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EXPEDITE
 Hearing is set:
Date: _____
Time: _____
Judge/Calendar: _____

No hearing is set.

THE HONORABLE _____

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THURSTON COUNTY

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE, and DWIGHT
PELZ, Chairman of the Washington State
Democratic Central Committee,
WASHINGTON STATE REPUBLICAN
PARTY, and KIRBY WILBUR, Chairman
of the Washington State Republican Party,

Plaintiff,

v.

THE WASHINGTON SECRETARY OF
STATE, THE WASHINGTON
SECRETARY OF STATE DIVISION OF
ELECTIONS, and SAM REED, in his
official capacity as Secretary of State,

Defendants.

No. _____

COMPLAINT AND PETITION FOR
REVIEW

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I. INTRODUCTION

1. Washington State has administered elections for the office of Precinct Committee Officer—a leadership position in major political parties—for more than one hundred years. The Washington Legislature has adopted numerous statutes, including RCW 29A.04.311 and 29A.80.041, that require Washington’s election officials to conduct these elections. Under these statutes, the grass roots constituency of political parties have the opportunity to elect their party leaders and hold them accountable for their policies and nominated representatives. Despite the traditional and important role of these elections and the Legislature’s requirement that these elections be held, the Washington Secretary of State Sam Reed and the Division of Elections (collectively “Defendants”) have adopted an administrative rule preemptorily announcing that “precinct committee officer elections are no longer [to be] conducted by state or county government.” Defendants' decision to abolish Precinct Committee Officer elections by administrative fiat contravenes Washington law which has required the State to conduct Precinct Committee Officer elections, and thus exceeds Defendants' rule-making authority, and is arbitrary and capricious. The Washington State Democratic Central Committee, its Chair Dwight Pelz, the Washington State Republican Party, and its Chair Kirby Wilbur (collectively “Plaintiffs”) respectfully request that the Court enter an order declaring that (1) Defendants' newly-adopted administrative rules purporting to abolish or prohibit these elections constitute an invalid and improper effort to amend state law by administrative rule, and (2) Defendants remain obligated to conduct elections for Precinct Committee Officers as required by law.

II. PLAINTIFFS/PETITIONERS

2. The Washington State Democratic Central Committee (“Democratic Party”) is a “major political party” as defined in RCW 29A.04.086 and is organized for the purposes

1 of promoting the political beliefs of its members and electing public officials who will
2 conduct government affairs in a manner consistent with the Democratic Party's philosophy.
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4 The Democratic Party has all the powers inherent in a political organization and is
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6 empowered to perform all functions inherent in a political party. The Democratic Party's
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8 offices are located at 615 2nd Ave., Suite 580, Seattle, WA 98104.
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11 3. Dwight Pelz is a resident of King County, Washington. He is the elected
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13 Chairman of the Washington State Democratic Central Committee, the governing body of
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15 the political party pursuant to its Charter, and is the political and administrative head of the
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17 Democratic Party pursuant to its Charter and Bylaws and RCW 29A.80.020, *et seq.* Mr.
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19 Pelz's primary place of business is located at 615 2nd Ave., Suite 580, Seattle, WA 98104.
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21 4. The Washington State Republican Party ("Republican Party") is a "major
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23 political party" as defined in RCW 29A.04.086 and is organized for the purposes of
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25 promoting the political beliefs of its members and electing public officials who will conduct
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27 government affairs in a manner consistent with the Republican Party's philosophy. The
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29 Republican Party has all the powers inherent in a political organization and is empowered to
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31 perform all functions inherent in a political party. The Republican Party's offices are located
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33 at 11811 N.E. 1st Street, Suite A306, Bellevue, WA 98005.
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35 5. Kirby Wilbur is a resident of King County, Washington. He is the elected
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37 Chairman of the Washington State Republican Party, and is the political and administrative
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39 head of the Washington State Republican Party pursuant to its Bylaws and RCW
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41 29A.80.020, *et seq.* Mr. Wilbur's primary place of business is located at 11811 N.E. 1st
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43 Street, Suite A306, Bellevue, WA 98005.
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III. DEFENDANTS/RESPONDENTS

6. The Secretary of State is an agency subject to this action. The Secretary of State is located at the Legislative Building, 416 Sid Snyder Avenue Southwest, Olympia, WA.

7. The Division of Elections is an agency subject to this action. The Division of Elections is responsible for the administration of elections in Washington and is located at 520 Union Avenue SE, Olympia, WA.

8. Defendant Sam Reed is, and at all times relevant to this complaint was, the Secretary of State for the State of Washington, an agency subject to this action. He is the chief election officer of Washington State. He is located at the Legislative Building, 416 Sid Snyder Avenue Southwest, Olympia, WA.

IV. VENUE

9. This Court has jurisdiction over this matter and venue is proper in this Court pursuant to RCW 4.12.025 and RCW 34.05.570(2)(b) because this complaint is against defendants located in Thurston County and seeks a declaratory judgment declaring an agency rule invalid.

V. ALLEGATIONS

10. A Precinct Committee Officer is a member of a major political party elected to serve as a local leader in his or her party. Ch. 29A.80 RCW. Washington State has conducted elections for Precinct Committee Officers for over a century and for at least as long as it has conducted primary elections. The office is recognized by the Washington State Constitution, and the Washington Legislature has adopted numerous statutes governing the requirements, duties, and elections of Precinct Committee Officers.

