



PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

To: Members, Washington State Public Disclosure Commission
From: Lori Anderson, Communications & Training Officer
Date: August 19, 2016
Re: Rules And Policy Development Update

On July 29, the rules development agenda was filed as directed by the Commission. Copy attached.

2016 AGENDA PROGRESS

Permanent Adoption

CR-101 Proposals were filed August 8 to begin the rule-making process for these subjects:

- Surplus funds accounts – disclosure – reporting deadlines,
- Candidates' joint campaign expenses – transferring campaign contributions from one candidate to another,
- Enforcement procedures, and
- Operations and procedures – received date for mailed reports.

Copies attached.

Expedited Rule Making

CR-105 Expedited proposals were filed August 19 to repeal:

- Procedures for county elections officials who previously received copies of PDC reports, and
- Candidates' implied incumbency restriction from political advertising rules.

Copies attached. The 45-day waiting period following publication ends October 25 and then the Orders may be filed. Rules take effect 31 days after the Order is filed.

2016 PLANNED SCHEDULE

Considering the Commission's regular meeting agenda and the State Register filing deadlines, staff has planned the following schedule:

August – Enforcement rules preparation

- September** – Review draft language for:
- surplus funds reporting schedule
 - candidates' joint expenses

Additional enforcement rules preparation, if necessary

Develop interpretation addressing whether an advertisement that includes photographs and other neutral content copied from a candidate's campaign website is a contribution to the candidate.

- October** – Review draft language for:
- mailed reports' received date (may possibly be done in September)
 - enforcement rules

- December** – Hearings

Develop interpretation addressing whether signature gathering petitions for ballot measures constitute political advertising (may be scheduled in early 2017 instead)

2017 PROJECTED SCHEDULE

A question was recently raised about the commission's ability to relieve lobbyists from disclosure requirements as it does for candidates and political committees that do not raise or spend over \$5,000. While the Commission doesn't have authority to enact a similar mini reporting option for lobbyists, it does have the ability to suspend or modify reporting requirements on a case-by-case basis. The Commission may wish to explore adopting possible qualifications and standards for suspending or granting modifications for lobbyists and other categories of filers as was done for personal financial affairs filers in [WAC 390-28-100](#).

Attachments: State Register filings



STATE OF WASHINGTON
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Agenda for Rules Under Development, July - December 2016

Agency Contact: Lori Anderson, Communications & Training Officer
PO Box 40908, Olympia, WA 98504-0908
Telephone: (360) 664-2737
Toll Free: 1-877-601-2828
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The Public Disclosure Commission (the Commission) submits this semi-annual agenda for rules under development, in accordance with RCW 34.05.314. The Commission is granted rule making authority by RCW 42.17A.110(1).

Possible rule making during July – December 2016 may include:

1. Adopt surplus funds account reporting schedule

The Commission intends to adopt a reporting schedule for disclosing expenditures made from surplus funds. Surplus funds are those funds remaining at the end of a campaign cycle. Elected officials may establish a surplus funds account to be used for nonreimbursed, public office-related expenses and other uses provided for in RCW 42.17A.430. The statute provides that expenditures from surplus funds accounts will be disclosed, but there is no prescribed reporting schedule. Statutes being implemented: RCWs 42.17A.240 and 42.17A.430.

2. Accept as timely filed mailed reports received within 5 business days of due date

The post office cancellation mark is used as the date received for mailed reports. All paper reports received are currently hand date-stamped and scanned. Efficiencies could be achieved by stamping one, consistent received date on reports as they are scanned, which is difficult when the postmark date is used. The Commission wishes to adopt a timely filing presumption for mailed reports that are received within five business days of the filing deadline. Statutes being implemented: RCW 42.17A.140(1).

3. Amend WAC 390-16-234 Transfers of surplus and nonsurplus candidates funds

The rule allows joint campaign expenses to be paid by one candidate who is reimbursed proportionately by the other participating candidates. Senator Roach has suggested and the Commission agrees that candidates must directly pay their proportionate share of campaign expenses. Statute being implemented: RCW 42.17A.430.

