



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 17, 2024

TIME: 9:49 AM

WSR 24-09-078

Agency: Public Disclosure Commission

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 24-03-102 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Title 390 WAC – Public Disclosure Commission. Chapter 390-16 & 18 WAC: Implementation of Chapter 42.62 RCW regarding the use of synthetic media in election campaign-related activities.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 23, 2024	9:30 a.m.	PDC office – 711 Capitol Way S; Olympia, WA 98504	Remote access available - Contact pdc@pdc.wa.gov

Date of intended adoption: May 23, 2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Sean Flynn
Address: 711 Capitol Way S; Olympia, WA 98504
Email: pdc@pdc.wa.gov
Fax: 360-753-1112
Other:
By (date) May 20, 2024

Assistance for persons with disabilities:

Contact Jana Greer
Phone: 360-753-1111
Fax: 360-753-1112
TTY:
Email: pdc@pdc.wa.gov
Other:
By (date) December 5, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposal will assist in furthering the purpose of SB 5152 (2023), codified under Chapter 42.62 RCW, regarding the recognition and disclosure of synthetic media (“deepfakes”) used in election campaigning activity. The proposal will include specific requirements within existing reporting systems for disclosing the use of synthetic media in campaign-related communications.

Reasons supporting proposal: Under RCW 42.62.040, the Legislature instructed the PDC to adopt rules in furtherance of the purpose of Chapter 42.62 RCW, regarding the use of synthetic media in election campaign-related communications.

Statutory authority for adoption: RCW 42.17A.110; RCW 42.62.040

Statute being implemented: Chapter 42.62 RCW

Is rule necessary because of a:

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

If yes, CITATION:

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

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) PDC

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Sean Flynn	711 Capitol Way S; Olympia, WA 98504	pdc@pdc.wa.gov
Implementation:	Sean Flynn	711 Capitol Way S; Olympia, WA 98504	pdc@pdc.wa.gov
Enforcement:		711 Capitol Way S; Olympia, WA 98504	pdc@pdc.wa.gov

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: The Public Disclosure Commission is not required to prepare a cost-benefit analysis under [RCW 34.05.328\(5\)\(b\)](#)

Regulatory Fairness Act and Small Business Economic Impact Statement
 Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
 This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
 Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: Under RCW 42.62.040, the PDC is required to adopt rules in furtherance of purpose of SB 5152 (2023), codified at Chapter 42.62 RCW.

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: April 17, 2024

Name: Sean Flynn

Title: General Counsel

Signature:

