of by burial on the property where the livestock animal died if done with the approval of the property owner.

(b) A carcass must be buried to a depth so that no part of the carcass is nearer than three feet to the natural surface of the ground. Every part of the carcass must be covered with at least three feet of soil within twenty-four hours of placement in the ground.

(c) Carcass burial must be:

(i) At least three hundred feet from any well, spring, or body of surface water, such as a river, stream, lake, pond, or intermittent stream;

(ii) At least three hundred feet from any residence not owned by the owner of the livestock animal;

(iii) At least fifty feet from any property line between parcels under different ownership; and

(iv) Not in a low-lying area subject to seasonal flooding or within a hundred-year flood plain or in a manner that will impact groundwater.

(d) Each burial site is limited to one thousand pounds of carcasses or one livestock animal weighing more than one thousand pounds.

(e) Carcass burial is not allowed on a property of less than five acres, except for the burial of a single carcass weighing less than two hundred pounds. The maximum amount of land used for burial during any year is limited to ten percent of the property or one acre, whichever is greater.

(2) Landfill. Carcasses may be disposed of at a privately or publicly owned landfill with prior approval of the local health officer and the landfill operator, and permitted in accordance with chapter 70.95 RCW and chapters 173-350 and 173-351 WAC.

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

NEW SECTION

WAC 16-51-013 Special permits—Quarantine zone.

The department may issue special permits for actions otherwise forbidden under provisions of this chapter. These special permits shall be conditioned to minimize the risk of spreading RHD.

WSR 19-20-019 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-230—Filed September 20, 2019, 4:30 p.m., effective September 23, 2019]

Effective Date of Rule: September 23, 2019.

Purpose: Amend recreation salmon fishing rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-313-03000K; and amending WAC 220-313-060.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to reduce the daily limit for coho in most areas of Puget Sound. Since early September, state and tribal comanagers have been

assessing coho runs throughout Puget Sound waters. Preliminary information indicates that returning coho have a smaller body size and potentially lower-than-expected run sizes to many systems. The Washington department of fish and wildlife is implementing this rule as a precaution to ensure escapement and hatchery goals are met. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 20, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000L Puget Sound salmon—Salt-water seasons and daily limits. Notwithstanding the provisions of WAC 220-313-060, effective September 23, 2019:

1. Catch Record Card Area 5, effective immediately through September 30, 2019: No more than 1 hatchery coho may be retained as part of the salmon daily limit.

2. Catch Record Card Area 6, effective immediately through September 30, 2019: No more than 1 hatchery coho may be retained as part of the salmon daily limit.

3. Catch Record Card Area 7, effective immediately through September 30, 2019: No more than 1 coho may be retained as part of the salmon daily limit.

4. Catch Record Card Area 8-1, effective immediately through October 31, 2019:

(a) Release all pink salmon.

(b) No more than 1 coho may be retained as part of the salmon daily limit.

5. Catch Record Card Area 9, effective immediately through September 30, 2019: No more than 1 hatchery coho may be retained as part of the salmon daily limit.

6. Catch Record Card Area 10:

(a) Effective immediately through November 15, 2019: Release all Chinook salmon.

(b) Effective immediately through November 15, 2019: No more than 1 hatchery coho may be retained as part of the salmon daily limit.

7. Catch Record Card Area 11, effective August 26 through September 30, 2019:

(a) Release all Chinook salmon.

(b) It is lawful to fish for salmon from a vessel seven days per week.

(c) No more than 1 hatchery coho may be retained as part of the salmon daily limit.

8. Catch Record Card Area 13, effective immediately until further notice: No more than 1 hatchery coho may be retained as part of the salmon daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 26, 2019:

WAC 220-313-06000K Puget Sound salmon—Saltwater seasons and daily limits. (19-197)

WSR 19-20-020
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-228—Filed September 20, 2019, 4:30 p.m., effective September 27, 2019, 12:01 a.m.]

Effective Date of Rule: September 27, 2019, 12:01 a.m.

Purpose: Amend recreational razor clam rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000F; and amending WAC 220-330-160.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to open the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Area 1 for recreational harvest. Washington department of health has certified clams from this beach to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 20, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000F Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 a.m. September 27, 2019 through 11:59 a.m. September 29, 2019, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(2) It is unlawful to dig for razor clams at any time in the Long Beach Razor Clam sanctuary defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. September 29, 2019:

WAC 220-330-16000F Razor clams—Areas and seasons.

WSR 19-20-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-229—Filed September 20, 2019, 4:34 p.m., effective September 21, 2019]

Effective Date of Rule: September 21, 2019.

Purpose: Amend recreational fishing rules for the Toutle, North Fork Toutle, and Green rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000C; and amending WAC 220-312-030.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Fall Chinook salmon harvest was closed on the Toutle River, North Fork Toutle, and Green rivers in 2019 due to expectations that numbers of Chinook salmon returning to these areas would not be enough to meet North Toutle Hatchery broodstock goals. Current projections based on returns to the hatchery indicate there will be enough Chinook salmon to meet hatchery broodstock goals and also allow for harvest opportunity in these areas. There is insufficient time to adopt permanent rules.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 20, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000D Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective September 21, 2019:

(1) Klickitat River (Klickitat Co.): From the mouth to Fisher Hill Bridge: Effective immediately through September 30, 2019: Release all steelhead.

(2) Toutle River (Cowlitz Co.), from the mouth to the forks; salmon, effective immediately through November 30, 2019:

(a) Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook.

(b) Release all salmon other than hatchery Chinook and hatchery coho.

(3) Toutle River, North Fork (Cowlitz Co.), from the mouth (confluence with South Fork) to posted markers downstream of the fish collection facility; salmon, effective immediately through November 30, 2019:

(a) Daily limit 6; up to 4 adults may be retained, of which only 1 may be a Chinook.

(b) Release all salmon other than hatchery Chinook and hatchery coho.

(4) Green River (Cowlitz Co.), from the mouth to Miners creek; effective immediately through November 30, 2019:

(a) Closed waters: From 400 feet below to 400 feet above the water intake at the upper end of the hatchery.

(b) Salmon: Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook. Release all salmon other than hatchery Chinook and hatchery coho.

(5) Washougal River (Clark/Skamania Co.), from the mouth to the bridge at Salmon Falls; effective immediately through December 31, 2019:

(a) Salmon: Daily limit 6. Up to 3 adult salmon may be retained, of which up to 1 may be a Chinook. Release all salmon other than hatchery Chinook and hatchery coho.

(b) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(6) White Salmon River (Klickitat/Skamania Co.): From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the power-

house: Effective immediately through September 30, 2019: Release all steelhead.

(7) Wind River (Skamania Co.):

(a) From the mouth to 400 feet downstream of Shipherd Falls fish ladder: Effective immediately through September 30, 2019: Release all steelhead.

(b) From 100 feet above Shipherd Falls to Moore Bridge: Effective immediately through November 30, 2019: Closed waters.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 21, 2019:

WAC 220-312-03000C Freshwater exceptions to statewide rules—Southwest. (19-226)

WSR 19-20-035

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-231—Filed September 24, 2019, 5:18 p.m., effective September 24, 2019, 5:18 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule extends treaty drift gillnet fisheries throughout SMCRA 1F, 1G, and 1H (Zone 6) due to the availability of fish for harvest. This rule is consistent with actions of the Columbia River Compact on June 12, June 27, July 25, July 30, August 7, August 12, September 5, September 12, September 17, and September 24, 2019. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

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

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

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

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

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

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

Date Adopted: September 24, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-359-02000R Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch

Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Areas: Zone 6 tributary fisheries

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

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

(c) Allowable sale: Salmon (any species), steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence. Sales of fish are allowed after the open period concludes, as long as the fish were landed during the open period.

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

(a) Season: Immediately until further notice.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon of legal size may be sold if landed during the open area and period for the setline fishery within that pool, otherwise sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

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

(a) Season:

Immediately to 6 PM Thursday September 26

(b) Gear: Set and Drift gillnets with an 8-inch minimum mesh restriction

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

(d) Standard river mouth and dam sanctuary closures remain in place for this gear, including the Spring Creek Hatchery sanctuary.

(4) Open Areas: Drano Lake and Klickitat River

(a) Season: Immediately until further notice, and only during days and times open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be sold.

Sturgeon from 38 to 54 inches fork length may be kept for subsistence.

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

(a) Season: Immediately through 11:59 PM October 31.

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

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

(6) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000Q Columbia River salmon seasons above Bonneville Dam. (19-224)

WSR 19-20-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-232—Filed September 25, 2019, 12:01 p.m., effective September 26, 2019]

Effective Date of Rule: September 26, 2019.

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

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

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Fall Chinook catch estimates were recently updated, including for coho directed fisheries, and will exceed the recreational share of upriver bright Chi-

nook allocation. The upriver steelhead run-size is below forecast and several hatchery programs within the Snake and Clearwater basins are projecting broodstock collection shortfalls. Conservation objectives are still expected to be met. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 25, 2019.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000Y Freshwater exceptions to statewide rules—Columbia Notwithstanding the provisions of WAC 220-312-060, effective September 26, 2019:

(1) From Buoy 10 upstream to the Tongue Point/Rocky Point line: Effective September 26 until further notice: Release all Chinook salmon. Release steelhead through September 30.

(2) From the Tongue Point/Rocky Point line to Bonneville Dam;

(a) Effective September 26 through October 31, 2019: Closed to all salmon and steelhead.

(3) From Bonneville Dam to the Hwy. 395 Bridge (Pasco/Kennewick): Effective September 26 through December 31, 2019: Closed to all salmon and steelhead.

(4) From Hwy. 395 Bridge (Pasco/Kennewick) to the Old Hanford townsite powerline crossing; salmon; effective through October 31, 2019: Daily limit 6, up to 1 adult may be retained.

(5) From the Old Hanford townsite powerline crossing to Priest Rapids Dam; salmon; effective through October 15, 2019: Daily limit 6, up to 1 adult may be retained.

(6) From the upstream line of Rocky Reach Dam to the boundary markers 400' below the spawning channel discharges (on Chelan County side) and the fish ladder (on Douglas County side) at Wells Dam; salmon; effective immediately through October 15, 2019:

(a) Daily limit 6.

(b) No more than 2 adult Chinook may be retained.

(c) Release wild adult Chinook, sockeye, and coho.

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

(7) **From the Highway 173 Bridge at Brewster upstream to the Highway 17 Bridge near Bridgeport;** salmon; effective immediately until further notice:

- (a) Daily limit 6.
- (b) No more than 2 adult Chinook may be retained.
- (c) Release wild adult Chinook, sockeye, and coho.
- (d) Anglers who possess a valid two-pole endorsement may fish for salmon with two lines.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 26, 2019:

WAC 220-312-06000X Freshwater exceptions to statewide rules—Columbia (19-222)

WSR 19-20-041 EMERGENCY RULES DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed September 25, 2019, 1:14 p.m., effective September 25, 2019, 1:14 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Changes are being made to the following WAC to align with the Family First Prevention Act. This change in legislation requires all employees working in a department of children, youth, and families (DCYF) licensed group care facility to complete fingerprint-based background checks and out-of-state child abuse and neglect history checks of every state the individual has lived in the preceding five years before the background check application. These changes went into effect October 1, 2018.

Chapter 110-04 WAC, Background checks: WAC 110-04-0010 What is the purpose of this chapter?, 110-04-0020 What definitions apply to WAC 110-04-0030 through 110-04-0180 of this chapter?, 110-04-0030 Why are background checks done?, 110-04-0040 Who must have background checks?, 110-04-0060 Does the background check process apply to new and renewal licenses, certification, contracts, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children?, 110-04-0070 What happens if I don't comply with the background check requirement?, 110-04-0080 What does the background check cover?, 110-04-0100 Will a criminal conviction permanently prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children?, 110-04-0110 Are there other criminal convictions that will prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children or from working with children?, 110-04-0120 If I have a conviction, may I ever have unsupervised access to children?, 110-04-0130 Will I be disqualified if there are pending criminal charges on my background check?, 110-04-0140 Will you license, contract, authorize my employment at a group care facility, or authorize me to have unsupervised access to children if my conviction

has been expunged, vacated from my record, or if I have been pardoned for a crime?, and 110-04-0150 How will I know the status of the background check?

Chapter 110-145 WAC: WAC 110-145-1325 What is required to apply for a group care facility license?

Citation of Rules Affected by this Order: Amending WAC 110-04-0010, 110-04-0020, 110-04-0030, 110-04-0040, 110-04-0060, 110-04-0070, 110-04-0080, 110-04-0100, 110-04-0110, 110-04-0120, 110-04-0130, 110-04-0140, 110-04-0150, and 110-145-1325.

Statutory Authority for Adoption: For chapter 110-04 WAC is RCW 43.43.832; and for WAC 110-145-1325 is RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, 74.39A.056, 43.43.832; P.L. 115-123.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These rules were originally filed as an emergency on October 1, 2018 (WSR 18-20-095), to meet the requirements in the Family First Prevention Act that went into effect October 1, 2018. At this time, the department is going through the permanent rule-making process (WSR 18-21-126) and needs to extend these rules to continue being in compliance with the federal legislation and to continue receiving Title IV-E funding.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 14, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 25, 2019.

Brenda Villarreal
Rules Administrator

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0010 What is the purpose of this chapter? This chapter establishes rules for background checks conducted by ~~((children's administration (CA) at))~~ the department of ~~((social and health services (DSHS)))~~ children, youth, and families (DCYF) for child welfare purposes and does not apply to background checks required for child care or early learning purposes as they are addressed in chapter 110-06 WAC. The department does background checks on individuals who are licensed, certified, contracted, employed in a group care facility, or authorized to care for or have unsupervised access to children. Background checks are con-

ducted to find and evaluate any history of criminal convictions or civil adjudication proceedings, including those involving abuse, abandonment, financial exploitation, or neglect of a child or vulnerable adult.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0020 What definitions apply to WAC ((388-06A-0100 through 388-06A-0260)) 110-04-0030 through 110-04-0180 of this chapter? The following definitions apply to WAC ((388-06A-0100 through 388-06A-0260)) 110-04-0030 through 110-04-0180 of this chapter:

"**Authorized**" or "**authorization**" means not disqualified by the department to work in a group care facility or have unsupervised access to children. This includes persons who are certified, contracted, allowed to receive payments from department funded programs, or volunteer.

~~("CA" means children's administration, department of social and health services. Children's administration is the cluster of programs within DSHS responsible for the provision of licensing of foster homes, group facilities/programs and child placing agencies, child protective services, child welfare services, and other services to children and their families.)~~

"**Certification**" means:

((1)) (a) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that they met the minimum licensing requirements.

((2)) (b) Department licensing of a child-placing agency to certify and supervise foster home and group care programs.

"**Children**" means a person who is one of the following:

((1)) (a) Under eighteen years old;

((2)) Up to twenty-one years of age and pursuing a high school or equivalency course of study (GED/HSEC), or vocational program;

((3)) (b) Up to twenty-one years of age and participating in the extended foster care program;

((4)) (c) Up to twenty-one years of age and under the custody of the Washington state juvenile rehabilitation administration.

"**Civil adjudication proceeding**" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

"**Department**" or ~~((DSHS))~~ "**DCYF**" means the department of ~~((social and health services (DSHS)))~~ children, youth, and families responsible for providing child welfare programs and services to children and their families and

licensing foster homes, group care facilities and programs, and child placing agencies.

"**I**" and "**you**" refers to anyone who has unsupervised access to children in a home, facility, or program. This includes, but is not limited to, persons seeking employment, a volunteer opportunity, an internship, a contract, certification, or a license for a home or facility.

~~((DLR))~~ "**Licensing division**" or "**LD**" means the licensing division ((of licensed resources within children's administration. DLR)) within DCYF. LD licenses and monitors foster homes, child placing agencies and licensed group care facilities.

~~((I and you))~~ refers to anyone who has unsupervised access to children in a home, facility, or program. This includes, but is not limited to, persons seeking employment, a volunteer opportunity, an internship, a contract, certification, or a license for a home or facility.)

"**Licensors**" means either:

((1) A DLR) (a) An LD employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies ~~((established under this chapter))~~ that provide foster family homes or group care facilities under chapters 110-145, 110-147, and 110-148 WAC; or

((2)) (b) An employee of a child-placing agency who certifies or monitors foster homes supervised by the child-placing agency.

"**Unsupervised**" means will not or may not be in the presence of:

((1)) (a) The licensee, another employee or volunteer from the same business or organization as the applicant who has not been disqualified by the background check; or

((2)) (b) Another individual who has been previously approved by ~~((children's administration))~~ DCYF.

"**We**" refers to the department, including licensors and ~~((social workers))~~ caseworkers.

"**WSP**" refers to the Washington state patrol.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0030 Why are background checks done? ~~((The children's administration))~~ DCYF does background checks to help safeguard the health, safety, and well-being of children in out of home care. By doing background checks, the department reduces the risk of harm to children from individuals ~~((that))~~ who have been convicted of certain crimes. The department's regulations require the evaluation of your background to determine your character, suitability and competence before you are issued a license, contract, certificate, ~~((or authorized))~~ authorization to be employed at a group care facility, or authorization to have unsupervised access to children.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0040 Who must have background checks? (1) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department requires background checks on all providers who may have unsupervised access to children. This includes licensed, certified, or

contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33-020.

(2) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department also requires background checks on other individuals who may have unsupervised access to children in department licensed or contracted homes, or facilities that provide care. The department requires background checks on all of the following people:

(a) A volunteer or intern with regular or unsupervised access to children.

(b) Any person who regularly has unsupervised access to a child. However, a background check is not required when a caregiver approves the unsupervised access for a normal childhood activity that lasts less than seventy-two hours, as stated in RCW 74.13.710.

(c) A relative other than a parent who may be caring for a child.

(d) A person who is at least sixteen years old and resides in a foster, relative, or other suitable person's home and is not a foster child.

(e) A person who is younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out-of-home care. The department may require a background check for persons younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out-of-home care.

(3) Any person employed at a group care facility, including those not directly working with children.