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STATE OF WASHINGTON
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DATE: July 29, 2016

TIME: 3:36 PM

WSR 16-16-088

4. **Amend WAC 390-18-040 Use of the terms “reelect,” “retain,” and “return.”**

Repeal candidates’ implied incumbency restrictions. Statute being implemented: RCW 42.17A.335.

5. **Repeal WAC 390-13-100 Duties of elections officials receiving copies of campaign finance reports.**

Until June 2010, campaign finance reports were filed with the Public Disclosure Commission and the county elections administrators. The Commission was charged with adopting rules that governed how the counties would index and make the reports available to the public during the six year retention period. Since the retention period has ended for any reports that state law required to be filed with a county, the Commission will repeal its indexing rule.

6. **Amend Chapter 390-37 WAC, Enforcement Procedures**

Hearing procedures may be modified as the Commission compares its rules to the State model administrative procedures and reviews the use of “business days” as compared with “calendar days” for calculating time periods as well as other reconsideration instructions in WAC 390-37-144 and 390-37-150. Penalty schedules will also be reviewed to determine sufficiency and additional penalty schedules may be adopted. RCW 42.17A.755.

Other subjects that may be the subject of rule making or interpretive statements:

7. **Whether signature gathering petitions for ballot measures constitute political advertising**

8. **Whether “snip & paste” of photographs and other neutral content from candidates’ campaign websites used in political advertising sponsored by other parties is a contribution to the candidate.**

Lori Anderson

7/29/2016

Signature/Title: Communications & Training Officer

Date



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Public Disclosure Commission

Subject of possible rule making: Surplus funds accounts – disclosure – reporting deadlines. The Commission intends to establish a reporting schedule that requires surplus funds account expenditures to be disclosed when more than \$200 is spent in a single month or an aggregate of more than \$200 is spent since the last report was filed.

Statutes authorizing the agency to adopt rules on this subject: RCWs 42.17A.110(1) and 42.17A.240(11)

Reasons why rules on this subject may be needed and what they might accomplish: Surplus funds are the excess campaign contributions remaining after the election that are not needed to satisfy campaign debts. Elected officials may have a bank account in which only surplus funds are deposited. This account may be used for nonreimbursed, public office-related expenses and other uses provided for in RCW 42.17A.430. The statute provides for disclosure of the surplus funds expenditures, but does not set out reporting deadlines.

The Commission has received complaints that officials are spending surplus funds without reporting the activity. In some cases, nondisclosure has gone on for more than a year and thousands of dollars were spent. A reporting schedule will stop this practice and provide the public with timely information about how surplus funds are spent.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
None

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

X Other (describe) The Commission expects to review draft rule language during the regular September 22, 2016 meeting and schedule a hearing for the purpose of adopting the proposed rule during the regular December 8, 2016 meeting.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Submit comments to: LORI ANDERSON | Email: lori.anderson@pdc.wa.gov | FAX: (360) 753-1112
Telephone: (360) 664-2737 | U.S. Mail: P O Box 40908, Olympia, WA 98504-0908

Participate in the September 22 Commission meeting - exact time to be determined when agenda is published. Meeting location: 711 Capitol Way, Rm 206, Olympia, Washington. Contact Lori Anderson to accommodate alternatives to in-person meeting participation.

DATE August 8, 2016
NAME (TYPE OR PRINT) Lori Anderson
SIGNATURE
TITLE Communications & Training Officer

CODE REVISER USE ONLY
OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED
DATE: August 08, 2016
TIME: 1:23 PM
WSR 16-17-027



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Public Disclosure Commission

Subject of possible rule making: Candidates' Joint Campaign Expenses - Transferring campaign contributions from one candidate to another

Statutes authorizing the agency to adopt rules on this subject: RCW 42.17A.110(1)