1 11. Elections for Precinct Committee Officers are explicitly required by state
2 statute. RCW 29A.04.311 specifically provides that during primary elections, “the election
3 of precinct committee officers must be held.” In 2011, the Washington Legislature re-
4 adopted this provision, affirming the requirement that Washington State election officials
5 administer elections for Precinct Committee Officers.
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10 12. Washington statutes also require that the office of Precinct Committee
11 Officer be included on primary election ballots and on state-issued notices for the primary.
12 Under RCW 29A.80.051, Precinct Committee Officers “must be voted upon at the
13 primaries, and the names of all candidates must appear under the proper party and office
14 designations on the ballot for the primary for each even-numbered year, and the one
15 receiving the highest number of votes will be declared elected.” RCW 29A.04.216 provides
16 that “[t]he notice of a primary held in an even-numbered year must indicate that the office of
17 precinct committee officer will be on the ballot.” The Washington Legislature also re-
18 adopted this directive in 2011.
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28 13. Washington law also requires that information about Precinct Committee
29 Officers be included in state-issued voter pamphlets. RCW 29A.32.036 requires that any
30 voter pamphlet for a primary in an even-numbered year “contain . . . [a] description of the
31 office of precinct committee officer and its duties.”
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37 14. These statutes are clear beyond dispute: Washington State must conduct
38 elections for Precinct Committee Officers.
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40 15. The state offices and officers responsible for conducting and administering
41 the election for Precinct Committee Officer are the Secretary of State and the Election
42 Division. RCW 29A.04.230 provides that “[t]he secretary of state through the election
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1 division shall be the chief election officer for all federal, state, county, city, town, and
2 district elections.”
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5 16. As the state's chief election officer, the Secretary of State “shall make
6 reasonable rules in accordance with chapter 34.05 RCW not inconsistent with the federal
7 and state election laws to effectuate any provision of this title and to facilitate the execution
8 of its provisions in an orderly, timely, and uniform manner relating to any federal, state,
9 county, city, town, and district elections.” RCW 29A.04.611. Specifically, Defendants
10 must make rules governing “[s]tandards for the design, layout, and production of ballots,”
11 “[t]he order of positions and offices on a ballot,” “[s]tandards and procedures for the proper
12 conduct of voting on accessible voting devices,” and numerous other provisions for
13 conducting elections, including the election of Precinct Committee Officers. RCW
14 29A.04.611. Other statutory provisions, including RCW 43.07.310, require that Defendants
15 conduct and administer elections in Washington, and RCW 29A.24.030 specifically requires
16 that the Secretary of State adopt rules for candidates for Precinct Committee Officer,
17 providing that “[t]he secretary of state shall adopt, by rule, a declaration of candidacy form
18 for the office of precinct committee officer and a separate standard form for candidates for
19 all other offices filing under this chapter.”
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35 17. In late 2008, the Secretary of State adopted modified rules governing the
36 election of Precinct Committee Officers. Those rules, codified in WAC 434-230-100,
37 provided that “[i]n even-numbered years, the election for the position of political party
38 precinct committee officer must be held on the third Tuesday of August.” The rules also
39 established the ballot requirements for Precinct Committee Officers and limitations on who
40 could vote for the officers.
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1 18. Notwithstanding Washington's long history of conducting Precinct
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3 Committee Officer elections and the explicit textual requirement that it continue to do so, on
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5 December 6, 2011, Defendants adopted a number of new rules, including a new version of
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7 WAC 434-230-100, which is attached as Exhibit A. The new version deleted the entire
8
9 preceding version and replaced it with the following:

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11 The method for electing precinct committee officers on
12 party ballots established in chapter 271, Laws of 2004 (the
13 pick-a-party primary), was repealed by Chapter 2, Laws of
14 2005. The method for electing precinct committee officers
15 on a top two primary ballot under chapter 2, Laws of 2005
16 (the top two primary), was declared unconstitutional by the
17 U.S. District Court for the Western District of Washington
18 in *Washington State Republican Party, et al. v. State of*
19 *Washington, et al.*, Case No. C05-0927-JCC (January 11,
20 2011). "The central holding is that the political parties, not
21 the government, are free to define the scope of their
22 membership." Consequently, precinct committee officer
23 elections are no longer conducted by state or county
24 government. As private organizations, the political parties
25 determine how to conduct their internal affairs, including
26 selection of their officers.
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30 Defendants adopted additional new rules amending or repealing previous rules governing
31 the election of Precinct Committee Officers, including but not limited to WAC 434-215-020,
32 WAC 434-262-075, and WAC 434-335-060.
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36 19. Defendants' new rules purport to prohibit Washington State election officials
37 from conducting elections for Precinct Committee Officers despite the statutory requirement
38 that the State conduct these elections and Washington's long history of doing so.
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42 20. Defendants appear to attempt to justify these new rules by citing an order
43 issued on January 11, 2011, by the U.S. District Court for the Western District of
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1 Washington in *Washington State Republican Party, et al. v. State of Washington, et al.*, Case
2 No. C05-0927-JCC. But Defendants critically misconstrue the Court's Order.
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5 21. Defendants appear to take the position that the U.S. District Court ruled that
6 it is unconstitutional for Washington State to conduct *any* elections for Precinct Committee
7 Officers. But the Court, plainly, did not so hold. Rather, it held that the “*current process*
8 for electing the major political parties' Precinct Committee Officers . . . does not pass
9 constitutional muster.” (Emphasis added). The Court issued this ruling at the request of
10 Plaintiffs because the Defendants' existing *procedures* for electing Precinct Committee
11 Officers in the “top-two” primary system violated the parties' First Amendment right to free
12 association and to control who can vote for Precinct Committee Officers. The parties most
13 assuredly never sought, much less obtained, a ruling invalidating Precinct Committee
14 Officer elections in their entirety. Indeed, Plaintiffs specifically suggested ways in which
15 the existing statutes could be implemented without modification and thus made it clear they
16 could not be declared facially unconstitutional. Plaintiffs' motion sought nothing more than
17 a declaration that the existing *method* of conducting these elections (which allowed voters to
18 vote on Precinct Committee Officers without declaring themselves to be members of the
19 party for which they wished to vote) was invalid and unconstitutional. Consistent with the
20 parties' request, the Court held precisely that: “Washington's *method* of electing precinct
21 committee officers is unconstitutional because it severely burdens the political parties'
22 ability to identify and associate with members of their respective parties.” (Emphasis
23 added). Nowhere in the Court's opinion or related order did the Court find that
24 Washington's Precinct Committee Officer election requirement was itself unconstitutional.
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27 22. Indeed, to the contrary, the Court noted that there are a variety of alternative
28 methods of conducting the Precinct Committee Officer elections required by statute. The
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1 Court noted that “the political parties offer multiple approaches that would satisfy them that
2 only party members select their [Precinct Committee Officers] . . . Washington may also
3 decide to implement [Precinct Committee Officer] elections in a manner not yet conceived
4 but ultimately satisfactory to the political parties.” This holding necessarily means that the
5 statutes are not themselves unconstitutional. As the United States Supreme Court has noted:
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7 “Under *United States v. Salerno*, 481 U. S. 739 (1987), a plaintiff can only succeed in a
8 facial challenge by ‘establish[ing] that no set of circumstances exists under which the Act
9 would be valid,’ i.e., that the law is unconstitutional in all of its applications. *Id.* at 745.
10 While some Members of the Court have criticized the *Salerno* formulation, all agree that a
11 facial challenge must fail where the statute has a ‘plainly legitimate sweep.’ *Washington v.*
12 *Glucksberg*, 521 U. S. 702 , and n. 7 (1997) (Stevens, J., concurring in judgments).” *Wash.*
13 *State Grange v. Wash. State Rep. Party*, 552 U.S. 442, 449 (2008). Nothing in the Court’s
14 opinion held that statutes requiring the Defendants to conduct elections for Precinct
15 Committee Officers, and to pass rules for the administration of such elections, were
16 unconstitutional.
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23. Defendants have explicitly rejected their obligation to make rules governing
and to conduct and administer the elections of Precinct Committee Officers and, indeed,
have adopted rules specifically disclaiming that obligation and instructing county election
officials *not* to conduct such elections. Defendants’ interpretation of the U.S. District Court’s
January 11, 2011 Order is incorrect. Their new rules and rule-making are arbitrary and
capricious and exceed their statutory rule-making authority.

