



## 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](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcca.wa.gov](http://www.pdcca.wa.gov)

To: Members, Washington State Public Disclosure Commission  
From: Lori Anderson, Communications & Training Officer  
Date: March 19, 2015  
Re: Rule Making – Discussion and Possible Approval of Draft Proposed Language to Amend WAC 390-18-050 Commercial Advertisers – Public Inspection of Record

### **Agenda Item**

At the March 26 meeting, the Commission will consider proposed draft language to amend **WAC 390-18-050 Commercial Advertisers – Public Inspection of Records.**

### **Background**

Commercial advertisers are required to allow the public to inspect certain documents and books of account after accepting or providing political advertising or electioneering communications. [RCW 42.17A.345](#). [WAC 390-18-050](#) clarifies when commercial advertisers must first make records available for inspection and what records may be inspected.

“Political advertising” is defined at [RCW 42.17A.005\(36\)](#) as “. . . mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in an election campaign.” “Electioneering communications” is advertising that does not amount to express advocacy but instead satisfies four distinct and objective criteria:

1. Distributed through television, radio, postal mailing, billboard, newspaper or periodical;
2. Clearly identifies a candidate for state, local or judicial office;
3. Appears within 60 days of an election in the candidate’s jurisdiction; and
4. Costs \$1,000 or more.

### **RCW 42.17A.005(19)(a).**

Necessary updates to WAC 390-18-050 were overlooked during the Commission’s 2006 rule making to implement the Electioneering Communications Act [Chapter 445, Laws of 2005]. The commercial advertisers’ public inspection rule currently applies to just express advocacy advertising and does not yet specifically reference electioneering communications as required by RCW 42.17A.345(1).

### **Commission Action**

Staff requests the Commission approve the attached draft language to amend WAC 390-18-050. The proposed amendments clarify that commercial advertisers records related to electioneering communications are subject to the public inspection provisions of RCW 42.17A.345. Once approved, staff will file a notice of hearing with the code reviser to schedule a May 2015 hearing.

Attachments: Draft proposed amendments to WAC 390-18-050

**WAC 390-18-050 Commercial advertisers—Public inspection of rec-**

**ords.** (1) Pursuant to RCW 42.17A.345, any person, without reference to or permission from the public disclosure commission, is entitled to inspect (~~(the advertising records of)~~) a commercial advertiser's po-  
litical advertising or electioneering communications documents and  
books of account.

(2) No commercial advertiser shall be required to make available for public inspection information regarding advertising or election-  
eering communications prior to the time when the advertisement or com-  
munication has initially received public distribution or broadcast.

(3) The documents and books of account that must be maintained open for public inspection pursuant to RCW 42.17A.345(1) are:

(a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified;

(b) The name and address of the person who sponsored the advertising or electioneering communication;

(c) The total cost of the advertising or electioneering communi-  
cation, how much of that amount has been paid, who made the payment, when it was paid, and what method of payment was used; and

(d) Date(s) the commercial advertiser rendered service.

(4) In addition to subsection (3) of this section and pursuant to RCW 42.17A.345 (1)(b), the documents and books of account open for public inspection must include a description of the major work components or tasks, as specified in (a) through (f) 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: 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.

[Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-18-050, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370 and 42.17.562. WSR 06-11-132, § 390-18-050, filed 5/23/06, effective 6/23/06. Statutory Authority: RCW 42.17.370(1). WSR 99-12-068, § 390-18-050, filed 5/27/99, effective 6/27/99. Statutory Authority: RCW 42.17.370. WSR 93-04-072, § 390-18-050, filed 1/29/93, effective 3/1/93.]