Reasons why rules on this subject may be needed and what they might accomplish: RCW 42.17A.430(8) prohibits a candidate from transferring campaign funds to another candidate. Currently, WAC 390-16-234 allows joint campaign expenses to be paid by one candidate who is reimbursed proportionately by the other participating candidates. The Commission will change its rules to require candidates to directly pay their pro-rated share of joint campaign expenses.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
None

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

X Other (describe) The Commission expects to review draft rule language during the regular September 22, 2016 meeting and schedule a hearing for the purpose of adopting the proposed rule during the regular December 8, 2016 meeting.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

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Telephone: (360) 664-2737 | U.S. Mail: P O Box 40908, Olympia, WA 98504-0908

Participate in the September 22 Commission meeting - exact time to be determined when agenda is published. Meeting location: 711 Capitol Way, Rm 206, Olympia, Washington. Contact Lori Anderson to accommodate alternatives to in-person meeting participation.

DATE
August 8, 2016

NAME (TYPE OR PRINT)
Lori Anderson

SIGNATURE
Lori Anderson

TITLE
Communications & Training Officer

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STATE OF WASHINGTON
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DATE: August 08, 2016

TIME: 3:18 PM

WSR 16-17-030



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Public Disclosure Commission

Subject of possible rule making: Updating enforcement procedures, including:

- making hearing procedures consistent with the state's model administrative procedures,
- modernizing time period calculations for requests for reconsideration of decisions, and
- adopting penalty schedules.

Statutes authorizing the agency to adopt rules on this subject: RCW 42.17A.110(1)

Reasons why rules on this subject may be needed and what they might accomplish: Rule making will ensure that the Commission's hearing procedures are consistent with the state's model administrative procedures and best practices are used for calculating reconsideration time periods by using calendar days instead of business days. The adoption of more penalty schedules will allow respondents in brief enforcement hearings to enter into statements of understanding and pay a scheduled penalty to avoid hearings.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
None

Process for developing new rule (check all that apply):

- Negotiated rule making
 Pilot rule making

Agency study

Other (describe) The Commission expects to review and discuss potential amendments to enforcement rules during its regular Fall 2016 meetings. Draft rule language will likely be reviewed during the October or December regular meetings with a hearing to be scheduled thereafter.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Submit comments to: LORI ANDERSON | Email: lori.anderson@pdc.wa.gov | FAX: (360) 753-1112
Telephone: (360) 664-2737 | U.S. Mail: P O Box 40908, Olympia, WA 98504-0908

Participate in Commission meetings - exact time to be determined when agenda is published. Meeting agendas are available at www.pdc.wa.gov at least one week before the meeting. Meeting location: 711 Capitol Way, Rm 206, Olympia, Washington. Contact Lori Anderson to accommodate alternatives to in-person meeting participation.

DATE
August 8, 2016

NAME (TYPE OR PRINT)
Lori Anderson

SIGNATURE
Lori Anderson

TITLE
Communications & Training Officer

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STATE OF WASHINGTON
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DATE: August 08, 2016

TIME: 4:55 PM

WSR 16-17-031



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Public Disclosure Commission

Subject of possible rule making: Operations and procedures – Received date for mailed reports – Timely filing presumption based on date of delivery

Statutes authorizing the agency to adopt rules on this subject: RCW 42.17A.110(1)

Reasons why rules on this subject may be needed and what they might accomplish: The Commission seeks to adopt a timely filing presumption for mailed reports that are delivered within five business days of the filing deadline, or some other time period to be determined by the Commission that would be consistently applied to all mailed reports.

The post office cancellation mark is used as the date received for mailed reports. RCW 42.17A.140(1). Postage purchased online at Stamps.com is not cancelled, which causes the Commission to frequently receive mailed reports in envelopes that do not bear a cancellation mark. Using the date delivered resolves the lack of a cancellation mark.

Furthermore, efficiencies could be achieved by using the Commission's scanner to imprint one, consistent date received on all reports as they are scanned. The current practice of hand date stamping each report before it is scanned is time-consuming.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
None

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

X Other (describe) The Commission expects to review draft rule language during the regular September 22 or October 27, 2016 meeting and schedule a hearing for the purpose of adopting the proposed rule during the subsequent regular meeting.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

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Telephone: (360) 664-2737 | U.S. Mail: P O Box 40908, Olympia, WA 98504-0908

Participate in the September 22 Commission meeting - exact time to be determined when agenda is published. Meeting location: 711 Capitol Way, Rm 206, Olympia, Washington. Contact Lori Anderson to accommodate alternatives to in-person meeting participation.

DATE
August 8, 2016

NAME (TYPE OR PRINT)
Lori Anderson

SIGNATURE
Lori Anderson

TITLE
Communications & Training Officer

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DATE: August 08, 2016
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WSR 16-17-032



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Public Disclosure Commission

Title of rule and other identifying information: (Describe Subject)

Duties of elections officials receiving copies of campaign finance reports, WAC 390-13-100

NOTICE

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

Name: Lori Anderson

Agency: Public Disclosure Commission

Address: email: lori.anderson@pdc.wa.gov

U.S. mail: P O Box 40908, Olympia, WA 98504-0908

AND RECEIVED BY (Date) October 25, 2016

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Prior to 2010, candidates and political committees filed disclosure reports with the Public Disclosure Commission and locally with their counties' election administrators. Chapter 205, Laws of 2010 repealed the local filing requirement. Counties were required to keep the reports for six years and make them available in a manner set out in the Chapter 390-13 WAC. The six-year retention period expired in June 2016 and the Commission now repeals its rule that dictated recordkeeping requirements.

Reasons supporting proposal: This rule is based on a repealed statute.

Statutory authority for adoption: RCW 42.17A.110

Statute being implemented: Chapter 205, Laws of 2010

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

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DATE: August 19, 2016

TIME: 9:11 AM

WSR 16-17-102

DATE

August 19, 2016

NAME (TYPE OR PRINT)

Lori Anderson

SIGNATURE

Lori Anderson

TITLE

Communications & Training Officer

Name of proponent: (person or organization) Public Disclosure Commission

Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Lori Anderson	711 Capitol Way, Rm 206, Olympia, WA 98504-0908	(360) 664-2737
Implementation....Lori Anderson		()
Enforcement..... Evelyn Fielding-Lopez	711 Capitol Way, Rm 206, Olympia, WA 98504-0908	(360) 664-2737

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

The Commission anticipates no enforcement or fiscal impacts.



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Public Disclosure Commission

Title of rule and other identifying information: (Describe Subject)

Amending WAC 390-18-040, Use of the terms "reelect," "retain," and "return."

NOTICE

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

Name: Lori Anderson
Agency: Public Disclosure Commission
Address: email: lori.anderson@pdc.wa.gov
U.S. mail: P O Box 40908, Olympia, WA 98504-0908

AND RECEIVED BY (Date) October 25, 2016

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Remove candidates' implied incumbency restrictions from political advertising rules.

Reasons supporting proposal: WAC 390-18-040(6) is no longer necessary because of changed circumstances. The statute on which the rule was based was found to be unconstitutional and the statute enacted to replace the unconstitutional statute makes (6) unnecessary.

Statutory authority for adoption: RCW 42.17A.110

Statute being implemented: RCW 42.17A.335

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

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STATE OF WASHINGTON
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DATE: August 19, 2016

TIME: 9:13 AM

WSR 16-17-103

DATE
August 19, 2016

NAME (TYPE OR PRINT)
Lori Anderson

SIGNATURE *Lori Anderson*

TITLE
Communications & Training Officer

Name of proponent: (person or organization) Public Disclosure Commission

Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Lori Anderson	711 Capitol Way, Rm 206, Olympia, WA 98504-0908	(360) 664-2737
Implementation....Lori Anderson		()
Enforcement..... Evelyn Fielding-Lopez	711 Capitol Way, Rm 206, Olympia, WA 98504-0908	(360) 664-2735

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

The Commission anticipates no enforcement or fiscal impacts.