(4) Under RCW 13.34.138, prior to returning a dependent child home, the department requires a background check on all adults residing in the home.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0060 Does the background check process apply to new and renewal licenses, certification, contracts, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children? For ~~((children's administration))~~ DCYF, these regulations apply to all applications for new and renewal licenses, contracts, certifications, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children that are processed by ~~((the children's administration))~~ DCYF after the effective date of this chapter.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0070 What happens if I ~~((don't))~~ do not comply with the background check requirement? The department will deny, suspend or revoke your license, contract, or certification, or disqualify you to care for children if you or someone on the premises of your home or facility having unsupervised access, or an employee at a group care facility does not comply with the department's requirement for a background check.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0080 What does the background check cover? (1) The department must review criminal convictions and pending charges based on identifying information provided by you. The background check may include, but is not limited to, the following information sources:

- (a) Washington state patrol.
- (b) Washington courts.
- (c) Department of corrections.
- (d) Department of health.
- (e) Civil adjudication proceedings.
- (f) Applicant's self-disclosure.
- (g) Out-of-state law enforcement and court records.

(2) Background checks conducted for ~~((children's administration))~~ DCYF also includes:

(a) A review of child protective services case files information or other applicable information system.

(b) Administrative hearing decisions related to any DSHS or DCYF license that has been revoked, suspended, or denied.

(3) In addition to the requirements in subsections (1) ~~((through))~~ and (2) of this section, background checks conducted by ~~((children's administration))~~ DCYF for placement of a child in out-of-home care, including foster homes, group care facilities, adoptive homes, relative placements, and placement with other suitable persons under chapter 13.34 RCW, include the following for each person over eighteen years of age residing in the home and for all staff working in a group care facility, including those not directly working with children:

(a) Child abuse and neglect registries in each state a person has lived in, in the five years prior to conducting the background check.

(b) Washington state patrol (WSP) and Federal Bureau of Investigation (FBI) fingerprint-based background checks regardless of how long you have resided in Washington.

(4) Except as required in ~~((WAC 388-06A-0150 (4)(b), children's administration))~~ subsection (3)(b) of this section, DCYF will conduct a fingerprint-based background check on any individual who has resided in the state less than three consecutive years before application.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0100 Will a criminal conviction permanently prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children? (1) There are convictions for certain crimes that will permanently prohibit you from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children. Those felony convictions are as follows:

- (a) Child abuse and/or neglect;
- (b) Spousal abuse;
- (c) A crime against a child (including child pornography);

(d) A crime involving violence (including rape, sexual assault, or homicide but not including other physical assault or battery); or

(e) Any federal or out-of-state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children in any home or facility.

(2) If you are convicted of one of the crimes listed in WAC ((388-06A-0170)) 110-04-0100 (1)(a) through (e), you will not be able to:

- (a) Receive a license to provide care to children;
- (b) Be approved for adoption of a child;
- (c) Be a contractor;
- (d) Be employed by a licensed agency or contractor, if you will have unsupervised access to children;
- (e) Be authorized to be employed at a group care facility even if you do not work directly with children;
- (f) Volunteer or participate as an intern in a home or facility that offers care to children; or
- ((f)) (g) Provide any type of care to children, if the care is funded by the state.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0110 Are there other criminal convictions that will prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children or from working with children? The department must disqualify you from licensing, contracting, certification, authorization for employment at a group care facility, or ((from having)) authorization for unsupervised access to children if it has been less than five years from a conviction for the following crimes:

(1) Any felony physical assault or battery offense not included in WAC ((388-06A-0170)) 110-04-0100;

(2) Any felony violation of the following drug-related crimes:

- (a) The Imitation Controlled Substances Act (for substances that are falsely represented as controlled substances (see chapter 69.52 RCW));
- (b) The Legend Drug Act (prescription drugs, see chapter 69.41 RCW);
- (c) The Precursor Drug Act (substances used in making controlled substances, see chapter 69.43 RCW);
- (d) The Uniform Controlled Substances Act (illegal drugs or substances, see chapter 69.50 RCW); or
- (e) Unlawfully manufacturing, delivering or possessing a controlled substance with intent to deliver, or unlawfully using a building for drug purposes.

(3) Any federal or out-of-state conviction for an offense that under the laws of Washington state would disqualify you for no less than five years from being authorized to be employed at a group care facility or having unsupervised access to children.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0120 If I have a conviction, may I ever be authorized to be employed at a group care facility or have unsupervised access to children? (1) In two situations, ((DSSH)) DCYF may find a person with convictions able to be authorized to be employed at a group care facility or have unsupervised access to children:

(a) If the conviction for any crime listed in WAC ((388-06A-0180)) 110-04-0110 occurred more than five years ago; or

(b) If the conviction was for a crime other than those listed in WAC ((388-06A-0170 or 388-06A-0180)) 110-04-0100 or 110-04-0110.

(2) In both of these situations, ((DSSH)) DCYF must review your background to determine your character, suitability, and competence to have unsupervised access to children. In this review, ((DSSH)) DCYF must consider the following factors:

- (a) The amount of time that has passed since you were convicted;
- (b) The seriousness of the crime that led to the conviction;
- (c) The number and types of other convictions in your background;
- (d) Your age at the time of conviction;
- (e) Documentation indicating you have successfully completed all court-ordered programs and restitution;
- (f) Your behavior since the conviction; and
- (g) The vulnerability of those that would be under your care.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0130 Will I be disqualified if there are pending criminal charges on my background check? (1) The department will not license, contract, certify, authorize employment at a group care facility, or authorize ((a person to have)) unsupervised access to children to a person who ((have)) has a criminal charge pending for a disqualifying crime;

(a) Described in the Adoption and Safe Families Act of 1997((; or a criminal charge pending for a disqualifying crime)); or

(b) That relates directly to child safety, permanence, or well-being.

(2) You may reapply for a license, contract, certification, or approval to have unsupervised access to children by providing proof to the department that the charge against you has been dropped or that you were acquitted.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0140 Will you license, contract, authorize my employment at a group care facility, or authorize me to have unsupervised access to children if my conviction has been expunged, vacated from my record, or I have been pardoned for a crime? If you receive a pardon or

a court of law acts to expunge or vacate a conviction on your record, the crime will not be considered a conviction for the purposes of licensing, contracting, certification, authorization for employment at a group care facility, or authorization for unsupervised access to children.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-04-0150 How will I know the status of the background check? (1) If you have been approved by the background check:

(a) The department will notify you(~~(;)~~) and your prospective employer(~~(-or you)~~) or supervisor(~~(;)~~) if you have requested a contract, authorization to be employed at a group care facility, or approval for unsupervised access to children.

(b) The department will not directly notify you, and will instead continue the process for approving your application if you have requested a license or certification to care for children.

(2) If you have been disqualified by the background check:

(a) The department will notify you in writing and include any laws and rules that require disqualification;

(b) The department will also notify the care provider, the prospective employer, or the licensor; and

(c) You will not receive a license, contract, certification, or be authorized to be employed at a group care facility or have unsupervised access to children.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-145-1325 What is required to apply for a group care facility license? (1) You, the person responsible for the license, must submit a completed application which is available from the DCYF licensing division (~~(of licensed resources, children's administration)~~).

(2) You must submit a completed background authorization form for your executive director, agency staff including those not directly working with children, consultants, interns, volunteers, and anyone who may have unsupervised access to children per chapter (~~(388-06A)~~) 110-04 WAC.

(3) You must ensure (~~(that an)~~) all paid agency employees (~~(who may have unsupervised access to)~~) and any other paid adults working at your facility, including those not directly working with children complete a FBI fingerprint check and a child abuse and neglect history check of every state the individual has lived in the preceding five years before the background check application.

(4) You must ensure that agency volunteers or interns that have lived outside of Washington state during any portion of the previous three years complete a FBI fingerprint check.

(5) You must ensure that (~~(no)~~) all employees, volunteers, or subcontractors (~~(has unsupervised access to children)~~) meet the requirements in chapters 110-04 and 110-05 WAC. An individual is not authorized to work in the facility until you are notified by (~~(children's administration)~~) the licensing division that a background check was completed that qualifies the individual to have unsupervised access. If

you have both a license issued by (~~(DLR)~~) DCYF licensing division and a contract with the department you must adhere to the most stringent background check requirement.

WSR 19-20-056

EMERGENCY RULES

WASHINGTON STATE UNIVERSITY

[Filed September 26, 2019, 9:05 a.m., effective September 26, 2019, 9:05 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The university is updating the rules regarding student conduct related to firearms and dangerous weapons to remove the option for storage of student firearms at the Washington State University (WSU) police department.

Citation of Rules Affected by this Order: Amending WAC 504-26-213.

Statutory Authority for Adoption: RCW 28B.30.150.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This emergency change is required to ensure that WSU policy is consistent with RCW 9.41.345(5), regarding the storage and release of firearms that have been stored at the WSU police department. The existing WAC required all firearms brought to campus be stored at the WSU police department. The university's firearms storage program [is] unfeasible under current interpretation of RCW 9.41.345(5) and has been discontinued. Accordingly, WAC 504-26-213 must be amended to clarify university policy and reflect the discontinuation of weapons storage by the WSU police department.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: September 26, 2019.

Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-213 Firearms and dangerous weapons.

No student may carry, possess, or use any firearm, explosive (including fireworks), dangerous chemical, or any dangerous weapon on university premises or in university-approved housing. Airsoft guns and other items that shoot projectiles are not permitted in university-approved housing. ~~((Students wishing to maintain a firearm on campus for hunting or sporting activities must store the firearm with the Washington State University department of public safety.))~~

**WSR 19-20-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-235—Filed September 26, 2019, 9:52 a.m., effective September 26, 2019, 9:52 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule will allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Rules Affected by this Order: Repealing WAC 220-358-03000F; and amending WAC 220-358-030.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Allowable ESA impacts on steelhead, coho and fall Chinook remain available to conduct commercial coho tangle net fishery. However, time for allowable white sturgeon possession and sales is being reduced due to the allocation being nearly reached. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with the compact action of July 30, August 12, August 28, and September 25, 2019. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River

Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the Tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2018-2027 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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

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

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

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

Date Adopted: September 26, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-358-03000G Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-358-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

(1) Tongue Point/South Channel

(a) **Dates:** Monday, Tuesday, Wednesday, and Thursday nights September 25 - October 25

Open Hours: 6 PM - 10 AM

(b) **Area:** The Tongue Point Select Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the eastern shore of Tongue Point (midway between the red USCG light "2" at the tip of Tongue Point and the northern-most pier (#8) at the Tongue Point Job Corps facility) to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island.

(i) If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a line projecting from a point (46°12'31.1"N latitude 123°45'34.0"W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

(ii) If the marker on the Oregon shore is not in place, the upstream boundary is defined by a line projecting from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on Lois Island.

The South Channel Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on the southwest shore of Lois Island, and a line from a regulatory marker on Settler Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(c) **Gear:** Gillnets with a 6-inch maximum mesh size restriction. Maximum net length of 250 fathoms. In the Tongue Point Select Area, the lead line weight may not exceed two pounds per any one fathom; however, unstored gillnets legal for use in South Channel may be onboard.

In the South Channel Select Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

(d) **Allowable Sales:** Salmon (except Chum), white sturgeon, and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) through October 5. Starting October 6, white sturgeon possession and sales is prohibited.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(2) Blind Slough/Knappa Slough Select Area

(a) **Dates:** Monday, Tuesday, Wednesday, and Thursday nights September 25 - October 25

Open hours: 6 PM - 10 AM

(b) Area:

The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge.

The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore. The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(c) Gear:

Gillnets with a maximum mesh size restriction of 9 3/4-inch through September 6, and a 6-inch maximum thereafter. Maximum net length is 100 fathoms. There is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

(d) **Allowable sales:** Salmon (except Chum), white sturgeon, and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) through October 5. Starting October 6, white sturgeon possession and sales is prohibited.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(3) Deep River Select Area

(a) **Dates:** Monday, Tuesday, Wednesday, and Thursday nights September 25-27

Monday and Wednesday nights during September 30 - October 3

Monday, Tuesday, Wednesday, and Thursday nights October 7-18

Monday, Tuesday, Wednesday, Thursday, and Friday nights Oct. 21 - Nov. 16

Monday, Tuesday, Wednesday, and Thursday nights November 18 - further notice.

Open hours: 6 PM - 9 AM September 25 to November 2, 5 PM - 8 AM thereafter

(b) **Area:** The Deep River fishing area includes all waters from West Deep River Road Bridge at the town of Deep River downstream to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore.

(c) **Gear:** Gillnets. Maximum mesh size restriction is 9 3/4-inch through September 7, and a 6-inch maximum thereafter. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors

attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream, or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level.

(d) **Allowable sales:** Salmon (except Chum), white sturgeon, and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) through October 5. Starting October 6, white sturgeon possession and sales is prohibited.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(4) The white sturgeon possession and sales limit includes all open Select Area fisheries.

(5) **Multi-Net Rule:** Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-358-010(2)) in Select Area Fisheries.

(4) Coho commercial tangle net fishery

(a) **Dates:** Monday September 30

Wednesday October 2

Monday October 7

Wednesday October 9

Friday October 11

Monday October 14

Wednesday October 16

Open hours: 6 AM - 6 PM

(b) **Area:** Zones 1-3. Upper deadline defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore

(c) **Sanctuaries:** Elokomin-A, Cowlitz River, Kalama-A and Lewis-A

(d) **Gear:** Drift nets only. Maximum mesh size is 3-3/4 inches. Unslackened, single-wall, multi-filament floater nets only. Monofilament nets are not allowed. Net length not to exceed 150 fathoms.

A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline. The use of slackers or stringers to slacken the net vertically is prohibited. Rip lines are allowed providing they do not vertically slacken the net.

(e) **Allowable sales:** Adipose fin-clipped coho salmon, pink salmon, and Chinook salmon. Sturgeon and chum salmon may not be possessed or sold.

(f) **Miscellaneous:** Regulations typically in place for mark-selective commercial fisheries are in effect, including but not limited to: net length, use of recovery boxes, limited soak times, red corks, tangle-net certification, etc.

Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill

net web is fully retrieved from the water, must not exceed 30 minutes.

Recovery Box: Each boat will be required to have on board two operable recovery boxes or one box with two chambers that meet the flow and size requirements standard for the winter/spring season. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. All non-legal fish must be released immediately unharmed to the river or placed into an operating recovery box. All non-legal salmon and all steelhead that are bleeding, lethargic or appear lifeless must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

Measuring mesh size: Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the outside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact

Live Capture workshop: Only licensed Columbia River commercial fishers that have completed the required state-sponsored workshop concerning live capture commercial fishing techniques may participate in this fishery. At least one fisher on each boat must have live capture certification.

Multiple net rule in effect: Which means nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

Lighted Buoys: Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required

24-hour quick reporting required is for Washington wholesale dealers, per WAC 220-352-315.

Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

(4) The white sturgeon possession and sales limit includes all open Select Area fisheries.

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000F Columbia River seasons below Bonneville. (19-201)

WSR 19-20-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-233—Filed September 26, 2019, 11:13 a.m., effective September 29, 2019]

Effective Date of Rule: September 29, 2019.

Purpose: Amend recreational fishing rules for Drano Lake.

Citation of Rules Affected by this Order: Repealing WAC 220-313-03000D [220-312-03000D]; and amending WAC 220-313-030 [220-312-030].

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The current estimate of fall Chinook salmon that will return to Little White Salmon National Fish Hatchery is below the number needed to meet the 2019 broodstock collection goal. Closing the fishing season in Drano Lake will increase the number of hatchery fish available for broodstock and help ensure future hatchery returns. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 26, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000E Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective September 29, 2019:

(1) Drano Lake (Skamania Co.): In waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of Highway 14 Bridge; effective immediately until further notice: Closed waters.

(2) Klickitat River (Klickitat Co.): From the mouth to Fisher Hill Bridge: Effective immediately through September 30, 2019: Release all steelhead.

(3) Toutle River (Cowlitz Co.), from the mouth to the forks; salmon, effective immediately through November 30, 2019:

(a) Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook.

(b) Release all salmon other than hatchery Chinook and hatchery coho.

(4) Toutle River, North Fork (Cowlitz Co.), from the mouth (confluence with South Fork) to posted markers downstream of the fish collection facility; salmon, effective immediately through November 30, 2019:

(a) Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook.

(b) Release all salmon other than hatchery Chinook and hatchery coho.

(5) Green River (Cowlitz Co.), from the mouth to Miners creek; effective immediately through November 30, 2019:

(a) Closed waters: From 400 feet below to 400 feet above the water intake at the upper end of the hatchery.

(b) Salmon: Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook. Release all salmon other than hatchery Chinook and hatchery coho.

(6) Washougal River (Clark/Skamania Co.), from the mouth to the bridge at Salmon Falls; effective immediately through December 31, 2019:

(a) Salmon: Daily limit 6. Up to 3 adult salmon may be retained, of which up to 1 may be a Chinook. Release all salmon other than hatchery Chinook and hatchery coho.

(b) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(7) White Salmon River (Klickitat/Skamania Co.): From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the powerhouse: Effective immediately through September 30, 2019: Release all steelhead.

(8) Wind River (Skamania Co.):

(a) From the mouth to 400 feet downstream of Shipherd Falls fish ladder: Effective immediately through September 30, 2019: Release all steelhead.

(b) From 100 feet above Shipherd Falls to Moore Bridge: Effective immediately through November 30, 2019: Closed waters.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 29, 2019:

WAC 220-312-03000D Freshwater exceptions to statewide rules—Southwest. (19-229)

WSR 19-20-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-234—Filed September 26, 2019, 11:25 a.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: Amend recreational steelhead fishing rules for the Columbia River.

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

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to close steelhead fishing in the Hanford Reach. Through September 24, the 2019 steelhead return is the fourth lowest return on record since 1962 for both the Upper Columbia River and Snake River. Adult returns of Ringold Springs Hatchery origin steelhead are currently tracking at less than fifty percent of the 2018 return. The closure is necessary to ensure sufficient numbers of steelhead will be available to meet hatchery broodstock production needs. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 26, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000Z Freshwater exceptions to statewide rules—Columbia Notwithstanding the provisions of WAC 220-312-060, effective October 01, 2019:

(1) From the Tongue Point/Rocky Point line to Bonneville Dam; Effective immediately through October 31, 2019: Closed to all salmon and steelhead.

(2) From Bonneville Dam to the Hwy. 395 Bridge (Pasco/Kennewick): Effective immediately through December 31, 2019: Closed to all salmon and steelhead.

(3) From Hwy. 395 Bridge (Pasco/Kennewick) to the Old Hanford townsite powerline crossing:

(a) Salmon: Effective immediately through October 31, 2019: Daily limit 6, up to 1 adult may be retained.

(b) Steelhead: Effective immediately through December 31, 2019: Closed.

(4) From the Old Hanford townsite powerline crossing to Priest Rapids Dam; salmon; effective immediately through October 15, 2019: Daily limit 6, up to 1 adult may be retained.

(5) From the upstream line of Rocky Reach Dam to the boundary markers 400' below the spawning channel discharges (on Chelan County side) and the fish ladder (on Douglas County side) at Wells Dam; salmon; effective immediately through October 15, 2019:

(a) Daily limit 6.

(b) No more than 2 adult Chinook may be retained.

(c) Release wild adult Chinook, sockeye, and coho.

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

(6) From the Highway 173 Bridge at Brewster upstream to the Highway 17 Bridge near Bridgeport; salmon; effective immediately until further notice:

(a) Daily limit 6.

(b) No more than 2 adult Chinook may be retained.

(c) Release wild adult Chinook, sockeye, and coho.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective October 01, 2019:

WAC 220-312-06000Y Freshwater exceptions to statewide rules—Columbia (19-232)

WSR 19-20-065
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-241—Filed September 26, 2019, 3:08 p.m.]

Effective Date of Rule: September 29, 2019.

Purpose: Amend recreational salmon fishing rules for the Snake River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000P; and amending WAC 220-312-050.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to close salmon and steelhead seasons in areas of the Snake River.

The 2019 Columbia River forecasted return for upriver steelhead was 118,200 (110,200 Group A and 8,000 Group B). The *U.S. vs. OR* Technical Advisory Committee (TAC) met on Monday, September 23, 2019, to review and discuss information relative to the upriver A-/B-Index summer steelhead return and the upriver fall Chinook return.

TAC has downgraded the 2019 expected aggregate A-/B-Index return to 69,200 fish based on Bonneville Dam passage to date and recent ten-year average passage timing; the passage expectation includes 34,300 unclipped natural- and hatchery-origin fish. TAC expects 64,700 of these fish to be A-Index (32,600 unclipped) and 4,500 to be B-Index (1,700 unclipped).

A significant downgrade in B-Index steelhead requires additional protection of returning hatchery- and natural-origin fish. The fall Chinook return is large enough to continue to allow some harvest opportunities within the Snake River fisheries, while providing protection of B-Index steelhead.

Based on the new B-Index steelhead forecast Washington fishery managers are closing the steelhead fishery below Couse Creek Boat Ramp October 1 to protect B-Index steelhead. The Washington department of fish and wildlife (WDFW) feels it is necessary to also limit impacts to B-Index steelhead from our fall Chinook fisheries. These changes will help to ensure that sufficient numbers of both wild and hatchery B-Index fish return to their natal tributaries and hatcheries of origin in Idaho. WDFW will continue to monitor the steelhead return.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 26, 2019.

Kelly Cunningham
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000Q Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, effective September, 2019:

(1) **Grande Ronde River (Asotin County): from the mouth to the Washington/Oregon boundary:** Effective immediately until further notice: Steelhead daily limit is 1 hatchery steelhead, anglers must stop fishing for steelhead after their daily limit has been retained.

(2) **Snake River (Franklin/Walla Wall Counties):**

(a) **From the mouth (Burbank-to-Pasco railroad bridge at river mile 1.25) to the red river marker (Marker 28) on the south shore of the Snake River:** Steelhead, effective immediately through December 31, 2019: Closed to fishing for and retaining.

(b) **From the red river marker (Marker 28) on the south shore of the Snake River to the Highway 261 Bridge (about 1.4 miles):**

(i) Hooks must be barbless when fishing for salmon or steelhead.

(ii) Anglers may not continue to fish for salmon after the adult salmon daily limit or steelhead daily limit has been retained.

(iii) Steelhead, effective immediately through December 31, 2019: Closed to fishing and retaining.

(iv) Salmon, effective immediately through October 31: Daily limit 6 hatchery adult Chinook, no daily limit for any jack Chinook; release all other salmon.

(c) **The Highway 261 Bridge to Lower Granite Dam:** Steelhead, effective through December 31, 2019: Closed to fishing for and retaining.

(d) **From Lower Granite Dam to the downstream edge of the large power lines crossing the Snake River (just upstream from West Evans Road on the south shore):** Steelhead, effective through December 31, 2019: Closed to fishing for and retaining.

(e) **From the downstream edge of the large power lines crossing the Snake River (just upstream from West Evans Road on the south shore) upstream to Couse Creek Boat Ramp:**

(i) Hooks must be barbless when fishing for salmon or steelhead.

(ii) Anglers may not continue to fish for salmon after the adult salmon daily limit or steelhead daily limit has been retained.

(iii) Steelhead, effective through December 31, 2019: Closed to fishing for and retaining.

(iv) Salmon, effective immediately through October 13, 2019: Daily limit 6 adult Chinook of which up to 1 may be wild; no daily limit for any jack Chinook; release all other salmon.

(f) **From Couse Creek Boat Ramp to ID/OR border:**

(i) Hooks must be barbless when fishing for salmon or steelhead.

(ii) Anglers may not continue to fish for salmon or steelhead after the adult salmon daily limit or steelhead daily limit has been retained.

(iii) Steelhead, effective immediately through December 31, 2019: Daily limit 1 hatchery steelhead.

(iv) Salmon, effective immediately through October 31, 2019: Daily limit 6 adult Chinook, of which up to 1 may be wild, no daily limit for any jack Chinook. Release all other salmon.

(3) **Touchet River (Walla Walla County): from mouth to the confluence of North and South Forks:** Effective immediately until further notice: Steelhead daily limit is 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

(4) **Tucannon River (Columbia/Garfield Counties): from mouth to the Tucannon Hatchery Road Bridge:** Effective immediately until further notice: Steelhead daily limit is 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

(5) **Walla Walla River (Walla Walla County): from mouth to the Washington/Oregon border:** Effective immediately until further notice: Steelhead daily limit is 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective September 29, 2019:

WAC 220-312-05000P Freshwater exceptions to statewide rules—Eastside. (19-206)

**WSR 19-20-066
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-242—Filed September 26, 2019, 3:20 p.m., effective September 26, 2019, 3:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial smelt fishing rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-356-19000C; and amending WAC 220-356-190.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to close Puget Sound to commercial smelt fishing, as the annual quota has been reached. There is insufficient time to adopt permanent rules.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 26, 2019.

Kelly Cunningham
for Kelly Susewind
Director

NEW SECTION

WAC 220-356-19000C Puget Sound smelt commercial fishery—Seasons. Notwithstanding the provisions of WAC 220-356-190, effective immediately, it is unlawful to take, fish for or possess smelt for commercial purposes in Puget Sound.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2020:

WAC 220-356-19000C Puget Sound smelt commercial fishery—Seasons.

**WSR 19-20-067
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-236—Filed September 26, 2019, 3:43 p.m., effective October 1, 2019, 8:00 a.m.]

Effective Date of Rule: October 1, 2019, 8:00 a.m.

Purpose: Amend commercial crab fishery rules for Puget Sound.

Citation of Rules Affected by this Order: Amending WAC 220-340-420, 220-340-455, and 220-352-340.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The provisions of this rule will reopen the commercial crab harvest areas at 8:00 a.m., October 1, 2019, in Puget Sound with a limit of fifty pots per license per buoy tag number in all commercial crab regions.

There is sufficient allocation available in all of the commercial regions to accommodate this opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 0, Repealed 0.

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

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

Date Adopted: September 26, 2018 [2019].

Kelly Cunningham
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000V Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420:

(1) It is permissible to deploy Dungeness crab pots for commercial purposes starting at 8:00 a.m. October 1, 2019 until 7:00 p.m. October 2, 2019, in Region 1, Region 3-1 and Region 3-3 from a vessel not designated on a person's Puget Sound crab license, provided that the primary or alternate operator designated on the license is on board the non-designated vessel ("barge" vessel), and prior notice has been given as provided below. Crab pots may only be deployed during daylight hours.

(2) Barging is not allowed in Region 2 East, Region 2 West and Region 3-2. This includes Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D, 26A-E, 25B, 25D, 26A-W, 23D, 25A and 25E.

(3) The licensed owner must leave a telephone message at the Mill Creek office, (425) 775-1311 ext. 112, or send an email to crabreport@dfw.wa.gov, detailing the following information:

- (a) Name and license number of licensed owner.
- (b) Name of designated primary operator if different from licensed owner.
- (c) Name of alternate operator if used to deploy pots from a non-designated vessel.
- (d) Buoy brand number and number of pots to be deployed from a non-designated vessel.
- (e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.

(4) Additional area gear limits. The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel, and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits: No commercial gear is allowed in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

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

NEW SECTION

WAC 220-340-45500W Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-450:

(1) Effective 8:00 a.m. October 1, 2019, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Regions 1, Region 2 East, Region 2 West, Region 3-1, Region 3-2, or Region 3-3. These regions include Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 24A, 24B, 24C, 24D, 25B, 25D, 26A East, 26A West and 29.

(2) All remaining buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

(3) Effective 8:00 a.m. October 1, 2019, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(4) Effective 8:00 a.m. October 1, 2019, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W).

(5) Effective 8:00 a.m. October 1, 2019, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Port Gardner: That portion of Marine Fish-Shellfish Catch Reporting Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo, projected to the

green #3 buoy at the mouth of the Snohomish River, and west of a line projected from that #3 buoy southward to the oil boom pier on the shoreline.

(b) Possession Point to Glendale: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line that extends true north from the green #1 buoy at Possession Point to Possession Point, and west of a line from the green #1 buoy at Possession Point extending northward along the 200-foot depth contour to the Glendale dock.

(c) Langley: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 24C shoreward of the 400-foot depth contour within an area described by two lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(6) Effective 8:00 a.m. October 1, 2019, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected true north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

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

NEW SECTION

WAC 220-352-34000B Puget Sound crab—Additional reporting requirements. Notwithstanding the provisions of WAC 220-352-340, effective 8:00 am, October 1, 2019, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by non-treaty fishers from Puget Sound to fail to report to the department the previous day's purchases by 10:00 a.m. the following day. Reports must be made by fax to (425) 338-1066 or by e-mail at crabreport@dfw.wa.gov, and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, and the total number of pounds of crab caught by non-treaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area.

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

WSR 19-20-068 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-237—Filed September 26, 2019, 3:44 p.m., effective September 30, 2019]

Effective Date of Rule: September 30, 2019.

Purpose: Puget Sound commercial sea cucumber fishery.

Citation of Rules Affected by this Order: Repealing WAC 220-340-73000R; and amending WAC 220-340-730.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary to open the Puget Sound commercial sea cucumber fishery in Sea Cucumber Management District 2-1 (23A, 23C, 23D, 29). Harvestable surpluses of sea cucumbers remain [in] these areas. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 26, 2019.

Kelly Cunningham
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-73000S Commercial sea cucumber fishery. Notwithstanding the provisions of WAC 220-340-730, effective September 30, 2019, until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in the following Marine Fish-Shellfish Catch Reporting Areas of Sea Cucumber District 1, Monday through Sunday of each week: 20A, 20B, 21A, 21B, 22A, and 22B. The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 500 pounds per valid disig-

nated sea cucumber harvest license in these aforementioned areas of District 1.

(2) Sea cucumber harvest using shellfish diver gear is allowed in the following Marine Fish-Shellfish Catch Reporting Areas of Sea Cucumber District 2, Monday through Sunday of each week: 29, 23A, 23D, and 23C east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude. The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 500 pounds per valid designated sea cucumber harvest license in these aforementioned areas of District 2.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 30, 2019:

WAC 220-340-73000R Commercial sea cucumber fishery.
(19-225)

WSR 19-20-081

EMERGENCY RULES

PUBLIC DISCLOSURE COMMISSION

[Filed September 27, 2019, 6:12 p.m., effective September 27, 2019, 6:12 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is necessary to comply with SHB 1195, Laws of 2019, concerning the efficient administration of campaign finance and public disclosure reporting and enforcement. Included in SHB 1195 was an emergency clause which, with the exceptions of sections 35 and 36, took effect upon the passage of the bill. Sections 35 and 36 of the act take effect January 1, 2020. The permanent rule-making process is currently under way and extension of the emergency rules is necessary to allow that process to be completed.

Citation of Rules Affected by this Order: New WAC 390-24-211; repealing WAC 390-05-195, 390-19-030 and 390-24-105; and amending WAC 390-05-002, 390-05-007, 390-05-010, 390-05-205, 390-05-210, 390-05-215, 390-05-220, 390-05-235, 390-05-290, 390-05-300, 390-05-305, 390-05-400, 390-05-505, 390-05-507, 390-05-515, 390-05-520, 390-05-525, 390-16-001, 390-16-011A, 390-16-037, 390-16-042, 390-16-043, 390-16-058, 390-16-059, 390-16-063, 390-16-071, 390-16-105, 390-16-115, 390-16-125, 390-16-230, 390-16-238, 390-16-310, 390-16-320, 390-16-325, 390-18-010, 390-18-025, 390-18-027, 390-18-030, 390-18-040, 390-18-050, 390-19-010, 390-19-020, 390-19-040, 390-19-050, 390-24-010, 390-24-020, 390-24-025, 390-24-032, 390-24-205, 390-24-301, 390-28-020, 390-28-025, 390-28-040, 390-28-060, 390-28-070, 390-28-080, 390-28-090, 390-28-100, 390-37-005, 390-37-050, 390-37-060, 390-37-061, 390-37-062, 390-37-063, 390-37-070, and 390-37-182.

Statutory Authority for Adoption: RCW 42.17A.110(1) and SHB 1195, Laws of 2019.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2019 legislature passed SHB 1195, concerning the efficient administration of campaign finance and public disclosure reporting and enforcement. Included in SHB 1195 is an emergency clause which, with the exceptions of sections 35 and 36, takes effect immediately. Sections 35 and 36 of the act take effect January 1, 2020. Permanent rule making is ongoing and this extension of the emergency rule complies with RCW 34.05.350(2).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 66, Repealed 3.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 66, Repealed 3.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 66, Repealed 3.

Date Adopted: September 26, 2019.

B. G. Sandahl
Deputy Director

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

WAC 390-05-002 Mission and purpose of the public disclosure commission. (1) The public disclosure commission was created by the passage of Initiative 276 in 1972 for the principal purpose of providing the public with accurate information about certain financial affairs of candidates and elected officials, about the financing of election campaigns and the sponsors of political advertising, and about expenditures made in the course of lobbying. The passage of Initiative 134 in 1992 further expounded the purpose of the commission and the law.

(2) The duties, responsibilities and powers of the commission, and provisions for establishing the commission and appointing the members thereof, are set forth in chapter 42.17A RCW.

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

WAC 390-05-007 Public disclosure commission—Description of organization. (1) The public disclosure commission is a five-member commission appointed by the governor with the consent of the senate. The commission is

assisted by a staff (~~(consisting of)~~, managed by an executive director (~~(and such other employees as are necessary)~~).

(2) Electronic communications to the commission should be sent to pdcc@pdcc.wa.gov. Mailings to the commission should be addressed as follows: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908.

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

WAC 390-05-010 Purpose of rules. The purpose of these rules is to implement the provisions of chapter 42.17A RCW (~~(Initiatives 276 and 134)~~), referred to throughout as the act, by declaring the policies of the commission, particularly with regard to the interpretation and enforcement of the act by the commission.

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

WAC 390-05-205 Definition—Consumable. (~~(RCW 42.17A.005 (13)(a))~~) The definition of contribution in the act excludes the actual cost of consumables furnished at a ticketed fund-raising event. This exclusion applies to the amount paid for food, beverages, preparation, catering or entertainment furnished at the event. For this purpose of ((RCW 42.17A.005)) the act and these rules, the term "consumable" includes the amount paid for food, beverages, event preparation, catering or entertainment cost furnished at the event.

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

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in the act and used in these rules shall be deemed to include, among other things, furnishing services, property or rights on an unequal basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution is provided, it shall be reported at its fair market value per WAC 390-05-235 and, pursuant to RCW 42.17A.405 and 42.17A.410, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) **Duplicating political advertising.** The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, digital, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or political committee, is a contribution to the candidate or political committee.

(3) **Consulting with a ((state, local or judicial)) candidate.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, or the candidate's authorized committee or agent, is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or sug-

gestion of a candidate, or the candidate's authorized committee or agent, when:

(a) Any arrangement, coordination, or direction by the candidate, or the candidate's authorized committee or agent, is given to the expending person prior to the publication, distribution (digital or otherwise), display or broadcast, of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that candidate or opposing one or more of that candidate's opponents; (~~(☞)~~)

(b) An expenditure is made based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or the candidate's authorized committee or agent, with a view toward having an expenditure made; (~~(☞)~~)

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the candidate's authorized committee; or

(d) An expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, or the candidate's authorized committee or agent. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, or the candidate's authorized committee or agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(4) **Consulting with a caucus political committee.** An expenditure (~~(that does not qualify)~~), not otherwise qualifying as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, is a contribution to such caucus political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when:

(a) Any arrangement, coordination, or direction by the caucus political committee, its agent, or another political committee financed, controlled or operated by the caucus, is given to the expending person prior to the publication, distribution, display, or broadcast of political advertising or electioneering communications, or prior to an expenditure being made by that person supporting that caucus political committee, or one or more of the candidates supported by it, or opposing one or more of those candidates' opponents; (~~(☞)~~)

(b) An expenditure is made based on information about the caucus political committee's plans, projects, or needs provided to the expending person by the caucus political committee, its agent, or another political committee financed, controlled, or operated by the caucus with a view toward having an expenditure made; (~~(☞)~~)

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the caucus

political committee or another political committee financed, controlled, or operated by the caucus; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the caucus political committee, its agent, or another political committee financed, controlled, or operated by the caucus. However, there is no presumption that an expenditure is made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(5) **Consulting with a bona fide political party.** An expenditure ~~((that does not qualify)), not otherwise qualifying~~ as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party or its agent, is a contribution to such bona fide political party. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party, when:

(a) Any arrangement, coordination or direction by the bona fide political party, its agent, or a political committee financed, controlled or operated by the party is given to the expending person prior to the publication, distribution, display, or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that bona fide political party, or one or more of the candidates supported by it, or opposing one or more of those candidates' opponents; ~~((or))~~

(b) An expenditure is made based on information about the bona fide political party's plans, projects, or needs provided to the expending person by the bona fide political party or its agent with a view toward having an expenditure made; ~~((or))~~

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the bona fide political party or a political committee financed, controlled, or operated by the bona fide political party; or

(d) An expenditure is made by, through, or in consultation with, any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the bona fide political party, its agent, or a political committee financed, controlled, or operated by the bona fide political party. However, there is no presumption that an expenditure is made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of the bona fide political party, a political committee financed, controlled, or operated by a bona fide political party or their agents, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(6) **Consulting with other political committees.** An expenditure made by a person in cooperation, consultation,

concert, or collaboration with, or at the request or suggestion of a political committee is a contribution to such political committee. An expenditure is presumed to be made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of a political committee when:

(a) Any arrangement, coordination, or direction by the political committee, its agent, or another political committee financed, controlled, or operated by the committee is given to the expending person prior to the publication, distribution (digital or otherwise), display, or broadcast of political advertising, or prior to an expenditure being made by that person benefiting that political committee; ~~((or))~~

(b) An expenditure is made based on information about the political committee's plans, projects, or needs provided to the expending person by the political committee or its agent with a view toward having an expenditure made; ~~((or))~~

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the political committee or another political committee financed, controlled or operated by the committee; or

(d) An expenditure is made by, through, or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the political committee, its agent, or another political committee financed, controlled, or operated by the committee. However, there is no presumption that an expenditure is made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of a political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

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

WAC 390-05-215 Receipt of a campaign contribution. "Receipt" of a campaign contribution, as that term is used in the act and in these rules, shall be deemed to occur as follows:

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

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

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

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

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

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

WAC 390-05-220 Definition—Consideration. "Consideration" as that term is used in the act and in these rules shall be deemed to include anything of value promised ~~((or))~~, paid, or transferred in return for a person's property or services rendered or to be rendered, including but not limited to reimbursement for traveling or other expenses.

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

WAC 390-05-235 Definition—Fair market value. (1) "Fair market value" as used in this act and in these rules means the amount of money which a purchaser willing, but not obliged, to buy would pay a seller willing, but not obliged, to sell, for property, goods, or services.

(2)(a) In reference to real property, "fair market value" or "value," as used in the act and in these rules is the ~~((amount in cash which))~~ present cash value that a well-informed buyer or lessee, willing but not obligated to buy or lease that property, would pay, and ~~((which))~~ that a well-informed seller, or lessor, willing but not obligated to sell or lease it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

(b) If, in determining "fair market value" or "value," the amount a buyer would pay and the amount a seller would accept would be based on varying standards, then the fair market value of the contribution shall be based on the amount the contributor would ordinarily accept for selling the property, rather than the amount the candidate or political committee would ordinarily pay. For example, if a contributor who sells property in the ordinary course of their business at a wholesale price donates such property to a candidate or political committee who would ordinarily pay the retail price as a consumer, then the fair market value of the contribution shall be the wholesale price.

(3)(a) Any person who donates an item for sale, raffle, auction or awarding at a fund-raising event is making a contribution to the recipient candidate or political committee in an amount equal to the fair market value of the item donated.

(b) Any person who buys a donated item makes a contribution equal in value to the difference between the purchase or auction price and the fair market value of the donated item.

(c) If the purchase or auction price is the same as the fair market value, the buyer's contribution is zero. If the purchase or auction price is less than the fair market value, the buyer's contribution is zero and the donor's contribution is reduced to the amount of the sale or auction price.

(4) The value of any in-kind contribution donated to any candidate or political committee subject to contribution limits pursuant to RCW 42.17A.405 or 42.17A.410 shall not, when combined with other contributions to that candidate or political committee, exceed the donor's applicable contribution limit as set forth in RCW 42.17A.405 or 42.17A.410. The value of an in-kind contribution donated as an exempt contribution to a bona fide political party committee or other polit-

ical committee eligible to receive exempt funds is only subject to the limit imposed by RCW 42.17A.420.

(5)(a) Except as provided in WAC 390-16-207, if a person permits a candidate, a candidate's authorized committee, or a political committee to use the telephones of a business, union, organization or other entity without charge for the purpose of making local campaign-related calls, the telephone usage is an in-kind contribution and shall be valued at its fair market value or, if no fair market value is ascertainable, ~~(((\$+))~~ one dollar per telephone per calendar day or part thereof.

(b) If ~~((toll))~~ calls are permitted with assessed charges, the ~~((toll))~~ charges are also an in-kind contribution unless the candidate, the candidate's authorized committee, or the political committee reimburses the person in full within thirty days of making ~~((the toll))~~ such calls.

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

WAC 390-05-290 Political advertising definitions. (1) "Mass communication," as that term is used in the act and in these rules, means a communication, digital or otherwise, intended to reach a large audience through any of the following methods:

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

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

(c) Radio or television presentations;

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

(e) Online or other electronic transmission methods;

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

(g) Other mass means of disseminating political advertising, unless excluded by chapter 42.17A RCW or Title 390 WAC.

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

(3) "Political advertising" ~~((is defined under RCW 42.17A.005 to))~~ as that term is defined in the act and used in these rules includes a mass communication used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

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

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

WAC 390-05-300 Suspension of reporting requirements for small jurisdictions. ~~((From the effective date of~~

RCW 42.17A.135.) ~~The following reporting requirements ((are suspended)) do not apply in jurisdictions with fewer than ((one)) two thousand registered voters, as of the date of the most recent general election in the jurisdiction:~~

(1) The F-1 financial reports of public officials required by RCW 42.17A.700 and WAC 390-24-010, 390-24-020 and 390-24-025;

(2) The L-5 public agency lobbying reports required by RCW 42.17A.635 and WAC 390-20-120;

(3) The C-1 through C-4 campaign finance reports required for ballot issues by RCW 42.17A.205 through 42.17A.240 and 42.17A.425, and WAC 390-16-011, 390-16-031, 390-16-036, 390-16-041, and independent campaign expenditure reports (C-6) required for ballot issues by RCW 42.17A.255 and WAC 390-16-050 ~~((Provided, that reporting requirements shall be reinstated by order of the commission at its next regular or special meeting if:~~

~~(a) A certified "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters of the jurisdiction as of the date of the most recent general election in the jurisdiction is filed with the commission; or~~

~~(b) The jurisdiction has by ordinance, resolution or other official action petitioned the commission to void the suspension with respect to elected officials, candidates and ballot propositions for the jurisdiction.~~

~~If reporting requirements are reinstated by petition, the commission shall promptly notify all known affected candidates and incumbent elected officials of their duty to file disclosure reports. Such individuals and committees shall be ordered to file the required statements within thirty days of the commission order).~~

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

WAC 390-05-305 Petition for disclosure—Form. ~~((H))~~ The registered voters of a jurisdiction where reporting requirements are suspended may petition the commission to reinstate the reporting requirements suspended in jurisdictions with fewer than two thousand registered voters, as provided under RCW 42.17A.135 and this section.

(1) The commission shall reinstate the reporting requirements in a jurisdiction with fewer than two thousand registered voters at its next regular or special meeting, if:

(a) A certified "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters of the jurisdiction as of the date of the most recent general election in the jurisdiction is filed with the commission; or

(b) The jurisdiction has by ordinance, resolution or other official action petitioned the commission to void the suspen-

sion with respect to elected officials, candidates and ballot propositions for the jurisdiction.

(2) If reporting requirements are reinstated by petition, the commission shall promptly notify all known affected candidates and incumbent elected officials of their duty to file disclosure reports, and order such persons to file the required statements within thirty days of the commission order.

(3) A petition for disclosure shall be filed electronically using the means provided by the PDC, or if an electronic method has not been provided the petition shall be filed on legible, on 8-1/2 x 11" paper ~~((and shall)).~~ The petition must include the following information:

(a) The name of the jurisdiction;

(b) A request that public disclosure be required;

(c) The names and addresses of all known candidates and ballot proposition committees in the jurisdiction who will be required to report;

(d) The legibly printed name and address and the legal signature of at least fifteen percent of the number of registered voters in the jurisdiction as of the date of the most recent general election in the jurisdiction.

~~((Z))~~ (4) The petition shall be verified and certified by the auditor or elections officer of the county or counties in which the jurisdiction is located. The signatures shall be verified by comparing the signatures on the petition to the signatures on the voter registration roll. The auditor shall place ~~((his))~~ the auditor's seal on each verified page of the petition in order to certify it to the commission.

~~((3))~~ (5) A suggested form for petition is:

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

~~((4))~~ (6) A suggested form for the petition of a jurisdiction by ordinance, resolution or other official action is:

"We, the (governing board) of (name of jurisdiction) request that the Public Disclosure Commission order disclosure in (name of jurisdiction). This request is made pursuant to RCW 42.17A.135 and WAC 390-05-305."

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

WAC 390-05-400 Changes in dollar amounts. Pursuant to the ~~((requirement))~~ authority in RCW 42.17A.125 that the commission ~~((biennially))~~ may revise the ~~((dollar amounts found in Initiative 134 and RCW 42.17A.410))~~ monetary contribution limits and reporting thresholds and code values of the act to reflect changes in economic conditions, the previous and current amounts are:

Code Section	Subject Matter	Previous	Current
.005	((Definition of)) <u>Reporting threshold for "Independent Expenditure" for political advertising</u>	\$950	((*)) <u>\$1,000</u>
.255	<u>Reporting threshold for "Independent Expenditure" not otherwise reported</u>	<u>\$100</u>	<u>\$100</u>

Code Section	Subject Matter	Previous	Current
.445(3)	Reimbursement of candidate for loan to own campaign	\$5,500	\$6,000
.630(1)	Report— Applicability of provisions to Persons who made contributions	\$19,000	\$20,000
	Persons who made independent expenditures	\$950	\$1,000
.405(2)	Contribution Limits— Candidates for state leg. office	\$950	\$1,000
	Candidates for county office	\$950	\$1,000
	Candidates for other state office	\$1,900	\$2,000
	Candidates for special purpose districts	\$1,900	\$2,000
	Candidates for city council office	\$950	\$1,000
	Candidates for mayoral office	\$950	\$1,000
	Candidates for school board office	\$950	\$1,000
	Candidates for hospital district	\$950	\$1,000
.405(3)	Contribution Limits— State official up for recall or pol comm. supporting recall— State Legislative Office	\$950	\$1,000
	Other State Office	\$1,900	\$2,000
.405(4)	Contribution Limits— Contributions made by political parties and caucus committees State parties and caucus committees	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to a candidate	.50 per voter	.50 per registered voter
.405(5)	Contribution Limits— Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall State parties and caucuses	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.50 per voter	.50 per registered voter
.405(7)	Limits on contributions to political parties and caucus committees To caucus committee	\$950	\$1,000
	To political party	\$5,000	\$5,500
.410(1)	Candidates for judicial office	\$1,900	\$2,000

Code Section	Subject Matter	Previous	Current
.475	Contribution must be made by written instrument	\$95	\$100
<u>.710</u>	<u>Code values for statement of personal financial affairs - See WAC 390-24-301</u>		

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

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

WAC 390-05-505 Electioneering communication exclusions. ~~((1))~~ "Electioneering communication," as ~~used~~ defined in the act and used in these rules, does not include communications ~~((listed in RCW 42.17A.005(22)(b))~~.

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

~~(a) Letters to the editor or comparable communications to news media described in RCW 42.17A.005(22)(b)(iii);~~

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

~~(c) Communications conveyed in a manner not specified in RCW 42.17A.005(22)) expressly excluded from the definition in the act, such as communications conveyed through web sites, emails, telephone calls, or in-person leaflet/pamphlet drops at street addresses.~~

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

WAC 390-05-507 Definition—Funding sources for electioneering communications. (1) "Source of funds" for purposes of reporting a payment of promise to pay for an electioneering communication means a person who contributes anything of value for the communication, including a loan, gift, advance, payment, pledge, or personal or professional services for less than full consideration.

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

~~((3) "Source of funds" does not include those things of value specified in RCW 42.17A.005(16)(a)(i).))~~

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

WAC 390-05-515 ((Member)) Exclusion from contributions, independent expenditures, and electioneering communications—Communications within membership organizations. (1) In determining whether ~~((a))~~ an organization's political communications ~~((is to a "member" as that term is used in RCW 42.17A.005 and 42.17A.255, and for the purposes of RCW 42.17A.405, 42.17A.410 and 42.17A.420:~~

~~((4))~~ are limited to its "members" for purposes of communications that are excluded from the definitions of a contribution, independent expenditure, or electioneering communication,

as provided in RCW 42.17A.005 of the act and used in these rules, the commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and ~~((whether it has))~~ formal organizing documents, membership criteria, and services it provides its members. An organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."

(2) With respect to the status of members of an organization, the commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the outcome of an election, taking into account ~~((such factors as))~~:

~~((a))~~ Whether the members affirmatively accept membership ~~((and))~~;

~~((b))~~ The rights and obligations conferred on members by the organization, including whether members have the right to vote for:

~~((a))~~ (i) Election of directors or officers; ~~((or~~

~~((b))~~ (ii) Changes to the articles or bylaws; or

~~((c))~~ (iii) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution ~~((:)); and~~

~~((c))~~ A required payment of a predetermined amount of membership dues ~~((is also a factor; however, an organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."))~~.

(3) If ~~((a membership))~~ an organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 C.F.R. Sec. 100.134 (e)-(g), the commission will consider ~~((the organization and its members as qualifying for the exemption in RCW 42.17A.005(16)(b)(v) and (22)(b)(vii), unless the communication was not sent primarily to members. However,))~~ these FEC criteria ~~((are not the only))~~ as indicators of legitimate membership organizations or valid members ~~((; a determination that will be made by the commission on a case-by-case basis as necessary)).~~

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

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

WAC 390-05-520 Definition—Periodical. For pioneering communications and other political advertising, "periodical" means a digital or paper publication ~~((on paper))~~ that is serial in nature and appears or is intended to appear indefinitely, issued regularly or at stated intervals at least once every three months. ~~((For all other political advertising, "periodical" means a publication that is serial in nature and appears or is intended to appear indefinitely, issued regularly or at stated intervals at least once every three months.))~~

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

WAC 390-05-525 Definition—Public service announcement. (1) "Public service announcement," as used in the act and in these rules, means a communication that ~~((meets))~~ is all of the following ~~((criteria. The communication is))~~:

- (a) Designed to benefit or promote the community's health, safety or welfare or nonprofit community events;
- (b) Not selling a product or service;
- (c) Sponsored by an organization with a history of routinely providing the community such outreach public service messages in the service area of the organization;
- (d) Of primary interest to the ~~((general))~~ public and is not targeted to reach only voters or voters in a specific jurisdiction;
- (e) Not coordinated with or controlled or paid for by a candidate's authorized committee or political committee;
- (f) Subject to the policies for public service announcements of the entity broadcasting, transmitting, mailing, erecting, distributing, digitally communicating, or otherwise publishing the communication including policies regarding length, timing and manner of distribution; and
- (g) One for which the arrangements to include a reference or depiction of the candidate or candidates in the communication were made at least six months before the candidate became a candidate.

(2) Examples of public service announcements include but are not limited to communications regarding nonprofit community events, outreach, or awareness activities.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-05-195 Date of receipt of mailed items.

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

WAC 390-16-001 Campaign finance disclosure. Pursuant to chapter 42.17A RCW, candidates, political committees and other persons participating in elections are subject to reporting requirements with the public disclosure commission. This chapter provides information on how to meet those requirements. To provide the public with full and immediate

disclosure, electronic filing is ~~((preferred and sometimes))~~ required where the commission has provided an electronic filing method. The executive director may waive the electronic filing requirement and allow for the use of another written format on the basis of hardship. Links to electronic filing systems, forms and the instructions for filing can be found on the PDC web site.

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

WAC 390-16-011A Sponsored political committee. (1) "Sponsored political committees," "sponsors of political committees," and "authorized committees," as those terms are used in the act and these rules, are defined in RCW 42.17A.005. This rule applies to political committees that are not authorized by a candidate, or by the public official against whom recall charges have been filed.

(2) A sponsored political committee shall include on its C-1pc the name of at least one sponsor in the committee's name.

(3) ~~((To determine if a political committee))~~ For purposes of determining whether a political committee is sponsored, as defined in RCW 42.17A.005, by having received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders ((under RCW 42.17A.005(46))), the political committee organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received by the committee in the previous twelve months.

(4) A sponsored political committee must amend its C-1pc sixty days before an election in which it participates if the committee's name on its most recently filed C-1pc does not include at least one current sponsor. To determine if the committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders ~~((under RCW 42.17A.005(46)))~~ at the time of the amendment:

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

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

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

WAC 390-16-037 Purpose of campaign expenditures—How to report. (1) Any person required to report the "purpose" of an expenditure under RCW 42.17A.240(6), or 42.17A.255 (5)(b), shall identify any candidate(s) or ballot proposition(s) that are supported or opposed by the expenditure unless such candidate(s) or ballot proposition(s) have been previously identified in a statement of organization of the person required to be filed under RCW 42.17A.205 (2)(f) and (g);

(2) Whenever an expenditure is made to a candidate or a political committee pursuant to an agreement or understand-

ing of any kind regarding how the recipient will use the expenditure, the report shall describe in detail that agreement or understanding and the goods and/or services to be provided.

Example A: If an expenditure is made directly to a vendor for get-out-the-vote (GOTV) phone calls or robocalls, the purpose shall include the following details:

Vendor Name	Purpose	Amount
ABC Robocall	GOTV—phone bank 28th and 29th Legislative districts	\$1,000

Example B: If an expenditure is made directly to a vendor for printing, the purpose shall include the following details:

Vendor Name	Purpose	Amount
ABC Printing	5,000 brochures	\$3,000

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

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, 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 days of an election, debts or obligations of more than seven hundred fifty dollars must be reported if the debt or obligation has been outstanding for more than five business days as of the last day of the reporting period.

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

(2) A contractual contingent liability (e.g., an additional fee to be paid to a political consultant or other person 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.

~~((4) There is no requirement for a candidate or political committee to report any debt owed by a third party such as a consultant or vendor provided that the obligation or expenditure to the third party has already been reported by the candidate or political committee.))~~

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

WAC 390-16-043 Candidates and political committees—Public inspection of books of account. (1) RCW 42.17A.005 defines "books of account" for candidates and political committees as "a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day."

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

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

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

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

(6) The books of account, ledger and other supporting documentation must be maintained by the treasurer and kept current within one business day. The books of account of a

candidate or political committee include the following: A ledger, spreadsheet, or similar listing of contributions, expenditures, loans, debts and obligations to substantiate the information disclosed on the PDC campaign finance reports. If a ledger is not sufficiently kept, the books of account must include the underlying source documents such as receipts, invoices, copies of contribution checks, copies of canceled checks for expenditures, notes or other documentation concerning expenditures, orders placed, and loans. In the absence of those types of source documents, the campaign or committee must make the check register available. The campaign or committee is not required to provide the name and address of contributors who gave twenty-five dollars 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. Videotaping, photographing or photocopying of the records is not required to be permitted but may be agreed to by both parties during or in advance of the inspection.

(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 shall be available for audit or examination by the PDC at any time upon request from the PDC.

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

WAC 390-16-058 Independent expenditure—Definition and application. (1) "Independent expenditure," as that term is used in chapter 42.17A RCW and in these rules, except RCW 42.17A.255, means an "expenditure" as defined in RCW 42.17A.005 that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for public office 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 ~~((equal to or greater than one-half the contribution limit from an individual per election))~~ of one thousand dollars or more. A series of expenditures, each of which is under ~~((one-half the contribution limit from an individual per election))~~ one thousand dollars, constitutes one independent expenditure if their cumulative value is ~~((equal to or greater than one-half the contribution limit from an individual per election))~~ one thousand dollars or more; and

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

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

(a) Ordinary home hospitality;

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

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

(d) An internal political communication primarily limited to:

(i) The members of or contributors to a political party organization or political committee;

(ii) The officers, management staff or stockholders of a corporation or similar enterprise; or

(iii) The members of a labor organization or other membership organization.

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

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

WAC 390-16-059 Electioneering communication reporting threshold. (1) A "sponsor" of an electioneering communication is defined in RCW 42.17A.005~~((46))~~.

(2) For the purposes of RCW 42.17A.005~~((22))~~, 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 ~~((22))~~ (21)(a)(i) and (i) 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 days before an election, has a fair market or aggregate value of one thousand dollars or more; and

(d) Is not a communication (~~(exempted from reporting)~~) excluded from the meaning of "expenditure" under RCW 42.17A.005((23)) or by commission rule.

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

(4) Once the one thousand dollar 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 threshold is met. A failure to report by one joint sponsor is not attributable to all joint sponsors of a specific communication or communications if the remaining sponsors have reported properly.

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

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

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

(a) **Prorating and attributing independent expenditures that support or oppose multiple candidates or ballot measures.** Whether to disclose an independent expenditure

that supports or opposes multiple candidates or ballot measures is determined by prorating and attributing the cost of the expenditure among all candidates or ballot measures that are the subject of the expenditure. Disclosure is required when:

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

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

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

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

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

(c) **Other applications of prorating and attributing independent expenditures.** Use the prorating and attribution steps explained in (a)(i) and (ii) of this section to determine when an independent expenditure as defined in RCW 42.17A.005 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 shall report pursuant to RCW 42.17A.305 if it sponsors an electioneering communication defined in RCW 42.17A.005.

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

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

WAC 390-16-071 Annual report of major contributors and persons making independent expenditures. RCW 42.17A.630 requires that:

(1) Any person, other than an individual, must file with the commission an annual "Special Political Expenditures" report, if the person:

(a) ~~((who))~~ Made contributions to any state office candidates ~~((and))~~ or statewide ballot proposition committees totaling more than the aggregate amount during the preceding calendar year for contributions referenced in WAC 390-05-400~~((s))~~; or

(b) ~~((who))~~ Made independent expenditures regarding state office candidates and statewide ballot propositions totaling more than the aggregate amount during the preceding calendar year for independent expenditures on political advertising, referenced in WAC 390-05-400~~((s))~~ ~~((shall file with the commission an annual report))~~. ~~((This))~~

(2) The report shall not be required of a lobbyist employer filing an annual L-3 report pursuant to RCW 42.17A.630 or of a candidate's authorized committee or a political committee, provided the information has been properly reported pursuant to RCW 42.17A.235 and 42.17A.240.

~~((2) The report is entitled))~~ (3) The "Special Political Expenditures" ~~((and))~~ report is designated "C-7."

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

WAC 390-16-105 Mini campaign reporting—Eligibility. (1) A candidate or candidate's authorized committee, as those terms are defined in ~~((RCW 42.17A.005))~~ 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; and

(b) No contribution or contributions from any person other than the candidate exceed five hundred dollars 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; and

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

(3) A continuing political committee, as that term is defined in ~~((RCW 42.17A.005))~~ 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; and

(b) No contribution or contributions from any person exceed five hundred dollars 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 shall no longer qualify for the mini reporting option and shall 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.

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

WAC 390-16-115 Mini campaign reporting—Registration and recordkeeping. The exemptions allowed in WAC 390-16-105 shall be granted to a candidate or political committee, including a continuing political committee, only upon compliance with the following conditions:

(1) A candidate shall file a C-1 registration with the commission within fourteen days of first:

(a) Receiving contributions, making expenditures, reserving space or facilities or purchasing commercial advertising space or broadcast time to promote his or her candidacy;

(b) Giving ~~((his or her))~~ the candidate's consent to another person to take any of the action in (a) of this subsection on behalf of the candidate ~~((any of the action in (a) of this subsection))~~; or

(c) Announcing publicly or filing a declaration of candidacy with the appropriate elections official.

(2) A political committee shall file a C-1pc registration with the commission within fourteen days after its organization or after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier.

(3) The statement filed under subsections (1) and (2) of this section shall declare that the political committee will not exceed the contribution or expenditure limits set out in WAC 390-16-105.

(4) In addition to complying with subsections (2) and (3) of this section, a continuing political committee shall also file a C-1pc between January 1st and January 31st for each year in which the committee intends to use the mini reporting system. Failure to file a new registration statement during January will automatically terminate the committee's entitlement to use the mini reporting system until such time as a new C-1pc is filed.

(5) A candidate or political committee using the mini reporting option shall keep current records in sufficient detail to allow the candidate or political committee to make reports otherwise required by RCW 42.17A.205 through 42.17A.240 in the event that the filing of such reports becomes necessary as a result of exceeding the contribution or expenditure limitation pursuant to the provisions of WAC 390-16-125.

(6) The candidate or political committee treasurer shall comply with the requirements for public inspection of campaign books pursuant to WAC 390-16-043.

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

WAC 390-16-125 Mini campaign reporting—Exceeding limitations. (1) A candidate or political committee wishing to change from mini to full reporting must apply ~~((in electronic writing))~~ electronically to the PDC for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:

(a) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting option as provided in RCW 42.17A.225 through 42.17A.240;

(b) PDC forms C-3 and C-4 with relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17A.240 for the election campaign, or in the case of continuing political committees, for the calendar year; and

(c)(i) If the applicant is a candidate, a statement affirming that all candidates registered with the PDC for the office being sought have been notified personally in writing of the application, and the manner and date of such notification;

(ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, a statement affirming that all treasurers of all political committees registered with the commission as supporting or opposing the proposition have been notified personally in writing of the application, and the manner and date of such notification; or

(iii) If the applicant is the treasurer of a county or legislative district party committee, a statement affirming that the treasurer of that party committee's counterpart in any other major political party has been notified personally in writing of the application, and the manner and date of such notification.

(2) An application that is submitted without the required documents described in subsection (1) of this section is

incomplete and will not be processed or approved. If the applicant provides the missing documents, the application will be determined to be complete on the date the documents are received by the commission.

(3) If a complete application is received by the PDC on or before August 31st for the general election or thirty business days prior to the date of other elections, the executive director will approve the application.

(4) If a complete application is received by the commission after the deadlines set out in subsection (3) of this section, the executive director will approve the application only if one or more of the following factors are present:

(a) The applicant is a candidate and, after the application deadline, a write-in opponent has filed for office in accordance with chapter 29A.24 RCW;

(b) After the application deadline, an independent expenditure as defined in RCW 42.17A.005 is made in support of the applicant's opponent or in opposition to the applicant; or

(c) When a candidate or political committee on one side of an election campaign or proposition has been approved to change reporting options under this section, each opponent of that candidate or political committee is approved to change options as of the date that opponent's complete application is received by the PDC.

(5) The executive director may approve an application to change reporting options after the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 have been exceeded only if the applicant:

(a) Meets the deadlines provided in subsection (3) of this section;

(b) Acknowledges the violation and demonstrates compliance with WAC 390-16-105(4); and

(c) Takes any other action required by the PDC to address the violation.

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

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

source, recipient, purpose, amount and date of each transaction.

(2) For candidates as defined in RCW 42.17A.005, if at any time after the last day of the election cycle, any contribution is received or expenditure is made from such surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or authorized committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at (~~his or her~~) the candidate's last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or authorized committee shall file (a) a final report for the previous campaign as provided in RCW 42.17A.235 and 42.17A.240; and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17A.205, 42.17A.235 and 42.17A.240. The surplus funds as of the last day of the election cycle may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." "Funds from previous campaign" carried forward by a candidate to (~~his or her~~) the candidate's new campaign are not subject to contribution limits set forth in RCW 42.17A.405.

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

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

WAC 390-16-238 Personal use of contributions—Standard. (1) Except as specifically allowed by chapter 42.17A RCW, any expenditure of a candidate's campaign funds that is not directly related to the candidate's election campaign is a personal use of campaign funds prohibited under RCW 42.17A.445.

(2) An expenditure of a candidate's campaign funds shall be considered personal use if it fulfills or pays for any commitment, obligation or expense that would exist irrespective of the candidate's election campaign.

(3) If an activity or expenditure is both personal and campaign-related, the campaign may pay no more than the fair market value of its share of the activity or expenditure. For example, if a candidate incurs costs for child care, the campaign can reimburse the candidate only for any portion of the expense that occurred directly as a result of the candidate's campaign activities. Also, if a candidate uses a personal vehicle for campaign purposes, the campaign may reimburse the candidate for:

(a) The prorated share of documented gasoline, maintenance and insurance costs directly related to the campaign's usage of the vehicle; or

(b) The standard mileage rate established by the Internal Revenue Service for those documented miles directly related to the campaign's usage.

(4) Examples of expenditures presumed to be for personal use include, but are not limited to:

(a) Mortgage, rent, utility, telephone, or maintenance expenses for personal living accommodations;

(b) Clothing purchases and maintenance expenses not related to the campaign;

(c) Automobile expenses not related to the campaign;

(d) Travel expenses not related to the campaign;

(e) Household food items;

(f) Restaurant expenses except for in-person fund-raising or campaign organizational activities;

(g) Tuition payments not related to the campaign;

(h) Admission to sporting events, concerts, theaters, or other forms of entertainment unless the event is primarily related to the candidate's campaign;

(i) Club membership fees, dues and payments;

(j) Health club or recreational facility membership fees, dues and payments;

(k) Social, civic, fraternal, or professional membership dues, fees and payments unless the expenditure occurs during an election year and membership is required to gain access to the organization's mailing list for campaign purposes or other facilities for the candidate's campaign;

(l) Home or business internet service provider costs;

(m) Home or business newspaper and periodical subscriptions;

(n) Greeting cards to persons who would customarily receive such cards (e.g., family, friends and business associates).

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

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 shall be as follows:

(1)(a) The limitation on contributions in RCW 42.17A.405 or 42.17A.410 shall not apply to a "candidate" as that term is defined in RCW 42.17A.005 when the candidate is contributing to (~~his or her~~) the candidate's own campaign using (~~his or her~~) 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 shall 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 shall 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 shall be aggregated for purposes of determining the limitations of contributions under RCW 42.17A.420, 42.17A.405, or 42.17A.410.

(5) The limitations on contributions shall 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 shall 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.

(6) The limitations on contributions in RCW 42.17A.420, 42.17A.405, and 42.17A.410 shall 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.

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

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

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

(a) The candidate or candidate's authorized committee receives at least five thousand dollars 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 ~~((his or her))~~ the candidate's campaign contributions in the previous election for the same office were five thousand dollars 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 or more;

(d) The contributions received on or before June 30th of the election year total two thousand five hundred dollars or more;

(e) The contributions received on or before September 30th of the election year total three thousand seven hundred fifty dollars or more; or

(f) The candidate otherwise anticipates that five thousand dollars 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 dollar reporting threshold.

(4) A candidate or candidate's authorized committee that receives, or expects to receive, five thousand dollars or more shall:

(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 form C-1;

(ii) A personal financial affairs statement, PDC form F1 and, if relevant, the F1 Supplement; and

(iii) Contribution and expenditure reports, PDC forms C3 and C4 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.

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

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

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

(3) The official form for filing a notice of intent to dissolve a committee is designated "D-1." The D-1 must be filed using the electronic filing system provided by the commission. The commission is required to post each committee's notice of intent to dissolve on the commission web site upon receipt.

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

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

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

(c) The committee has filed a final report;

(d) No complaint or court action under chapter 42.17A RCW is pending against the committee and it has not been informed by the commission of any possible violations or technical corrections which remain unresolved;

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

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

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

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

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

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

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

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

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 and/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 shall 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 or more supporting or opposing a ballot ~~((measure))~~ proposition must clearly identify the "top five contributors" to that political committee pursuant to WAC 390-18-025.

(b) Advertising undertaken as an independent expenditure or electioneering communication shall comply with the "no candidate authorized this ad" sponsor identification and, if relevant, the "top five 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 pursuant to WAC 390-18-025. This requirement does not apply to bona fide political parties sponsoring independent expenditures.

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

(5) Required sponsor identification shall be clearly identified, spoken or displayed on advertising on web sites, social media and other digital communication. Political committee web sites 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.

(8) The requirements under RCW 42.17A.320 were amended with passage of chapter 428, Laws of 2019. That law will become effective July 28, 2019, and will supersede the provisions of this section. Guidelines for compliance with RCW 42.17A.320 will be provided at that time. Pursuant to RCW 42.17A.110(1), new rules reflecting the statutory changes will be adopted once the 2019 general election is over.

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

WAC 390-18-025 Advertising—Identification of "top five contributors." (1) For purposes of RCW 42.17A.-320 (2), (4), (5) and (6), "top five contributors" means the five persons, as defined in RCW 42.17A.005, giving the largest aggregate contributions exceeding seven hundred dollars during the twelve-month period preceding the date on which the advertisement is published or otherwise presented to the public. If more than five contributors give an amount equal to

the largest aggregate contribution exceeding seven hundred dollars and the funds are received during the relevant twelve-month period, the political committee sponsoring the advertisement shall select five of these contributors to identify as the top five contributors.

(2) If a political committee keeps records necessary to track contributions according to the use intended by contributors, and the committee subsequently makes independent expenditures for advertisements supporting or opposing a candidate or slate of candidates or an electioneering communication identifying a specific candidate or slate of candidates, that committee may identify the top five contributors giving for that purpose, as opposed to identifying the overall top five contributors to the committee as is otherwise required by RCW 42.17A.320 and this section.

However, a contributor's contributions earmarked for independent expenditures supporting or opposing a specific candidate or slate of candidates or electioneering communications identifying a specific candidate or slate of candidates shall not be used with respect to a different candidate or slate of candidates without the contributor being identified as one of the top five contributors for the actual expenditure if that contributor is one of the top five contributors for that expenditure.

(3) The requirements under RCW 42.17A.320 were amended with passage of chapter 428, Laws of 2019. That law will become effective July 28, 2019, and will supersede the provisions of this section. Guidelines for compliance with RCW 42.17A.320 will be provided at that time. Pursuant to RCW 42.17A.110(1), new rules reflecting the statutory changes will be adopted once the 2019 general election is over.

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

WAC 390-18-027 Definition—Medium that does not include a visual image. (1) For electioneering communications identifying sponsors and top five contributors as required by RCW 42.17A.320, a "medium that does not include a visual image" means ((radio)) audio only, such as radio, which is transmitted without a visual component.

(2) For independent expenditures identifying sponsors and top five contributors as required by RCW 42.17A.320, a "medium that does not include a visual image" means audio only, such as radio or telephone transmissions, without a visual component.

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

WAC 390-18-030 Advertising—Exemptions from sponsor identification and alternatives for online advertising. (1) RCW 42.17A.320 requires that political advertising must identify certain information. The commission is authorized to exempt advertising where the sponsor identification disclosures required by RCW 42.17A.320 (1) and (2) are impractical. In addition, other political advertising is exempt from providing certain disclosures.

(2) The following forms of advertising need not include the sponsor's name and address, the "no candidate authorized

this ad" sponsor identification, the "top five contributors," or the identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee as otherwise required by RCW 42.17A.320 (1) and (2) because such identification is impractical: Ashtrays, badges and badge holders, balloons, bingo chips, brushes, bumper stickers - size 4" x 15" or smaller, buttons, cigarette lighters, clothes pins, clothing, coasters, combs, cups, earrings, emery boards, envelopes, erasers, frisbees, glasses, golf balls, golf tees, hand-held signs, hats, horns, ice scrapers, inscriptions, key rings, knives, labels, letter openers, magnifying glasses, matchbooks, nail clippers, nail files, newspaper ads of one column inch or less (excluding online ads), noisemakers, paper and plastic cups, paper and plastic plates, paper weights, pencils, pendants, pennants, pens, pinwheels, plastic tableware, pocket protectors, pot holders, reader boards where message is affixed in movable letters, ribbons, 12-inch or shorter rulers, shoe horns, skywriting, staple removers, stickers of a comparable size as worn by an individual, sunglasses, sun visors, swizzle sticks, state or local voter's pamphlets published pursuant to law, tickets to fund-raisers, water towers, whistles, yard signs - size 4' x 8' or smaller, yo-yos, and all other similar items.

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

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

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

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

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

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

(c) The advertising is not a contribution under RCW 42.17A.005 (16)(a)(ii) or (iii) or WAC 390-05-210;

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

(e) The advertising is either:

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

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

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

(6) The requirements under RCW 42.17A.320 were amended with passage of chapter 428, Laws of 2019. That law will become effective July 28, 2019, and will supersede certain provisions of this section. Guidelines for compliance with RCW 42.17A.320 will be provided at that time. Pursuant to RCW 42.17A.110(1), new rules reflecting the statutory changes will be adopted once the 2019 general election is over.

AMENDATORY SECTION (Amending WSR 16-22-046, filed 10/28/16, effective 11/28/16)

WAC 390-18-040 Use of the terms "reelect," "retain," and "return." (1) The term "reelect" when used in an advertisement represents that the candidate is presently holding the office being sought, was elected to it, and is seeking another term in that same office in the same district or political subdivision.

(2) The term "reelect" may be used in an advertisement by a nonincumbent candidate who has previously been elected to the office being sought provided that in the same advertisement it is clearly stated that the candidate is not the incumbent.

(3) The term "retain" in an advertisement represents that the candidate is the incumbent but does not necessarily imply that the candidate attained the office by election.

(4) The term "return" in an advertisement represents that the candidate now holds, or has previously held, the office being sought, but does not represent that the office was necessarily attained by election.

(5) Whenever the boundaries of a district or political subdivision are officially altered through redistricting, consolidation or other official procedures, the candidate holding an office in the affected district or political subdivision may, in an advertisement, use the term "reelect," "retain" or "return," as appropriate, if the candidate is seeking the same office in the revised district or political subdivision.

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

WAC 390-18-050 Commercial advertisers—Public inspection of records. (1) "Commercial advertiser" as that term is used in the act and these rules means any person, as defined in the act, including individuals and entities, that sells the service of communicating messages or producing material for broadcast or distribution to the general public or seg-

ments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboard, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly for votes or for financial or other support in any election campaign.

(2) Any person that hosts political advertising or electioneering communications on a digital communication platform or other media is not required to maintain records on such advertising or communications if it has been purchased directly through another commercial advertiser, however the commercial advertiser that directly sells the advertising or communications to the original purchaser must maintain the information as required in this section.

(3) Pursuant to RCW 42.17A.345, each commercial advertiser who has accepted or provided political advertising, or electioneering communications, as defined in RCW 42.17A.005, must maintain current books of account and related materials as required by this section. Such information must be available for public inspection by any person, without reference to, or permission from, the PDC, and provided:

(a) In person during normal business hours; and

(b) If requested electronically, in machine readable format and structured in a way that enables the data to be fully discoverable and useable by the end user:

(i) By digital transmission, such as email, promptly upon request; or

(ii) By online publication in one of the following formats:

(A) On the advertiser's primary web site;

(B) On a web site controlled by the advertiser, created for purposes of publishing the information required by this section, if a link is prominently displayed on the advertiser's primary web site directing users to the web site on which the information is provided; or

(C) On the PDC's open access platform, if one is provided by the PDC for such purpose.

(4) Information regarding political advertising or electioneering communications must be made available within twenty-four hours of the time when the advertisement or communication initially has been publicly distributed or broadcast, and within twenty-four hours of any update or change to such information. Such records must be maintained for a period of no less than ~~((three))~~ five years after the date of the applicable election.

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

(a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified, and whether the advertising or communication supports or opposes the candidate or ballot measure;

(b) The name and address of the sponsoring person or persons actually paying for the advertising or electioneering communication, including the federal employee identification number, or other verifiable identification, if any, of an entity, so that the public can know who paid for the advertising or communication, without having to locate and identify any affiliated entities;

(c) The total cost of the advertising or electioneering communication, or initial cost estimate if the total cost is not available upon initial distribution or broadcast, how much of that amount has been paid, as updated, who made the payment, when it was paid, and what method of payment was used; and

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

(6) In addition to subsection (5) of this section and pursuant to RCW 42.17A.345, the materials and books of account open for public inspection must include the political advertisement or electioneering communication itself, and a description of the major work components or tasks, as specified in (a) through (g) of this subsection, that were required to provide the advertising or communications services.

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

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

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

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

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

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

(g) For digital communication platforms: A description of the demographic information (e.g., age, gender, race, location, etc.) of the audiences targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement of communication.

(7) At the request of the PDC, each commercial advertiser required to comply with this section shall provide to the PDC copies of the information described above.

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

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

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

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

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

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

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

~~((4)) All persons required to provide the commission with electronic contact information, may provide an email address or other electronic format, if such alternate format has been approved by the PDC.~~

~~((2) Any filer required to file electronically, but who files on paper, is in violation of RCW ((42.17A.245)) 42.17A.055 and may be subject to enforcement action unless the filer is a candidate who has sought and been granted an exception from electronic filing under WAC 390-19-050.~~

~~((5)) (3) A filer subject to electronic filing shall file reports using ((one of the following:~~

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

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

~~((6) Pursuant to RCW 42.17A.055, state agencies reporting their legislative activities under RCW 42.17A.635 are required to file electronically.))~~

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

WAC 390-19-040 ((Electronic)) Filing—Date of receipt, verification and amendments. (1) An electronic report is filed when it is received and validated by the PDC computer system. The PDC shall notify the filer that the electronic report has been received.

(2) An electronic report is timely filed if received on or before 11:59 p.m. Pacific Time on the prescribed filing date.

(3) An electronic report that is infected with a virus, damaged, or is improperly formatted is not properly filed with the PDC and shall be rejected.

(4) To amend an electronically filed report, the filer shall electronically refile the entire report.

(5) A mailed item may not be substituted for an item required to be electronically filed. However, where no electronic method has been provided, or where the executive director has approved a hardship exemption to the electronic filing requirement, the date of receipt of any properly addressed mailed application, report, statement, notice, payment, or other item required under the provisions of chapter 42.17A RCW is the date shown by the post office cancellation mark on the envelope. Any item mailed to the commission under the provisions of chapter 42.17A RCW that does not include a post office cancellation mark is presumed to be filed timely if received within five business days of the due date.

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

WAC 390-19-050 Electronic filing—Exceptions. ~~((4))~~ The PDC executive director may make exceptions on a case-by-case basis for ~~((candidates whose authorized committees))~~ persons who lack the technological ability to file reports electronically.

~~((2) A candidate))~~ A person seeking an exception ~~((under RCW 42.17A.245))~~ shall electronically file with the executive director of the PDC a written statement of reasons why the ~~((authorized committee))~~ person lacks the ability to file reports electronically. The request should be submitted by the tenth day of the month preceding the month in which the report is due so that action on the request can be completed before the filing deadline. The request does not suspend the reporting requirement of any portion of chapter 42.17A RCW. Upon receipt of a filed request, the executive director may request further information from the applicant in consideration of the request. The executive director shall issue a decision to approve or deny a request for an exception to an electronic filing requirement within thirty days of receiving a filed request, which may be extended if further information is provided upon request by the executive director.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-19-030 Electronic filing—Reporting threshold.

AMENDATORY SECTION (Amending WSR 14-15-015, filed 7/3/14, effective 12/1/14)

WAC 390-20-150 Changes in dollar amounts. Pursuant to the commission's authority in RCW 42.17A.125~~((2))~~ to revise the monetary reporting thresholds found in chapter 42.17A RCW to reflect changes in economic conditions, the following revisions are made:

Statutory Section	Subject Matter	Amount and Date Enacted or Last Revised	Revision Effective December 1, 2014
.600 (1)(i)	Lobbyist employer's members or funders	\$500 (1973)	\$1,450
.610(5)	Casual lobbying threshold	\$25 (1982)	\$35
.615 (2)(a)	Itemize entertainment expenditures	\$25 (1978)	\$50
.630 (2)(a)	Contributions disclosed by lobbyist employer on monthly report (L-3c)	\$100 (1990)	\$110
.635 (5)(d)(v)	Nonpublic funds spent on gifts provided by public agency	\$15 (1979)	\$25
.640(1)	Grass roots lobbying	\$500/ \$1,000 (1985)	\$700/ \$1,400

Chapter 390-24 WAC

~~((FORMS FOR))~~ **REPORTS OF FINANCIAL AFFAIRS**

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

WAC 390-24-010 ((Forms)) Submissions for statement of financial affairs. The official ~~((form for))~~ statement(s) of financial affairs as required by RCW 42.17A.700 is designated "F-1." Copies of this ~~((form))~~ application are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any paper attachments must be on 8-1/2" x 11" white paper.

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

WAC 390-24-020 ((Forms for)) Amending the statement of financial affairs. (1) The official ~~((form))~~ application for amending statements of financial affairs as required by RCW 42.17A.700 for all persons who have previously filed the ~~((Form))~~ F-1 is designated ~~((Form))~~ "F-1A."

(2) ~~((No more than three F-1A forms may be filed to amend a previously submitted statement of financial affairs (Form F-1). The form can))~~ An application for amending the F-1 may be submitted once per year for up to three years. The F-1A may be used only to update information required on an F-1.

(3) The commission reserves the right to reject amandatory ~~((forms))~~ applications and require a new ~~((statement of financial affairs (Form))~~ F-1~~((3))~~) at any time the amendments are confusing or create misunderstandings. Authority is delegated to the commission's executive director to make this determination.

(4) Copies of ~~((Form))~~ F-1A are available on the commission's web site, www.pdc.wa.gov and at the Commission Office, Olympia, Washington. Any paper attachments must be on 8-1/2" x 11" white paper.

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

WAC 390-24-025 Time for filing statement of financial affairs. It shall be the policy of the public disclosure commission to construe the filing requirements of RCW 42.17A.700 for elected officials in the following manner: It is the interpretation of the commission that:

(1) Any person holding elected public office, except as exempted by the terms of RCW 42.17A.700, and any appointed official and professional staff member listed or referenced in RCW 42.17A.700, and any appointed official required to comply with the reporting requirements of RCW 42.17A.700 by any other statute is required to file the statement of financial affairs ~~((if such person holds such public office between January 1 and April 15 of any year. Such report shall be for the preceding calendar year.~~

~~(2) Any local elected official whose term of office expires immediately after December 31 shall file a statement of financial affairs for the calendar year which ended on that date.~~

~~(3) Any local elected official who resigns his public office prior to the completion of his current term of office shall file a statement of financial affairs covering that portion of the year that he was in office)) (F-1) for each partial or full calendar year that such person has served.~~

(a) For any officer or official who leaves public office prior to January 1st, the F-1 shall cover only the portion of the previous year that such person was in office.

(b) For any officer or official appointed to office between January through November, the F-1 shall cover the immediately preceding twelve-month period. For any officer or official appointed to office in December, the F-1 shall cover the preceding twelve-month period ending December 31st of the same year.

(2) Any person required to file an F-1 must electronically file the F-1 with the commission under the relevant periods as follows:

(a) Between January 1st and April 15th of each year immediately following the year, or portion of the year served;

(b) As alternative to (a) of this subsection, within sixty days of leaving public office, for any officer or official who leaves office before January 1st of the following year; or

(c) Within two weeks of appointment for any person appointed to a vacancy in office during the months of January through December.

AMENDATORY SECTION (Amending WSR 86-21-106, filed 10/20/86)

WAC 390-24-032 Definition—Nonreimbursed public office related expense. A "nonreimbursed public office related expense" is an expenditure incurred by an elected or appointed official, or a member of ~~((his or her))~~ official's immediate family, solely because of being an official.

AMENDATORY SECTION (Amending WSR 86-08-030, filed 3/26/86)

WAC 390-24-205 Report of legislation prepared, promoted or opposed. (1) Pursuant to RCW ~~((42.17.241~~

~~[42.17A.710]))~~ 42.17A.710 (1)(e), an official must provide in each report required by that subsection:

(a) The name of each governmental entity of which the official is an officer or employee,

(b) A statement of each subject area on which the reporting official has prepared, promoted or opposed any legislation, rule, rate or standard for such entity,

(c) The compensation received or promised for said service and,

(d) All other persons for whom such services have been performed for current or deferred compensation, together with an itemization of such actual or proposed legislation, rules, rates and standards, and the amount of compensation paid or promised for the service.

(2) A person need not report the information described in subsection (1)(a), (b), and (c) of this section as to any entity of which such person is an elected official.

NEW SECTION

WAC 390-24-211 Public or private office held. An elected official or executive state officer is not required to report the office, directorship, or position held in a public or private office for service on a governmental board, commission, association, or functional equivalent, when such service is part of the elected official's or executive state officer's official duties.

AMENDATORY SECTION (Amending WSR 15-01-066, filed 12/11/14, effective 1/11/15)

WAC 390-24-301 Changes in dollar amounts of reporting thresholds and code values. Pursuant to the commission's authority in RCW 42.17A.125~~((2))~~) to revise the monetary reporting thresholds and code values found in chapter 42.17A RCW to reflect changes in economic conditions, the following revisions are made:

Statutory Section	Subject Matter	Amount Enacted or Last Revised	Revision Effective January 12, 2015
.710 (1)(b)	Bank Accounts	\$20,000	\$24,000
.710 (1)(b)	Other Intangibles	\$2,000	\$2,400
.710 (1)(c)	Creditors	\$2,000	\$2,400
.710 (1)(f)	Compensation	\$2,000	\$2,400
.710 (1)(g)(ii)	Compensation to Business Entity	\$10,000	\$12,000
.710 (1)(g)	Bank Interest Paid	\$2,400	\$2,900
.710 (1)(h)	Real Property-Acquired	\$10,000	\$12,000
.710 (1)(i)	Real Property-Divested	\$10,000	\$12,000
.710 (1)(j)	Real Property-Held	\$10,000	\$12,000
.710 (1)(k)	Real Property-Business	\$20,000	\$24,000
.710 (1)(l)	Food and Beverages	\$50	
.710 (2)	Dollar Code A	Up to (((\$3,999)) <u>\$4,449</u>	Up to (((\$4,499)) <u>\$29,999</u>

Statutory Section	Subject Matter	Amount Enacted or Last Revised	Revision Effective January 12, 2015
	Dollar Code B	(\$4,000-\$19,999) \$4,500-\$23,999	(\$4,500-\$23,999) \$30,000-\$59,999
	Dollar Code C	(\$20,000-\$39,999) \$24,000-\$47,999	(\$24,000-\$47,999) \$60,000-\$99,999
	Dollar Code D	(\$40,000-\$99,999) \$48,000-\$119,999	(\$48,000-\$119,999) \$100,000-\$199,999
	Dollar Code E	(\$100,000) \$120,000 and up	(\$120,000 and up) \$200,000-\$499,999
	Dollar Code F		\$500,000-\$749,999
	Dollar Code G		\$750,000-\$999,999
	Dollar Code H		\$1,000,000 or more

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-24-105 Definition—Written sworn statement.

Chapter 390-28 WAC

**~~((HARDSHIP EXEMPTIONS—HEARING EXAM-
INER SYSTEM))~~ MODIFICATIONS OF REPORTING
REQUIREMENTS—PROCEDURES**

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

WAC 390-28-020 Definition—Applicant. The term applicant for the purposes of chapter 390-28 WAC shall mean any person as defined in RCW 42.17A.005 ~~((that))~~ who seeks a modification pursuant to RCW 42.17A.120 and these rules.

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

WAC 390-28-025 Hearing to modify reporting requirements. (1) Any person who considers compliance with any of the reporting requirements of chapter 42.17A RCW to be a manifestly unreasonable hardship in a particular case may apply for a modification of such reporting requirements pursuant to RCW 42.17A.120 and further pursuant to these rules.

(2) A hearing to modify the reporting requirements shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW) and its supporting regulations (chapter 10-08 WAC) and shall be followed unless otherwise modified by chapter 390-28 WAC.

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

WAC 390-28-040 Hearing to modify reporting—Pre-hearing procedure and requirements. (1) An applicant ~~((must))~~ may electronically file with the commission a ~~((written))~~ request for hearing for suspension or modification of reporting requirements. The request should be submitted by the tenth day of the month preceding the month in which the

report is due so that action on the request can be completed before the filing deadline.

(2) The request should contain (a) the required report completed to the extent possible, (b) the applicant's evidence to be submitted at the hearing, (c) a statement of reasons why the reporting of required information would cause a manifestly unreasonable hardship, with as much detail as possible. (A general statement, such as "violates right of privacy" shall not be deemed as sufficient compliance with this requirement.) The applicant is encouraged to also include a proposed modification to the required reporting which, in the applicant's opinion, will relieve the perceived hardship.

(3) The filing of a request for modification shall not suspend the reporting requirement of any portion of chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 17-03-028, filed 1/6/17, effective 2/6/17)

WAC 390-28-060 Hearing to modify reporting—~~((Administrative law judge))~~ Brief adjudicatory proceedings—Presiding officer. (1) Reporting modification requests may be heard in a brief adjudicatory proceeding, as provided under the Administrative Procedure Act, RCW 34.05.482 through 34.05.494. The commission, the commission chair acting as presiding officer, or another commissioner appointed by the chair, may preside over the proceedings.

(2) The commission may request through the office of administrative hearings the appointment of an administrative law judge to hear individual applicants ~~((-~~

~~((2)))~~, in accordance with the following procedure:

(a) After such hearing is concluded, the administrative law judge shall prepare and distribute to the applicant and each commissioner a proposed decision determining the issue. The applicant shall have five business days to file with the commission specific objections to the administrative law judge's proposed decision and to request an opportunity to present additional evidence to the commission. When written objections are timely filed, the commission, at the time of review and ratification, shall consider the whole record or such portions as may be cited by the administrative law judge, applicant or executive director. The commission may also hear additional testimony.

~~((3)))~~ (b) If the applicant files objections to the administrative law judge's proposed decision, the filing requirement from which the applicant has sought modification shall not be suspended unless the commission, upon notice of the filing of objections, determines that a temporary suspension is justifiable pursuant to the criteria set out in RCW 42.17A.120. Such suspension of filing requirements shall be granted only until the decision is finalized by formal action of the commission.

~~((4)))~~ (c) At the next meeting at which the matter can be lawfully considered, the commission shall review and either ratify or modify or revise the proposed order.

AMENDATORY SECTION (Amending WSR 07-14-117, filed 7/3/07, effective 8/3/07)

WAC 390-28-070 Hearing to modify reporting—By affidavit or sworn statement. (1) An applicant may choose to waive a personal appearance at a hearing conducted pursuant to chapter 390-28 WAC. In the event that an applicant chooses to waive such appearance, that person shall submit a written, sworn statement setting out in detail the rationale for requesting modification or suspension.

(2) The commission ~~(, or the administrative law judge,)~~ or presiding officer shall proceed to decide the application in the same manner as if an appearance were made. However, in the event the commission, ~~or (the administrative law judge)~~ presiding officer is not able to reach a conclusion on the request because of an insufficiency of the evidence, the hearing may be adjourned for the purposes of gathering further evidence, or the application may be denied.

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

WAC 390-28-080 Hearing to modify reporting—Evidence, record, adverse decisions. (1) All evidence presented at hearings held pursuant to chapter 390-28 WAC and RCW 42.17A.120 generally shall be considered to be a public record. However, if a modification is requested by a filer because of a concern for personal safety that is caused by the potential disclosure of a reporting requirement, upon request by the filer, the information submitted for that modification request regarding that safety concern shall not be made public prior to, or at the hearing on the request for modification. Any information provided or prepared for the modification hearing shall remain exempt from public disclosure under chapters 42.17A and 42.56 RCW to the extent it is determined at the hearing that disclosure of such information would present a personal safety risk to a reasonable person. If no written order is entered based on findings pursuant to this section, then the exempted information will become available for public disclosure.

(2) Except as otherwise provided in subsection (1) of this section, there is a presumption that all hearings and evidence presented in hearing records are open to the public. Requests for closure of hearings or portions of hearings or hearing records generally will be denied. However, pursuant to RCW 34.05.449(5) and 42.17A.120, the commission or presiding officer may close the hearing or a portion of the hearing or hearing record. The commission or presiding officer may close a hearing or portion of a hearing or hearing record for a limited purpose to protect compelling interests and where closure is specifically justified if it finds that it is necessary to allow the applicant to:

(a) Provide sufficient evidence to assure that proper findings are made regarding the name of an entity the disclosure of which would likely adversely affect the competitive position of the applicant as provided in RCW 42.17A.120; or

(b) Provide other information or relevant legal authorities for which it finds a compelling interest has otherwise been shown by the applicant to close the hearing.

~~((2))~~ (3)(a) Before concluding that closure of a hearing or portion of a hearing or hearing record is warranted, the

commission or presiding officer must find by clear and convincing evidence that:

(i) The applicant has satisfied a basis for seeking closure under subsection ~~((4))~~ (2)(a) or (b) of this section;

(ii) An open hearing or record to report the information would work a manifestly unreasonable hardship on the applicant;

(iii) Anyone present when the closure request is made has been given an opportunity to object to the closure;

(iv) The proposed method for closing the hearing or hearing record is the least restrictive means available for protecting the threatened interests, after considering alternatives;

(v) The commission or presiding officer has had the opportunity to weigh the competing interests of the applicant seeking closure and the public's interests;

(vi) Closing the hearing or portion of the hearing or hearing record will not frustrate the purposes of chapter 42.17A RCW; and

(vii) The proposed protective order is not broader in its application or duration than necessary to serve its purpose.

(b) All evidence presented at any portion of a closed session identifying the matters for which the applicant requests modification under these rules shall be considered confidential by the commission or presiding officer pursuant to a protective order which shall be entered by the commission or presiding officer unless otherwise ordered by a court of competent jurisdiction. In the event that an administrative law judge determines that testimony in private may be necessary, the judge shall immediately adjourn the hearing and refer the matter to the commission.

~~((3))~~ (4) Any decision or order ~~((adverse to an applicant))~~ rendered by the commission or presiding officer or the administrative law judge shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.

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

WAC 390-28-090 Hearing to modify reporting—Required findings. (1) The commission or presiding officer, after hearing as provided in these rules, may suspend the applicable reporting requirement of chapter 42.17A RCW if ~~((#))~~ the commission or presiding officer finds that the literal application of such requirement works a manifestly unreasonable hardship in the case under consideration and if it also finds that such suspension or modification will not frustrate the purposes of the act. The commission or presiding officer shall suspend or modify such reporting requirement or requirements only to the extent necessary to substantially relieve such hardship, and only upon clear and convincing proof to support such claim.

(2) The commission or presiding officer may approve a modification for the length of an elected official's term of office, or up to three years for an executive state officer. If the commission has approved a modification for more than one year, and there is a material change in the applicant's circumstances or relevant information after the initial year, then the applicant must request a modification at least one month

prior to the next filing deadline (rather than at the conclusion of the approval period).

(3) The commission or presiding officer may apply a modification retroactively to previously filed reports. In such cases, the previously reported information of the kind that is no longer being reported is confidential and exempt from public disclosure under this chapter and chapter 42.56 RCW.

AMENDATORY SECTION (Amending WSR 14-15-013, filed 7/3/14, effective 8/3/14)

WAC 390-28-100 Reporting modifications—Possible qualifications—Standards—Statement of financial affairs. (1) One or more of the following may be considered by the commission or presiding officer as possible qualifications for a reporting modification with respect to the statement of financial affairs, when it is in the public interest:

(a) **Banks, savings accounts, insurance policies - Financial interests.** An applicant may be exempted from reporting any financial interest, otherwise required to be reported by RCW 42.17A.710 (1)(b) if:

(i) The financial institution or other entity in which the applicant held an interest does not engage in business in the state of Washington, or is not regulated in whole or in part by the office sought or held by the applicant;

(ii) Such reporting would present a manifestly unreasonable hardship to the applicant; and

(iii) The interest would present no actual or potential conflict with the proper performance of the duties of the office sought or held.

(b) **Income and ownership interests.** An applicant may be exempted from reporting the information otherwise required by RCW 42.17A.710 (1)(f) and (g), if:

(i) Public disclosure would violate any legally recognized confidential relationship;

(ii) The information does not relate to a business entity which would be subject to the regulatory authority of the office sought or held by the applicant in whole or in part;

(iii) Such reporting would present a manifestly unreasonable hardship to the applicant including but not limited to adversely affecting the competitive position of an entity in which the applicant had an interest of ten percent or more as described in RCW 42.17A.120; and

(iv) The interest in question would present no actual or potential conflict with the performance of the duties of the office sought or held.

(c) **Immediate family members' interests.** An applicant may be exempted from reporting the information otherwise required by RCW 42.17A.710 for members of the applicant's immediate family, if:

(i) Such information relates to a financial interest held by such member under a bona fide separate property agreement, or other bona fide separate status; and, such financial interest is not a present or prospective source of income to the applicant or to any other person who is dependent upon the applicant for support in whole or in part; or

(ii) Reporting the name of an entity in which the immediate family holds an interest of ten percent or more would be likely to adversely affect the competitive position of the entity, under RCW 42.17A.120.

(d) **Personal residence - Real property.** Regarding reporting the information otherwise required by RCW 42.17A.710 (1)(h) through (k):

(i) Under WAC 390-24-200, the filer shall list the street address of each parcel, the assessor's parcel number, the abbreviated legal description appearing on property tax statements, or the complete legal description. Each property description shall be followed by the name of the county in which the property is located.

(ii) No modification will be necessary if the filer describes the real property using one of the alternatives in WAC 390-24-200, plus the name of the county.

(iii) A judge, prosecutor, sheriff, or their immediate family member who is required to disclose the personal residence of the judge, prosecutor, or sheriff, may satisfy that reporting requirement without requesting a modification by reporting:

(A) The city or town; and

(B) The type of residence, such as a single-family or multifamily residence, and the nature of ownership.

For all other filers, a modification will be required if the filer seeks some other means to describe reportable real property including the personal residence of the filer. The commission may consider a modification, for example, when the filer or his or her immediate family member has received a threat, has a no contact order, or presents a similar personal safety concern.

A prospective modification to allow nondisclosure of a residential address may be granted if the applicant or an immediate family member has received a threat, been issued a no contact order or presents a similar personal safety concern.

(e) **Other.** An applicant may be exempted from reporting information otherwise required under RCW 42.17A.710 which would constitute a manifestly unreasonable hardship in a particular case, when the circumstances presented would not indicate any actual or potential conflict with the proper performance of the duties of the office sought or held. Examples of other common requests will be considered as follows:

(i) **Lawyers and law firms (when applicant is an incumbent or candidate and acts alone or as part of a governing body, board, or commission).** An applicant may be allowed to satisfy the reporting requirements of RCW 42.17A.710 (1)(g)(ii) and WAC 390-24-020 by disclosing reportable clients from whom compensation has been paid in excess of the reporting threshold as follows:

(A) The names of the business clients for whom the applicant has done legal work;

(B) Other clients of the law firm whose interests are significantly affected by the applicant's actions as an elected or appointed official or whose actions will be affected by the applicant's action should the applicant be elected whose identities become known to the applicant through any means;

(C) The names of the clients of the law firm who are listed in Martindale Hubbell, the firm's resume, web site, or similar promotional materials; and

(D) Governmental clients that have done business with the law firm.

An applicant may also be required to disclose all business customers from whom compensation in excess of the reporting threshold has been received whose identities are

publicized or referenced in documents open for public inspection at the courts, in administrative hearings, at proceedings conducted by public agencies, or are a matter of public knowledge in other similar public forums. Alternatively, the commission may require an applicant to report only those publicly identifiable customers of which the applicant is aware.

(ii) **Judges and former law firms.** An applicant may be allowed to satisfy the reporting requirements of RCW 42.17A.710 (1)(g)(ii) and WAC 390-24-020 by disclosing any required information of which the applicant is aware, when the applicant certifies (~~he or she~~) that the applicant is no longer able to access or has been denied access to the former law firm's client information.

The commission may apply (e)(i) of this subsection when the applicant is a nonincumbent judicial candidate who practiced law during the reporting period and who seeks a modification regarding reportable business clients of the law firm.

(iii) **Motor vehicle dealers.** An applicant may satisfy the reporting requirements of RCW 42.17A.710 (1)(g) and WAC 390-24-020 by disclosing:

(A) All purchases and leases of vehicles, and purchases of parts and services from the dealership, by the agency or jurisdiction in which the applicant seeks or holds office;

(B) Other business and governmental entities that purchased or leased ten or more vehicles from the dealership;

(C) Business customers who paid in excess of twenty thousand dollars for the purchase of parts and/or service from the dealership; and

(D) Any other governmental entity that paid the dealership in excess of the disclosure threshold established under RCW 42.17A.710 (1)(g)(ii) for the purchase of parts and/or service.

(iv) **Applicants whose spouse or registered domestic partner creates a reporting obligation for the applicant.** When an applicant is required to report the activities of an entity solely because the applicant's spouse or registered domestic partner held an office, directorship, general partnership or ownership interest in the entity and the applicant does not have direct knowledge of the information that must be reported, the applicant may be allowed to satisfy the disclosure requirements of RCW 42.17A.710 (1)(g)(ii) and WAC 390-24-020 by disclosing reportable customers from whom compensation in excess of the disclosure threshold established under RCW 42.17A.710 (1)(g)(ii) has been received as follows:

(A) All payments made by the agency or jurisdiction in which the applicant seeks or holds office to the entity;

(B) The business and other governmental customers or clients of the applicant's spouse/domestic partner and of the entity of which the applicant is aware; and

(C) Any other business and other governmental customers or clients of the entity whose identities are known to the applicant and whose interests are significantly affected by the agency or jurisdiction in which the applicant seeks or holds office. The commission may apply (e)(i) through (iii) of this subsection when the applicant's spouse/domestic partner is a lawyer, judge, or motor vehicle dealer.

(2) "Bona fide separate property agreement" means an agreement or court order describing separate property in a valid:

(a) Prenuptial agreement;

(b) Separate property contract under chapter 26.09 RCW;

(c) Separate property court decree under chapter 26.09 RCW;

(d) Domestic partnership agreement under chapter 26.60 RCW;

(e) Domestic partnership agreement as part of a notice of termination under chapter 26.60 RCW; or

(f) Postnuptial agreement.

(3) "Other bona fide separate status" means a valid written agreement or court decree recognizing the separate status of the parties under state law, including their individual property that is separate under state law.

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

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

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

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

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

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

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

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

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

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

(3) Each enforcement matter will be posted by PDC staff on the PDC's public case-tracking database, where its status will be updated from time to time as appropriate until the matter is closed.

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

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

(2) The notice shall set forth the nature of the complaint and the statutory and/or rule provision(s) alleged to have been violated.

(3) Respondents who wish to respond must file their response electronically within fourteen days of being notified by PDC staff, addressing the alleged noncompliance in the complaint. The response may address the respondent's view of which category or categories appropriately address the alleged noncompliance pursuant to WAC 390-37-005 (~~((remedial))~~) remediable, technical corrections, etc.). The PDC staff may provide for a shorter response period for complaints received within sixty days of an election.

(4) If an alternative response to the alleged violation has been issued as provided by this chapter, the notice shall also describe that response, including any conditions the respondent is required to meet.

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

WAC 390-37-060 Enforcement procedures—Alternative responses to noncompliance—Investigation of complaints—Initiation of adjudicative proceeding. (1) Upon receipt of a complaint, the PDC staff will conduct an initial review of the complaint pursuant to WAC 390-37-005.

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

(b) The executive director may resolve a matter as a technical correction pursuant to RCW 42.17A.755. PDC staff will notify the respondent of the need to make a correction and the deadline by which that correction must be made. The deadline will be no less than five days and no more than thirty days from the date of the notification. The failure to make the requested correction may result in the initiation of an investigation or other enforcement action.

(c) The executive director may resolve a matter as a (~~((remedial))~~) remediable violation pursuant to RCW 42.17A.755.

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

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

(f) The executive director may initiate an investigation whenever an initial review of a complaint indicates that a material violation may have occurred.

(g) The executive director shall report at each regular commission meeting a summary covering the period since the previous commission meeting of all complaints initiated or received; how they were categorized; the nature of the allegations; conformance to required timelines; and actions taken

and resolutions achieved pursuant to the alternatives provided for under chapter 42.17A RCW, such as dismissals, requests for technical correction, warning letters, complaint publication, statements of understanding, initiations of investigations, status reviews, stipulations, referrals to the attorney general's office, brief adjudicative proceedings, or commission hearings.

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

(3) If the executive director determines an investigation is warranted, an initial hearing (also referred to as a "case status review") shall be held pursuant to WAC 390-37-071 within ninety days.

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

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

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

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

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

(a) When required information is not timely disclosed, but the public is not deprived of critical information; (~~((or))~~)

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

(c) When any other violation of chapter 42.17A RCW has occurred that does not materially affect the public interest.

(3) In authorizing an alternative response to alleged noncompliance, the executive director may consider the nature of the alleged violation and any relevant circumstances including, but not limited to, the factors described in subsection (4) of this section: Provided, that, if after weighing the relevant circumstances and factors, the executive director determines that there is evidence that so warrants, the allegations shall be

addressed through an investigation as provided by WAC 390-37-060.

(4) The factors the executive director may consider in permitting an alternative response to noncompliance, an

investigation, or an adjudicative proceeding include, but are not limited to:

An alternative response to noncompliance may be appropriate if ...	An investigation and possible adjudicative hearing may be appropriate if ...
It appears that noncompliance resulted from a good-faith error, omission, or misunderstanding.	It appears that the noncompliance may have resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior.
The respondent is a first-time filer.	The respondent has experience in complying with the applicable requirements.
The respondent's compliance history indicates the noncompliance was isolated or limited in nature, and not indicative of systematic or ongoing problems.	The noncompliance is part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization.
The impact of the noncompliance on the public was minimal.	The noncompliance deprived the public of timely or accurate information during a time-sensitive period in a campaign, legislative session, etc., or otherwise had a significant or material impact on the public.
The respondent's organization or campaign was relatively unsophisticated or small.	The respondent or the respondent's organization or campaign demonstrated a relatively high level of sophistication, or was well financed and staffed.
The total expenditures by the respondent in the campaign or statement period were relatively modest.	The campaign or statement period involved significant expenditures by the respondent.
The amount of late-reported activity, or the duration of the untimely disclosure, was small in proportion to the amount of activity that was timely reported by the respondent.	The late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period.
There is no evidence that any person, including an entity or organization, benefited politically or economically from the noncompliance.	It appears the respondent or anyone else benefited politically or economically from the noncompliance.
Personal emergency or illness of the respondent or member of his or her immediate family contributed to the noncompliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
Other emergencies such as fire, flood, or utility failure prevented compliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
PDC staff or equipment error, including technical problems at the agency prevented or delayed electronic filing.	PDC staff or equipment error did not appear to contribute to the noncompliance.
The noncompliance resulted from the respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions, a lack of clarity in the rule or statute, or uncertainty concerning the valid application of the commission's rules.	It appears the respondent understood the application of staff's guidance or instructions, and did not dispute the valid application of the commission's rules.
The respondent quickly took corrective action or initiated other remedial measures prior to any complaint, or when noncompliance was brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or over limit contributions).	The respondent appeared negligent or unwilling to address the noncompliance.

An alternative response to noncompliance may be appropriate if ...	An investigation and possible adjudicative hearing may be appropriate if ...
The respondent made a good-faith effort to comply, including by consulting with PDC staff following a complaint and cooperating during any preliminary investigation, or demonstrated a wish to acknowledge and take responsibility for the alleged violation.	The respondent failed to provide a timely or adequate response to the complaint, or was otherwise uncooperative.
The alleged violation was or is being addressed under an analogous local ordinance, regulation, or policy.	The commission has primary jurisdiction over the alleged violation.
The alleged violation presents a new question or issue for the commission's interpretation.	The alleged violation does not present a case of first impression.
Other factors relevant to a particular case	

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

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

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

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

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

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

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

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

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

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	1st Occasion	2nd Occasion	3rd Occasion
Filed missing report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Report is filed late and is incomplete or inaccurate.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Respondent failed to file or timely file accurate and complete campaign disclosure reports:			
Cash Receipts Monetary Contributions Report (C-3 report)			
Filed missing C-3 report or amended C-3 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to timely deposit monetary contributions within five business days of receipt.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to include employer and occupation information for contributors of more than \$100.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	1st Occasion	2nd Occasion	3rd Occasion
Campaign Summary Receipts and Expenditures Report (C-4 report)			
Filed missing C-4 report or amended C-4 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to report a contractual contingent liability.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly dispose of surplus funds.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Independent Expenditure Report (C-6 report)			
Filed missing C-6 report or amended C-6 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Report is incomplete or inaccurate.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Out-of-State Political Committee Report (C-5 report)			
Filed missing C-5 report or amended C-5 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Last Minute Contribution Report (LMC report)			
Filed missing LMC report or amended LMC report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Exceeding Contribution Limits			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Other Alleged Violations			
Exceeding Mini Reporting Threshold			
Filed C-3 and C-4 reports for full reporting after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failure to file electronically			
Filed C-3 and C-4 reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition.			

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	1st Occasion	2nd Occasion	3rd Occasion
Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	\$0 - \$750	\$750 - \$1,500	\$1,500 - \$2,250
Failure to file Lobbyist Registration report (L-1 report)			
Filed missing L-1 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Failure to File Agency Lobbying Report (L-5 report)			
Filed missing L-5 report or amended L-5 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Grassroots Lobbying Report (L-6 report)			
Filed missing L-6 report or amended L-6 report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Sponsor identification requirements for political advertising			
Political advertising failed to include any sponsor identification, or included improper or misleading sponsor identification.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - \$300	\$300 - \$600	\$600 - \$1,000
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Commercial advertisers—Public inspection of documents			
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain documents or books of account as required by WAC 390-16-050.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	1st Occasion	2nd Occasion	3rd Occasion
Candidates and political committees—Public inspection of books of accounts			
Candidates or political committees who fail to accommodate requests for public inspection as required by WAC 390-16-043.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400

(8) In a matter where the PDC staff have completed an investigation or resolved the matter as a technical correction, as authorized in RCW 42.17A.755, the schedule set forth in the table above is not applicable.

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

WAC 390-37-063 Enforcement procedures—Demand for information—Subpoenas. (1) During the course of a PDC audit or investigation, the executive director may issue a subpoena directed to any person who probably possesses information which is relevant and material to the audit or the investigation. The subpoena shall:

- (a) Specifically describe the information which is sought, and
- (b) Set forth a reasonable time and place for the production of the information, and
- (c) Notify the person that if the information is not produced, the executive director will apply to the superior court for an appropriate order or other remedy.

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

(2) The commission or the presiding officer may issue a subpoena under RCW 42.17A.110(6) and WAC 390-37-120 to compel persons to appear and give testimony and may require the production of any books, papers, correspondence, text messages, records, memoranda, electronically stored data, or other evidence that the commission deems relevant and material.

(3) As provided in the act, the commission or executive director may apply in superior court for authorization to issue a subpoena before issuing the subpoena, in circumstances where appropriate.

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

WAC 390-37-070 Enforcement procedures—Complaints dismissed by executive director after an investigation has been commenced. The executive director, at any time prior to consideration by the commission, may dismiss a complaint which on its face, or as shown by investigation,

~~((does))~~ provides reason to believe that a violation has occurred, but also shows that the respondent is in substantial compliance with the relevant statutes or rules, or shows that formal enforcement action is not warranted. The executive director shall report at each regular commission meeting all complaints dismissed.

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

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

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

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

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

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

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

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	1st Occasion	2nd Occasion	3rd Occasion
Exceeding contribution limits			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	\$0 - \$1,500	\$1,500 - \$2,500	\$2,500 - \$10,000
Other Alleged Violations:			
Exceeding mini reporting threshold			
Filed C-3 and C-4 reports for full reporting after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$1,000	\$1,000 - \$2,000	\$2,500 - \$10,000
Failure to file electronically			
Filed C-3 and C-4 reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$1,000	\$1,000 - \$2,000	\$2,500 - \$10,000
Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition			
Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	\$0 - \$1,000	\$1,000 - \$2,000	\$2,500 - \$10,000
Failure to File Lobbyist Registration Report (L-1 report)			
Filed missing L-1 report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
Failure to File Agency Lobbying Report (L-5 report)			
Filed missing L-5 report or amended L-5 report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
Grassroots Lobbying Report (L-6 report)			
Filed missing L-6 report or amended L-6 report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
Sponsor identification requirements for political advertising			
Political advertising failed to include any sponsor identification or included improper or misleading sponsor identification.	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - \$500	\$500 - \$1,000	\$1,000 - \$1,500

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 report) / (2) Candidate Registration / (C-1 report) / (3) Lobbyist Monthly Expense Report (L-2 report) / (4) Lobbyist Employer Annual Report (L-3 report) and (5) Local Treasurer's Annual Report (T-1 report).			
	1st Occasion	2nd Occasion	3rd Occasion
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - \$500	\$500 - \$1,500	\$1,500 - \$2,500
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Commercial advertisers—Public inspection of documents			
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain documents or books of account as required by WAC 390-18-050.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Candidates and political committees—Public inspection of books of account			
Candidates or political committees who fail to accommodate requests for public inspections as required by WAC 390-16-043.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400

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

- (a) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;
- (b) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;
- (c) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;
- (d) Amount of financial activity by the respondent during the statement period or election cycle;
- (e) Whether the noncompliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior;

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

- (g) Whether the respondent or any person, including an entity or organization, benefited politically or economically from the noncompliance;
- (h) Personal emergency or illness of the respondent or member of his or her immediate family;
- (i) Other emergencies such as fire, flood, or utility failure preventing filing;
- (j) PDC staff or equipment error, including technical problems at the PDC preventing or delaying electronic filing;
- (k) The respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions;
- (l) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);
- (m) Whether the respondent is a first-time filer;

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

(o) Penalties imposed in factually similar cases; and

(p) Other factors relevant to a particular case.

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

(5) Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WSR 19-20-082
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 30, 2019, 8:49 a.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: The department of social and health services, division of child support (DCS) is amending WAC 388-14A-2200 When does DCS charge a twenty-five dollar annual fee on a child support case? and 388-14A-2205 How can a custodial parent be excused from payment of the annual fee?, to implement section 4 of ESHB 1916 (chapter 275, Laws of 2019). ESHB 1916 took effect on July 28, 2019, but changes to the annual fee will take effect on October 1, 2019.

DCS filed a CR-101 Preproposal statement of inquiry as WSR 19-17-092 on August 21, 2019, to commence the permanent rule-making process to amend WAC 388-14A-2200 and 388-14A-2205.

Citation of Rules Affected by this Order: Amending WAC 388-14A-2200 and 388-14A-2205.

Statutory Authority for Adoption: Section 4 of ESHB 1916 (chapter 275, Laws of 2019); RCW 26.09.105, 26.18.-170, 34.05.220 (1)(a), 34.05.322, 74.04.055, 74.08.090, 74.20.040(9), and 74.20A.310.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: ESHB 1916 (chapter 275, Laws of 2019) amended RCW 74.20.040, making two changes regarding the annual fee DCS imposes for each case in which support enforcement services are furnished where the person entitled to receive support has never received assistance under the temporary assistance for needy families,

the aid for dependent families and children program, or a tribal temporary assistance for needy families program. These changes include the following: (1) The annual fee is increased from \$25 to \$35; and (2) the threshold amount that triggers the fee is increased from \$500 during a federal fiscal year to \$550 in collections.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: September 23, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-12-029, filed 5/29/08, effective 7/1/08)

WAC 388-14A-2200 When does DCS charge a ((twenty-five)) thirty-five dollar annual fee on a child support case? (1) Under RCW 74.20.040, the division of child support (DCS) must impose an annual fee of ((twenty-five)) thirty-five dollars for each case in which:

(a) The custodial parent (CP) has never received TANF, Tribal TANF or AFDC as the custodian of minor children; and

(b) DCS has collected and disbursed to the CP at least five hundred and fifty dollars on the case during that federal fiscal year. The federal fiscal year runs from October 1 through September 30.

(2) A custodial parent who has children with more than one noncustodial parent (NCP) may be assessed a separate ((twenty-five)) thirty-five dollar fee for each case in which DCS collects at least five hundred and fifty dollars in a federal fiscal year.

(3) If DCS has already collected the ((twenty-five)) thirty-five dollar annual fee on a Washington state case and the CP begins receiving TANF or Tribal TANF during the same federal fiscal year, DCS is not required to refund or cancel the fee.

(4) If the CP with a Washington case has paid a fee to another state during the same federal fiscal year, the CP is still subject to the fee in Washington if the Washington case qualifies for a fee under subsection (1) above.

(5) A CP has the burden of proving prior receipt of TANF, Tribal TANF or AFDC in any jurisdiction, which would exempt the CP from paying the annual fee.

(a) DCS may impose the fee until the CP provides proof of prior receipt of TANF, Tribal TANF or AFDC.

(b) DCS does not refund any fee which has been retained by the state, but stops charging the fee immediately when the CP provides proof that the CP is not subject to the fee.

(6) The fee is retained from support payments collected, which means that the NCP gets credit against the child support obligation for the total amount of the payment.

AMENDATORY SECTION (Amending WSR 08-12-029, filed 5/29/08, effective 7/1/08)

WAC 388-14A-2205 How can a custodial parent be excused from payment of the annual fee? (1) WAC 388-14A-2200 describes the cases that qualify for the ((~~twenty five~~) thirty-five) dollar annual fee.

(2) A custodial parent (CP) seeking to be excused from payment of the fee may provide proof that he or she is exempt from the fee because he or she received TANF, Tribal TANF or AFDC from another state or tribe.

(3) A CP may request a conference board under WAC 388-14A-6400 to request a waiver of the fee for hardship reasons. The CP must provide proof that hardship in the CP's household justifies waiver of the fee.

(4) Payment of the annual fee in another state does not excuse the CP from the annual fee charged for a Washington case.

(5) If the CP seeks a waiver from payment of the annual fee during a year when the fee has already been collected, the fee for that year is not refunded, but DCS waives collection of the fee for future years unless the waiver is overturned at a later time.

WSR 19-20-085
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed September 30, 2019, 11:58 a.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: The department is amending WAC 388-412-0015 General information about your food assistance allotments, 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for basic food?, 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?, and 388-478-0060 What are the income limits and maximum benefit amounts for basic food?, to implement annual adjustments to standards for the Washington basic food program.

Citation of Rules Affected by this Order: Amending WAC 388-412-0015, 388-450-0185, 388-450-0190, 388-450-0195, and 388-478-0060.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Other Authority: 7 C.F.R. § 273.9 (a)(3), USDA, Food and Nutrition Service, SNAP—Fiscal Year 2020 Cost-of-

Living Adjustments (July 24, 2019), and USDA, Food and Nutrition Service, Standard utility allowance approval letter (August 19, 2019).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The department is required to use federally prescribed income eligibility standards, which are revised effective October 1 of each year, as stated in 7 C.F.R. § 273.9.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 5, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: September 26, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-02-043, filed 12/26/17, effective 1/26/18)

WAC 388-412-0015 General information about your food assistance allotments. (1) Your monthly allotment under the Washington basic food program, food assistance program for legal immigrants (FAP), Washington combined application project (WASHCAP), or the transitional food assistance (TFA) program is the total dollar value of benefits your assistance unit (AU) receives for a calendar month.

(2) **How we determine monthly allotments:**

(a) We calculate your monthly allotment for federally funded basic food as described under WAC 388-450-0162.

(b) We calculate your monthly allotment for state-funded food assistance as described under WAC 388-400-0050.

(3) **Maximum allotment:**

(a) The maximum allotment for the number of people in your AU eligible for federally funded basic food benefits is described under WAC 388-478-0060.

(b) The maximum allotment for the number of people in your AU eligible for state-funded FAP benefits is set by the legislature in the biennial operating budget as described in WAC 388-400-0050.

(4) **Prorated benefits in the first month.** If we determine you are eligible for food assistance, your first month's benefits are calculated from the date you applied through the end of the month of your application. This is called proration and is based on a thirty-day month:

(a) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

(b) If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055.

(5) **Combined allotment for first and second month's benefits.** If you apply for benefits on or after the sixteenth of the month and we determine you are eligible for food assistance for both the first and second month, we will issue both months' benefits in one allotment.

(6) **Minimum allotment.** Unless it is the first month of your certification period and your benefits are prorated as described in subsection (4) of this section, your monthly allotment will be at least:

(a) ~~((Fifteen))~~ Sixteen dollars if your AU has one or two members and at least one person is eligible for federally funded basic food; or

(b) ~~((Fifteen))~~ Sixteen dollars if your AU has one or two members and all members of your AU are eligible for state-funded FAP.

(7) **Use of food assistance benefits.** Your food assistance benefits may only be used to buy eligible food items as described under WAC 388-412-0046. If you use your benefits in any other way, it is an intentional program violation under WAC 388-446-0015 and could result in fines, imprisonment, disqualification from receiving food assistance benefits, or any combination of these penalties.

AMENDATORY SECTION (Amending WSR 19-01-031, filed 12/12/18, effective 1/12/19)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?

(1) We determine if your assistance unit (AU) is eligible for basic food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

(2) Under these federal laws, we subtract the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(a) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
3 or less	((<u>\$164</u>)) <u>\$167</u>
4	((<u>\$174</u>)) <u>\$178</u>
5	((<u>\$204</u>)) <u>\$209</u>
6 or more	((<u>\$234</u>)) <u>\$240</u>

(b) Twenty percent of your AU's gross earned income (earned income deduction);

(c) Your AU's expected monthly dependent care expense needed for an AU member to:

(i) Keep work, look for work, or accept work;

(ii) Attend training or education to prepare for employment; or

(iii) Meet employment and training requirements under chapter 388-444 WAC;

(d) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200; and

(e) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 19-01-031, filed 12/12/18, effective 1/12/19)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food? The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;

(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2)(a) through (2)(d) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of five hundred ~~((fifty-two))~~ sixty-nine dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over five hundred ~~((fifty-two))~~ sixty-nine dollars.

AMENDATORY SECTION (Amending WSR 19-01-031, filed 12/12/18, effective 1/12/19)

WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASH-CAP benefits? (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the following amounts if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than twenty dollars in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of four hundred (~~thirty~~) thirty-seven dollars.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of four hundred (~~thirty~~) thirty-seven dollars.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of three hundred (~~thirty-six~~) forty-three dollars.

(d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of fifty-eight dollars.

(3) "Utility costs" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

(c) Water;

(d) Sewer;

(e) Well installation/maintenance;

(f) Septic tank installation/maintenance;

(g) Garbage/trash collection; and

(h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

AMENDATORY SECTION (Amending WSR 19-01-031, filed 12/12/18, effective 1/12/19)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for basic food? (1) If your assistance unit (AU) meets all other eligibility requirements for basic food, your AU must have income at or below the limits in columns B and C of this subsection to get basic food, unless you meet one of the exceptions listed below in subsection (2) of this section. The maximum monthly food assistance benefit your AU could receive is listed in column D of this subsection.

EFFECTIVE (~~10/1/2018~~) 10/1/2019

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	(\$1,316) <u>\$1,354</u>	(\$1,012) <u>\$1,041</u>	(\$192) <u>\$194</u>	(\$1,670) <u>\$1,718</u>
2	(1,784) <u>1,832</u>	(1,352) <u>1,410</u>	(353) <u>355</u>	(2,264) <u>2,326</u>
3	(2,252) <u>2,311</u>	(1,732) <u>1,778</u>	(505) <u>509</u>	(2,858) <u>2,933</u>
4	(2,720) <u>2,790</u>	(2,092) <u>2,146</u>	(642) <u>646</u>	(3,452) <u>3,541</u>
5	(3,188) <u>3,269</u>	(2,452) <u>2,515</u>	(762) <u>768</u>	(4,046) <u>4,149</u>
6	(3,656) <u>3,748</u>	(2,812) <u>2,883</u>	(914) <u>921</u>	(4,640) <u>4,757</u>
7	(4,124) <u>4,227</u>	(3,172) <u>3,251</u>	(1,011) <u>1,018</u>	(5,234) <u>5,364</u>
8	(4,592) <u>4,705</u>	(3,532) <u>3,620</u>	(1,155) <u>1,164</u>	(5,828) <u>5,972</u>
9	(5,060) <u>5,184</u>	(3,892) <u>3,989</u>	(1,299) <u>1,310</u>	(6,422) <u>6,580</u>
10	(5,528) <u>5,663</u>	(4,252) <u>4,358</u>	(1,443) <u>1,456</u>	(7,016) <u>7,188</u>
Each Additional Member	(+468) <u>+479</u>	(+360) <u>+369</u>	(+144) <u>+146</u>	(+594) <u>+608</u>

(2) Exceptions:

(a) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C of subsection (1) of this section. We budget your AU's income to decide the amount of basic food your AU will receive.

(b) If your AU includes a member who is sixty years of age or older or has a disability, your AU's income must be at or below the limit in column C of subsection (1) of this section.

(c) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E of subsection (1) of this section to decide if you can be a separate AU.

(d) If your AU has zero income, your benefits are the maximum allotment in column D of subsection (1) of this section, based on the number of eligible members in your AU.

WSR 19-20-090
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-247—Filed September 30, 2019, 4:04 p.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: Amend Puget Sound recreational crab fishing rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000G; and amending WAC 220-330-040.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to open the recreational crab harvest in the marine areas listed. Preliminary summer harvest estimates indicate that these areas can open on October 1 and contribute to achieving 50/50 harvest goal with the treaty tribes. There is insufficient time to adopt permanent rules.

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

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

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

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

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

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2019.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-04000G Crab—Areas and Seasons—Personal use. Notwithstanding the provisions of WAC 220-330-040, effective immediately until further notice, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas, 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:

Marine Area 4 east of the Bonilla-Tatoosh line, Marine Area 5, Marine Area 6, Marine Area 7, Marine Area 8-1, Marine Area 8-2, and Marine Area 9 except those waters between the Hood Canal Bridge to a line connecting Foulweather Bluff to Olele Point: October 1 through December 31, 2019, it is permissible to fish for crab for personal use.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2020:

WAC 220-330-04000G Crab—Areas and seasons—Personal use.

WSR 19-20-092
EMERGENCY RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed October 1, 2019, 8:56 a.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: Establish capacity for a foster family home, exceptions that may be allowed at the department's discretion, and the necessary requirements for approving exceptions.

Citation of Rules Affected by this Order: Amending WAC 110-148-1390.

Statutory Authority for Adoption: P.L. 115-123 (2018); RCW 74.13.031, 74.15.030, and 74.15.311.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The Family First Prevention Services Act (Pub. L. 115-123 (2018)) amends Titles IV-E and IV-B of the Social Security Act as to child welfare programs and policy. It requires states, including Washington, to meet national standards intended to improve licensing stan-

dards for foster family homes. Washington state's current licensing standards are largely consistent with the new national standards and the department is engaging in permanent rule making to align those that are not. The department anticipates permanent rules to be effective in early 2020. One area where alignment is necessary is establishing the conditions and requirements that will allow foster family homes to exceed licensed capacity in order to receive Title IV-E funding for foster care. These changes must be in effect on October 1, 2019, which is sooner than permanent rule making allows.

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

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

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

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

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

Date Adopted: October 1, 2019.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-148-1390 Can I accept children outside the limitations of my license? (1) We have the discretion to allow you to temporarily exceed your capacity. We may do this when you provide care for a sibling group, respite care, placement of a relative child, or because you have demonstrated exceptional abilities to meet the needs of children. The placement must be in the best interest of the child and may not affect the health and safety of other children in the home.

(2) If your home is licensed for six foster children, LD will not allow you to exceed your capacity unless one of the following criteria is met:

(a) To allow a parenting youth in foster care to remain with the child of the parenting youth;

(b) To allow siblings to remain together;

(c) To allow a child with an established meaningful relationship with the family to remain with the family; or

(d) To allow a family with special training or skills to provide care to a child who has a severe disability.

(3) The approval must be in writing and we may require a written plan for additional supervision or other requirements before granting approval.