24. Defendants’ actions and new rules prejudice and harm Plaintiffs, who are the
intended beneficiaries of the statutes requiring Precinct Committee Officer elections, and the
public generally. These officers are elected by grassroots members of the party and hold

1 important positions in Washington's major political parties. Electing these officers through
2 state-administered elections ensures that the grass roots of the parties can fairly and non-
3 discriminatorily vote for their political party leaders, who in turn help to nominate and elect
4 representatives and officers of the state government. Defendants' new rules injure Plaintiffs
5 because they purport to relieve election officials of the statutory obligation to conduct
6 elections for leaders of Plaintiffs' parties and organizations and fail to fulfill an important
7 and legally-required public service. Moreover, Defendants' rules severely injure the public,
8 which has a strong interest in having its executive branch employees carry out, not ignore,
9 legislative mandates.
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21 **FIRST CAUSE OF ACTION**

22 **DECLARATORY JUDGMENT, Ch. 34.05 RCW**

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25 25. Plaintiffs reallege and incorporate by reference, as if fully set forth in this
26 paragraph, the allegations in paragraphs 1-24 above.
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29 26. Election officials and Defendants are required by innumerable statutes to
30 conduct elections for Precinct Committee Officers. *See, e.g.*, RCW 29A.04.311 (requiring
31 PCO elections to be held at primary); RCW 29A.04.216 (requiring county auditors to post
32 notice that office of PCO will be on the ballot of primaries held in even-numbered year);
33 RCW 29A.20.021 (providing that candidates for PCOs may file for more than one office);
34 RCW 29A.24.031 (requiring Secretary of State to adopt by rule declaration of candidacy
35 form for PCO); RCW 29A.24.091 (providing that PCO candidates need not submit filing fee
36 with a declaration of candidacy); RCW 29A.24.131 (delineating circumstances in which
37 PCO candidates may withdraw their candidacy); RCW 29A.24.181 (providing that usual
38 means of filing "void in candidacy" does not apply to office of PCO); RCW 29A.28.071
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1 (setting out method for filling vacancies in office of PCO); RCW 29A.32.036 (requiring
2 Secretary of State to include description of office of PCO in voter pamphlet for even-
3 numbered year primaries); RCW 29A.36.151 (requiring position of PCO to be shown on the
4 sample ballot for even-numbered year primaries); RCW 29A.36.201 (providing that the
5 name of a PCO candidate may appear on the ballot more than once); RCW 29A.52.106
6 (setting out intent of legislature to, among other things, exempt office of PCO from top two
7 primary system); RCW 29A.52.116 (exempting office of PCO from top two primary
8 system); RCW 29A.80.030 (discussing duty of county auditors to certify results of PCO
9 elections and requiring county central committee of each major political party (comprised of
10 elected PCOs) to meet promptly after primary election); RCW 29A.80.041 (establishing
11 eligibility requirements for PCO); RCW 29A.80.051 (providing, among other things, that
12 office of PCO “must be voted upon at the primaries” and establishing term of PCO).
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25 27. Defendants have the authority and the duty to make rules governing and
26 providing for the administration of elections for Precinct Committee Officers. *See* RCW
27 29A.04.611.
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31 28. The statutes requiring that Washington State election officials and
32 Defendants conduct elections for Precinct Committee Officers are constitutional, valid, and
33 fully enforceable. Nothing in the U.S. District Court's January 11, 2011, Order in
34 *Washington State Republican Party, et al. v. State of Washington, et al.*, Case No. C05-
35 0927-JCC, held—directly or indirectly—that these statutes are unconstitutional.
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41 29. Defendants exceeded their statutory rule-making authority by issuing rules,
42 such as WAC 434-230-100, that purport to prohibit Washington State election officials from
43 conducting Precinct Committee Officer elections notwithstanding their statutory obligation
44 to do so. *See, e.g.*, RCW 29A.04.311.
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1 35. Plaintiffs' rights and interests in having their grass roots representatives
2 elected as required by statute and in conducting their affairs free from the confusion and
3 uncertainty created by Defendants are direct and substantial.
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7 36. The dispute between Plaintiffs and Defendants is genuinely adversarial in
8 character. Defendants appear to argue that the statutes requiring them to conduct Precinct
9 Committee Officer elections, including RCW 29A.04.311, are facially unconstitutional and
10 therefore do not require them to conduct such elections. Plaintiffs, by contrast, contend that
11 these statutes are valid and must be administered and enforced by Defendants.
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16 37. Plaintiffs seek declaratory relief in this action, specifically declarations that
17 (1) Defendants' newly-adopted administrative rules purporting to abolish or prohibit these
18 elections constitute an invalid and improper effort to amend state law by administrative rule,
19 and (2) Defendants remain obligated to conduct elections for Precinct Committee Officers as
20 required by law. This relief can and will fully and finally decide and extinguish the parties'
21 dispute as to whether Washington State election officials and Defendants have a statutory
22 duty to conduct Precinct Committee Officer elections.
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30 VI. PRAYER FOR RELIEF

31 Accordingly, Plaintiffs respectfully request that the Court:
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- 33 1. Enter judgment in Plaintiffs' favor on its Petition for Review and Complaint;
- 34 2. Declare invalid and set aside Defendants' rules prohibiting Washington State
35 from conducting elections for Precinct Committee Officers;
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37 3. Declare that Defendants must conduct elections for Precinct Committee
38 Officers as required by statute; and
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40 4. Grant attorneys' fees, costs, and such further relief to the extent that the Court
41 deems such an award to be just and proper.
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DATED: December 22, 2011

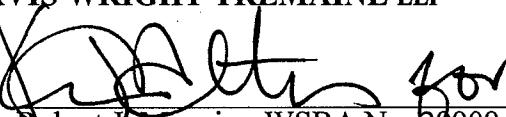
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DATED: December 22, 2011

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Republican Party and Kirby Wilbur

Exhibit A



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Office of the Secretary of State, Elections Division.

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

The proposed rules implement ESSB 5124, HB 1000, 2ESSB 5171, RCW 42.17A.005(6)(a), and *Washington State Republican Party, et al. v. State of Washington, et al.*, case no. C05-0927-JCC (January 11, 2011). The proposed rules also update the timing of county reviews, requirements for certification of election administrators, and deadlines for submissions to the state voters' pamphlet.

Citation of existing rules affected by this order:

Repealed: See attached.
Amended: See attached.
Suspended:

Statutory authority for adoption: RCW 29A.04.611, RCW 29A.04.620 and RCW 29A.04.630.

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 11-20-109 on October 5, 2011.

Describe any changes other than editing from proposed to adopted version:

The adopted rules clarify phrasing and correct typos.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted: December 6, 2011

NAME (TYPE OR PRINT)
Steve Excell

SIGNATURE

TITLE
Assistant Secretary of State

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 06, 2011
TIME: 9:41 AM

WSR 11-24-064

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>9</u>	Amended	<u>51</u>	Repealed	<u>67</u>

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	<u>22</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>6</u>	Repealed	<u>3</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>10</u>	Amended	<u>79</u>	Repealed	<u>70</u>
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Attachment to CR-103 filing
Office of the Secretary of State, Elections Division
December 6, 2011

Citation of existing rules affected by this order:

Repealed: 434-215-020, 434-215-140, 434-219-150, 434-219-210, 434-230-060, 434-230-070, 434-250-010, 434-250-020, 434-250-040, 434-250-050, 434-250-085, 434-250-090, 434-250-300, 434-250-310, 434-250-330, 434-253-005, 434-253-010, 434-253-020, 434-253-023, 434-253-024, 434-253-025, 434-253-030, 434-253-045, 434-253-047, 434-253-048, 434-253-049, 434-253-050, 434-253-070, 434-253-080, 434-253-090, 434-253-100, 434-253-110, 434-253-115, 434-253-120, 434-253-130, 434-253-140, 434-253-150, 434-253-160, 434-253-165, 434-253-170, 434-253-200, 434-253-203, 434-253-220, 434-253-225, 434-253-240, 434-253-250, 434-253-270, 434-253-280, 434-253-290, 434-253-300, 434-253-310, 434-253-320, 434-257-010, 434-257-020, 434-257-030, 434-257-040, 434-257-070, 434-257-090, 434-257-100, 434-257-130, 434-257-140, 434-257-150, 434-261-030, 434-261-040, 434-261-105, 434-262-075, 434-262-135, 434-262-203, 434-262-204, and 434-335-490.

Amended: 434-208-060, 434-208-110, 434-215-005, 434-215-040, 434-215-065, 434-219-080, 434-219-100, 434-219-115, 434-219-155, 434-219-190, 434-219-230, 434-219-290, 434-219-320, 434-219-330, 434-230-015, 434-230-030, 434-230-090, 434-230-100, 434-235-010, 434-235-020, 434-235-030, 434-235-040, 434-250-030, 434-250-035, 434-250-045, 434-250-070, 434-250-080, 434-250-095, 434-250-100, 434-250-110, 434-250-120, 434-250-130, 434-250-140, 434-250-320, 434-260-020, 434-260-040, 434-260-050, 434-260-110, 434-260-130, 434-260-150, 434-260-155, 434-260-220, 434-261-005, 434-261-010, 434-261-020, 434-261-050, 434-261-055, 434-261-070, 434-261-075, 434-261-102, 434-261-110, 434-261-120, 434-262-010, 434-262-013, 434-262-020, 434-262-025, 434-262-030, 434-262-031, 434-262-040, 434-262-070, 434-262-080, 434-262-090, 434-262-100, 434-262-110, 434-262-120, 434-264-090, 434-264-130, 434-324-005, 434-324-008, 434-324-010, 434-324-020, 434-324-031, 434-324-045, 434-324-106, 434-324-115, 434-335-040, 434-335-060, and 434-335-520.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-208-060 Electronic filings. (1) In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents:

(a) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(b) Any minor party or independent candidate filing material for president and vice-president, except nominating petitions;

(c) Lists of presidential electors selected by political parties or independent candidates;

(d) Voted ballots and signed ((affidavits)) ballot declarations from service and overseas voters received no later than 8:00 p.m. on election day. Voted ballots and signed ballot declarations from voters who are neither service nor overseas voters received no later than 8:00 p.m. on election day, as long as hard copies are received ((prior to)) no later than the day before certification of the election. Consistent with WAC 434-250-080, it is the first ballot and ((affidavit)) declaration received that may be processed and counted. Voted ballots received electronically no later than 8:00 p.m. on election day are timely even if the postmark on the return envelope is after election day;

(e) Resolutions from cities, towns, and other districts calling for a special election; ((and))

(f) Voter registration forms, unless the form is illegible or the signature image is poor quality requiring the county auditor to reject the form;

(g) Signed ballot declarations, and any accompanying materials, submitted pursuant to WAC 434-261-050; and

(h) Requests to withdraw.

(2) If payment of a fee is required, ((acceptance of an)) the electronic filing is ((conditional)) not complete until the fee is received.

~~(3) ((If the original document must be signed, acceptance of an electronic filing is conditional until receipt of the original document. Except for mail ballots, the original document must be received no later than seven calendar days after receipt of the electronic filing.~~

~~(4))~~ No initiative, referendum, ((or)) recall, or other signature petitions ((signatures)) may be filed electronically.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-208-110 (~~(Applicable dates and deadlines.)~~)
References to time. (~~(If dates, deadlines, and time periods referenced in chapter 2, Laws of 2005, conflict with subsequently enacted law, such as chapter 344, Laws of 2006, the subsequently enacted law is effective.)~~) References to times of day (i.e., 8:00 p.m.) are according to Pacific Time.

NEW SECTION

WAC 434-208-130 Political parties. (1) For purposes of RCW 29A.04.086, "major political party" means a political party whose nominees for president and vice-president received at least five percent of the total votes cast for that office at the last preceding presidential election. A political party that qualifies as a major political party retains such status until the next presidential election at which the presidential and vice-presidential nominees of that party do not receive at least five percent of the votes cast.

(2) For purposes of RCW 42.17A.005, the secretary of state recognizes as a minor political party a political party whose nominees for president and vice-president qualified to appear on the ballot in the last preceding presidential election according to the minor party nomination process provided in RCW 29A.20.111 through 29A.20.201. A political party that qualifies as a minor political party retains such status until certification of the next presidential election. This definition is for purposes of chapter 42.17A RCW only.

(3) As allowed by WAC 434-215-012, 434-215-120, and 434-215-130, candidates for partisan office may state a preference for any political party and are not restricted to stating a preference for a political party that meets the definition of major or minor political party. A candidate's party preference does not imply that the candidate is nominated or endorsed by that party, or that the party approves of or associates with that candidate. With the exception of elections for president and vice-president, a party's status as a major or minor political party, or a candidate's preference for a major or minor political party, plays no role in how candidates qualify to appear on the primary election ballot, qualify to appear on the general election ballot, or are elected to public office.

NEW SECTION

WAC 434-208-140 Election notices. Election notices are governed by RCW 29A.04.220 and 29A.52.XXX (section 45, chapter 10 (ESSB 5124), Laws of 2011).

(1) "Short titles for ballot measures" means the name of the jurisdiction, the measure number, and the heading or caption.

(2) The notice for elderly and disabled person required by RCW 29A.04.220 may be combined with the notice of election required by RCW 29A.52.XXX (section 45, chapter 10 (ESSB 5124), Laws of 2011) in a single publication.

(3) Public meetings associated with the election include county canvassing board meetings.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-215-005 Filing information--Questionnaire--Compiling and dissemination. (1) Prior to ~~((March))~~ February 1, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction for which the auditor is the candidate filing officer subject to the provisions of RCW 29A.04.321 and 29A.04.330. The questionnaire must be sent ~~((in))~~ during the ~~((year))~~ twelve months before the local jurisdiction is scheduled to elect officers. The purpose of the questionnaire shall be to confirm information which the auditor must use to properly conduct candidate filings for each office. The questionnaire should request, at a minimum, confirmation of offices to be filled at the general election that year, the name of the incumbent, and the annual salary for the position at the time of the filing period. Responses should be received prior to ~~((April))~~ March 1 of that year so that the filing information can be compiled and disseminated to the public at least two weeks prior to the candidate filing period.

(2) If a jurisdiction fails to notify the county auditor prior to the regular candidate filing period that an office is to be filled at the general election and therefore the office is not included in the regular candidate filing period, the county auditor shall ~~((conduct a special three-day filing period for that office under the time frames established in RCW 29A.24.171 through 29A.24.191))~~ :

(a) Open the position during the remainder of the regular filing period if the county auditor is notified in time to provide at least three days in the regular filing period. The county auditor must post information on-line and notify the press; or

(b) Open the position during a special three-day filing period as though there is a void in candidacy per RCW 29A.24.181.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-215-040 Filing notification. Declarations of candidacy for legislative, court of appeals, and superior court districts located within one county must be filed with the county auditor. All information listed on the declaration of candidacy for these offices must be sent electronically to the secretary of state ~~((within one business))~~ the same day the filing was accepted.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-215-065 Withdrawal of candidacy. Consistent with RCW 29A.24.131, a candidate may withdraw his or her declaration of candidacy at any time before the close of business on the ~~((Thursday))~~ Monday following the last day for candidates to file. The candidate must file a signed request that his or her name not be printed on the ballot. This request to withdraw must be filed with the officer who accepted the declaration of candidacy ~~((and,)).~~ Once filed, the withdrawal cannot be revoked. There shall be no withdrawal period for declarations of candidacy filed during special filing periods. ~~((The filing officer has discretion to permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary election ballots have not been formatted. If no primary election is held for that office, the filing officer has discretion to permit the withdrawal at any time before the general election ballots are formatted. If the jurisdiction is located in more than one county, withdrawal of a filing may only be accepted if ballots have not been formatted in all affected counties.))~~

NEW SECTION

WAC 434-215-165 Presidential nominations by major political parties. Nominations for president and vice-president by major political parties are conducted at each party's national convention. Immediately following the convention, each party must submit a certificate of nomination and list of electors to the secretary of state in order to place the nominees on the presidential general election ballot.

NEW SECTION

WAC 434-215-180 Write-in candidates. A candidate desiring to file as a write-in candidate must file the write-in declaration of candidacy no later than eighteen days before election day, the deadline in RCW 29A.40.070 that ballots must be mailed.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-215-020	Declaration of candidacy--Precinct committee officer.
WAC 434-215-140	Voids in candidacy and vacancies in office.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-080 Petition process for ballot access. Members of a major political party may petition the secretary of state, pursuant to the provisions of RCW 29A.56.030, to include on the presidential primary ballot the name of any candidate of that party not designated by the secretary of state under WAC 434-219-060. Petitions may be circulated for signatures not earlier than the first day following the designation of candidates by the secretary of state under WAC 434-219-060. Such petitions must be filed with the secretary of state not later than ~~((sixty))~~ seventy-five days prior to the primary, shall be accompanied by a signed, notarized statement by the candidate concerned giving his or her consent to the nomination, and must bear the signatures of at least one thousand persons registered to vote in the state of Washington at the time the petition signatures are verified.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-100 Verification of signatures by secretary of state. Upon receipt of any nominating petition filed pursuant to WAC 434-219-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the petition. The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-219-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW 29A.72.230 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and ~~((any multiple signatures from the same voter))~~, if the same name is signed more than once, shall reject all but the first valid signature. No signature may be rejected solely on the basis that it is not accompanied by the address or precinct name or number of the signer.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-115 Withdrawal. Each candidate shall appear on the primary ballot unless, not later than ~~((fifty-two))~~ sixty-seven days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not now and will not become a candidate for president. The secretary of state shall promptly notify the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates of any names removed from the list of candidates for the presidential primary.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-155 Party declaration (~~((for absentee ballots))~~) on ballot materials. (1) Each political party declaration shall be printed on the return envelope with the standard ~~((absentee))~~ ballot ~~((oath))~~ declaration required by WAC 434-250-050. Each declaration shall be printed with a checkbox for voters to indicate the party declaration to which they subscribe. The county auditor shall provide an instruction for the party declarations substantially similar to the following: "You must mark a party checkbox in order for your presidential primary vote to count. You may only select one party."

(2) The date and signature lines for the ~~((absentee))~~ ballot ~~((oath))~~ declaration shall also serve as the date and signature lines for the political party declaration.

(3) In addition to other instructions normally provided to ~~((absentee))~~ voters, the county auditor shall ensure that voters are given specific instructions on how to mark their ballot so that it will be counted in accordance with the oath they signed on the return envelope.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-219-190 Special election held in conjunction with the presidential primary. If a presidential primary ~~((is scheduled concurrently with))~~ occurs at the same election as a special election ~~((under RCW 29A.04.321 or 29A.04.330))~~, all measures or candidates for office for which the voters are eligible to vote at that special election shall be listed on the ballot in such a

manner that each voter can identify and vote on those candidates or measures separately from the presidential primary candidates.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-230 Processing of ((absentee)) ballots. (1) If the voter checked a political party declaration ((~~on the absentee ballot return envelope~~)), a notation of the party checked must be made in the voter's registration file.

(2) If the ((~~return envelope~~)) declaration is not signed or the signature on the ((~~envelope~~)) declaration does not match the signature on file, the county auditor must attempt to contact the voter as outlined in WAC 434-261-050. If the voter also failed to check a political party declaration, the county auditor must also provide the voter the opportunity to check a party declaration.

(3) The ballot must be sorted according to major party declaration choice before it is removed from the return envelope. Once the ballot is removed from the return envelope and secrecy envelope, it must be inspected and processed consistent with the party declaration ((~~on the return envelope~~)).

(4) If the voter's signature is verified, the voter may be credited with having participated in the election, even if the voter failed to check a political party declaration.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-290 Certification of presidential primary by secretary of state. County canvassing boards shall certify the results of the presidential primary ((~~fifteen~~)) fourteen days following the primary. The county auditor shall transmit the returns to the secretary of state immediately. Not later than twenty-one days following the presidential primary, the secretary of state shall certify the results of the presidential primary and notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for all candidates listed on the ballot.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-320 Transmittal of political party preference data and results to the major political parties. No later than thirty days following the presidential primary:

(1) Upon request, each county auditor shall provide to the county committee of each major political party, at actual reproduction cost, the results of the presidential primary by precinct, and the names and addresses of voters registered in the county who signed a party (~~oath for that party in a poll book, or signed a party~~) declaration for that party (~~on a return envelope~~) and the signature was verified.

(2) Upon request, the secretary of state shall provide to the state committees of each major political party, at actual reproduction cost, the names and addresses of all voters registered in the state who signed a party (~~oath for that party in a poll book, or signed a party~~) declaration for that party (~~on a return envelope~~) and the signature was verified.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-330 Retention of election material. The county auditor shall maintain all presidential primary material, including ballot request forms, (~~absentee~~) ballot envelopes, (~~poll books,~~) and ballots, for a period of twenty-two months following the presidential primary. Sixty days following certification of the presidential primary by the secretary of state, the county auditor must remove from the voter registration files any record of party designation in the presidential primary.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|---|
| WAC 434-219-150 | Party declaration at the polling place. |
| WAC 434-219-210 | Issuing polling place ballots. |

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-230-015 Ballots ((format)) and instructions. (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

A citizen of the United States;

A legal resident of the state of Washington;

At least 18 years old on election day;

Voting only once in this election;

Not under the authority of the Department of Corrections for a Washington felony conviction; and

Not disqualified from voting due to a court order.

It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both."

The declaration must include space for the voter to sign and date the declaration, for the voter to write his or her phone number, and for two witnesses to sign if the voter is unable to sign.

County auditors may use existing stock of declarations until June 1, 2012.

(d) Explain how to make a mark, witnessed by two other people, if unable to sign the declaration;

(e) Explain how to place the ballot in the security envelope and place the security envelope in the return envelope;

(f) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(g) Explain that postage is required, if applicable;

(h) Explain that, in order for the ballot to be counted, it

must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;

(i) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;

(j) Include, for a primary election that includes a partisan office, a notice on an insert explaining:

"In each race, you may vote for any candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(k)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice-president appear on the general election ballot, the following must be added to the statement required by (k)(i) of this subsection:

"The election for president and vice-president is different. Candidates for president and vice-president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

~~((4))~~ (6)(a) If the ballot includes a partisan office, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice-president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice-president but immediately above the first partisan congressional, state or county office: "READ:

Each candidate for president and vice-president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

~~((5))~~ (7) Counties may use varying sizes and colors of ballots ~~((cards if))~~, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate ~~((absentee ballots, poll ballots, or provisional))~~ various types of ballots.

~~((6))~~ (8) Ballots shall be formatted as provided in RCW 29A.36.170. Ballots shall not be formatted as stated in RCW 29A.04.008 (6) and (7), 29A.36.104, 29A.36.106, 29A.36.121, 29A.36.161~~((4))~~ (5), and 29A.36.191.

~~((7))~~ (9) Removable stubs are not considered part of the ballot.

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

WAC 434-230-030 Placement of ballot measures for local units of government. All county-wide ballot measures shall be listed immediately following state ballot measures. In the absence of state ballot measures, county-wide ballot measures shall appear first where state ballot measures would appear. For other local ballot measures and offices, each county shall establish written procedures to determine the order in which local units of government are to be listed on the ballot. Such order of local governmental units shall be substantially consistent on ~~((official, absentee, and sample))~~ all ballots. The order may be determined by, but is not limited to the following: Size of jurisdictional area, alphabetical order by jurisdictional area, or such order as to provide for efficient use of ballot spacing and voting positions. Such procedures are to provide consistency from election to election within a county.

Except for county-wide ballot measures, local ballot measures and offices, if any, may be positioned in the area dedicated for that jurisdiction; or, local ballot measures may be grouped in a separate area dedicated to special measures only. This may be an area on the ballot separate from the candidates of such local government unit.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-090 Determining nominees for multiple positions.

If there are two or more places to be filled for a nonpartisan office, the number of candidates (~~(equalling)~~) equaling the number of positions to be filled who receive the highest number of votes at the primary and an equal number who receive the next highest number of votes shall appear under the designation for that office.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-230-100 Political party precinct committee officer.

~~((1) In even-numbered years, the election for the position of political party precinct committee officer must be held on the third Tuesday of August.~~

~~(2) Unlike candidates for public partisan office, candidates for precinct committee officer file and appear on the ballot as members of a major political party. The election of precinct committee officer is an intraparty election. Candidates compete against other candidates from the same political party. The candidate of each political party who receives the most votes is declared elected. Precinct committee officers are not elected according to the top two primary system established by chapter 2, Laws of 2005 (Initiative 872).~~

~~(3) Unlike candidates for public office, the order in which candidates for precinct committee officer appear on the ballot is based on each candidate's political party. The political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the other political parties following according to the number of votes cast for their nominees for president at the last presidential election. Within each party, candidates shall be listed in the order determined by lot.~~

~~(4) If no candidate files for political party precinct committee officer, the position appears on the ballot with space for a write-in. There is no special filing period, the political party does not appoint a candidate, and the election does not lapse. If no candidate is elected, the party may fill the position by appointment, pursuant to RCW 29A.28.071.~~

~~(5)(a) The position of political party precinct committee officer must appear following all measures and public offices.~~

~~(b) The heading must state, "election of political party precinct committee officer."~~

~~(c) The following explanation must be provided before the list of candidates: "Precinct committee officer is a position in each major political party. For this office only: If you consider~~

~~yourself a democrat or republican, you may vote for a candidate of that party."~~

~~(d) (i) If all candidates are listed under one heading, the applicable major political party affiliation of either "democratic party candidate" or "republican party candidate" must be printed under each candidate's name. The first letter of each word must be capitalized, as shown in the following example:~~

~~John Smith
Democratic Party Candidate~~

~~The race must explain, "for a write-in candidate, include party."~~

~~(ii) If candidates are listed under a major political party heading, the applicable heading of either "democratic party candidates" or "republican party candidates" must be printed above each group of candidates. The first letter of each word must be capitalized. Space for a write-in must be provided for each political party heading.~~

~~(6) A voter may vote for only one candidate for precinct committee officer. If a voter votes for more than one candidate, the votes must be treated as overvotes. For the limited purpose of voting in a precinct committee officer election, a voter affiliates with a major political party when he or she votes for a candidate of that party.) The method for electing precinct committee officers on party ballots established in chapter 271, Laws of 2004 (the pick-a-party primary), was repealed by chapter 2, Laws of 2005. The method for electing precinct committee officers on a top two primary ballot under chapter 2, Laws of 2005 (the top two primary), was declared unconstitutional by the U.S. District Court for the Western District of Washington in *Washington State Republican Party, et al. v. State of Washington, et al.*, Case No. C05-0927-JCC (January 11, 2011). "The central holding is that the political parties, not the government, are free to define the scope of their membership." Consequently, precinct committee officer elections are no longer conducted by state or county government. As private organizations, the political parties determine how to conduct their internal affairs, including selection of their officers.~~

NEW SECTION

WAC 434-230-130 Envelopes. Mail-in ballots must be accompanied by the following:

(1) A security envelope, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;

(2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must

display the official election materials notice required by the United States Postal Service, display the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and conform to postal department regulations.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-230-060	Primary votes required for appearance on general election ballot.
WAC 434-230-070	Method for billing expense for printing and distributing ballot materials.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-010 Scope. (1) This chapter implements the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Sec. 1973ff, the Military and Overseas Voter Empowerment Act, 42 U.S.C. Sec. 1973ff, and the provisions for service and overseas voters in Title 29A RCW.

(2) Uniformed service voter is defined in 42 U.S.C. Sec. 1973ff-6(1) as:

(a) A member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(b) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

(c) A spouse or dependent who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(3) Service voter is defined in RCW 29A.04.163 as any elector of the state of Washington who:

(a) Is a member of the armed forces under 42 U.S.C. Sec. 1973ff-6 while in active service;

(b) Is a member of a reserve component of the armed forces;

(c) Is a student or member of the faculty at a United States military academy;

(d) Is a member of the merchant marine of the United States; or

(e) Is a member of a religious group or welfare agency officially attached to and serving with the armed forces of the United States.

(4) References in Title 434 WAC to "service voter" include voters who meet either the federal definition for "uniformed service voter" or the state definition for "service voter."

(5) Overseas voter is defined in 42 U.S.C. Sec. 1973ff-6(5) as:

(a) An absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(b) A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(c) A person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

~~((5))~~ (6) Overseas voter is defined in RCW 29A.04.109 as any elector of the state of Washington outside the territorial limits of the United States.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-020 Voter registration. (1) A ~~((uniformed,))~~ service~~((,))~~ or overseas voter may register to vote by providing:

(a) A voter registration application issued by the state of Washington;

(b) A federal post card application issued by the federal voting assistance program;

(c) A federal write-in absentee ballot issued by the federal voting assistance program;

(d) A national mail voter registration form issued by the election assistance commission; or

(e) ~~((An absentee))~~ A ballot with a valid signature on the ~~((return envelope oath))~~ ballot declaration.

(2) Pursuant to RCW 29A.40.010 and 29A.40.091, a ~~((uniformed,))~~ service~~((,))~~ or overseas voter does not have to be registered in order to request ~~((an absentee))~~ a ballot. Consequently, a ~~((uniformed,))~~ service~~((,))~~ or overseas voter may request a ballot and be registered after the registration deadlines of RCW 29A.08.140 have passed.

(a) If the voter is not currently registered, the county auditor must register the voter immediately. The voter must be flagged in the voter registration system as a service or overseas voter.

(b) A ~~((uniformed,))~~ service~~((,))~~ or overseas voter must use his or her most recent residential address in Washington, or the most recent residential address in Washington of a family member.

(c) If the county auditor is unable to precinct the voter due to a missing or incomplete residential address on the application, the county auditor must attempt to contact the voter to clarify the application. If, in the judgment of the county auditor, there is insufficient time to correct the application before the next election or primary, the county auditor must issue the ~~((absentee))~~ ballot as if the voter had listed the county auditor's office as his or her residence. A special precinct for this purpose may be created. ~~((Upon its return, the ballot must be referred to the county canvassing board.))~~ The only offices and issues that may be tabulated are those common to the entire county and congressional races based on the precinct encompassing the auditor's office.

(d) A voter who registers to vote by signing the ~~((return envelope of the absentee))~~ ballot declaration is not required to provide a driver's license number, Social Security number or other form of identification as required in RCW 29A.08.107.

(3) The county auditor must offer a ~~((uniformed,))~~ service~~((,))~~ or overseas voter the option of receiving blank ballots by e-mail or postal mail. This requirement is satisfied if the ~~((uniformed,))~~ service~~((,))~~ or overseas voter registers on an

application that offers electronic ballot delivery as an option, or if the voter expresses a preference when registering, updating a registration, or requesting a ballot. The county auditor must attempt to contact the voter by phone, e-mail, postal mail, or other means. If the voter does not indicate a preference or does not respond, the county auditor must send ballots by postal mail.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-030 ((Absentee)) Voting. (1) A ((uniformed,)) service((,)) or overseas voter may request or return ((an absentee)) a ballot by:

- (a) Any manner authorized by WAC 434-250-030;
- (b) A federal post card application issued by the federal voting assistance program; or
- (c) A federal write-in absentee ballot issued by the federal voting assistance program.

(2) ~~((Pursuant to RCW 29A.40.070, absentee ballots issued to registered uniformed, service, or overseas voters must be mailed at least thirty days prior to the election or primary. Requests for absentee ballots received after that day must be processed immediately.~~

~~((3))~~) The county auditor must issue ((an absentee)) a ballot by mail, e-mail, or fax if specifically requested by the voter. A ballot does not have to be mailed if it is e-mailed or faxed to the voter. If an e-mail is returned as undeliverable and the voter has not provided an alternate e-mail address, then the ballot must be sent by postal mail.

~~((4))~~) (3) Ballot materials must include the mailing address, phone number, fax number, e-mail address, and web site of the county auditor's office to enable a voter to contact the elections office for additional information about the election. Ballot materials must include instructions on how to return the ballot by fax, e-mail, or postal mail, including how to include the ballot privacy sheet between the declaration page and the ballot. Ballot materials must include instructions on how to confirm that the voted ballot has been received by the elections office~~((This information must be provided))~~, in a format that the voter can keep after the voted ballot has been returned.

~~((5))~~) (4) If the county auditor is unable to issue ((an absentee)) a ballot due to insufficient information, the county auditor must attempt to contact the voter to clarify the request. If the county auditor is unable to obtain sufficient information to issue the ((absentee)) ballot, the county auditor must attempt to notify the voter of the reason that the ballot was not issued.

~~((6))~~) (5) Pursuant to RCW ~~((29A.40.150))~~ 29A.40.091, return envelopes must be printed to indicate that they may be returned postage-free.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-040 Processing ((absentee)) ballots. (1) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of a federal write-in absentee ballot or a special absentee ballot if the intention of the voter can be ascertained.

(2) For service and overseas voters, the date on the ((envelope)) ballot declaration associated with the voter's signature ((, rather than the postmark on the envelope,)) determines the validity of the ballot. The signature on the ((oath)) ballot declaration must be dated no later than election day.

(3) Voted ballots returned by fax or e-mail must ((meet the requirements of RCW 29A.40.150 and WAC 434-208-060)) be received no later than 8:00 p.m. on election day. The county auditor must apply procedures to protect the secrecy of voted ballots returned by fax or e-mail. Voted ballots returned by e-mail may be returned as multiple attachments or multiple e-mails. In order to maintain the secrecy of the ballot, the county auditor must print the e-mail and attachments. The printed e-mail and declaration page must be processed and retained the same as a ballot declaration. The printed ballot must be processed and retained the same as other ballots. In order to maintain the secrecy of the ballot, the electronic versions of the e-mail, ballot declaration, and ballot are exempt from public disclosure.

(4) The county auditor must provide statistics on voting by ((uniformed,)) service and overseas voters in the certification report required by RCW 29A.60.235 and in response to requests by the federal election assistance commission.

Chapter 434-250 WAC
(~~VOTING~~) ELECTIONS BY MAIL

(~~BALLOTS~~)

(~~ELECTIONS BY MAIL~~)

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-250-030 (~~Applications~~) Special absentee ballots.

(1) (~~Each county auditor who does not conduct all elections by mail must provide a form to allow a poll voter to become an ongoing absentee voter. The form must include, but not be limited to, the following:~~

(a) ~~A space for the voter to print his or her name and the address at which he or she is registered to vote;~~

(b) ~~The address to which the ballot is to be mailed; and~~

(c) ~~A space for the voter to sign and date the application.~~

(2) ~~As authorized by RCW 29A.40.020 and 29A.40.030, requests for a single absentee ballot may be made in person, by telephone, electronically, in writing, or by a family member or registered domestic partner. With the exception of county auditors who conduct primaries and elections entirely by mail, each county auditor must provide applications for requests made in writing. The form must include, but not be limited to, the following:~~

(a) ~~A space for the voter to print his or her name and the address at which he or she is registered to vote;~~

(b) ~~The address to which the ballot is to be mailed;~~

(c) ~~A space for the voter to indicate for which election or elections the application is made; and~~

(d) ~~A space for the voter to sign and date the application.~~

(3) ~~As authorized by RCW 29A.40.050, requests for a special absentee ballot must be made in writing and each county auditor~~

must provide the applications. (~~In addition to the requirements for a single absentee ballot, as provided in subsection (2) of this section,~~) The form must include:

(a) A space for the voter to print his or her name and address where registered to vote;

(b) A postal or mailing address;

(c) A space for an overseas or service voter not registered to vote in Washington to indicate his or her last residential address in Washington; (~~and~~

(~~b~~) (d) A checkbox indicating that the voter will be unable to vote and return a regular ballot by normal delivery within the period provided for regular ballots; and

(e) A checkbox requesting that a (~~single absentee~~) regular ballot be forwarded as soon as possible.

(2) The county auditor shall honor any application for a special absentee ballot that is in substantial compliance with the provisions of this section. Any application for a special absentee ballot received more than ninety days prior to a primary or general election may be either returned to the applicant with the explanation that the request is premature or held by the auditor until the appropriate time and then processed.

~~((4) As authorized by RCW 29A.40.080, requests for an absentee ballot may be made by a resident of a health care facility, as defined by RCW 70.37.020(3). Each county shall provide an application form for such a registered voter to apply for a single absentee ballot by messenger on election day. The messenger may pick up the voter's absentee ballot and deliver it to the voter and return it to the county auditor's office.))~~ (3) Upon receipt of a special absentee ballot request, a regular ballot is mailed if available. If regular ballots are not available, the county auditor shall immediately send a special absentee ballot containing the known offices and measures scheduled to appear on the ballot; space for the voter to write in the name of any eligible candidate for each office and vote on any measure; and a list of any candidates who have filed and issues referred to the ballot.

(4) If a regular ballot is returned, the special ballot is not counted.

(5) Write-in votes on special ballots are counted in the same manner as other write-in votes.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-250-035 Protected records voters. (1) At least (~~twenty~~) eighteen days before every special, primary, or general election, authorized personnel shall review all protected records voter files and forward the appropriate (~~absentee~~) ballot for each protected records voter via the substitute mailing address.

(2) The ballot, ballot security envelope, and return envelope must be placed in an envelope addressed to the substitute address. The return envelope shall be (~~(printed)~~) marked in a manner that ensures that the returned ballot will be segregated and routed to the authorized personnel for processing.

(3) The voted (~~(absentee)~~) ballot for a protected records voter shall be processed by county authorized personnel. The authorized personnel shall maintain a record of ballots sent to protected records voters and a record of ballots returned. This record shall be maintained in accordance with WAC 434-324-034.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-250-045 Voters requiring verification of identity.

(1) If the voter registration record (~~(of an absentee voter)~~) is flagged as requiring verification of identity, a notice must be sent at the time of the election explaining that a photocopy of identification must be provided in order for the ballot to be counted, and listing what forms of identification are acceptable. The county auditor may provide an inner envelope separate from the security envelope for return of the photocopy of the identification.

(2) The notice to the (~~(absentee)~~) voter must be in substantially the following form:

Dear Voter: *[date]*

Based on your recent registration, federal law requires that you provide identification with your ballot. **If you fail to provide identification, your ballot will not be counted.**

Please provide your driver's license number, Washington state identification card number, the last four digits of your Social Security number, or a (~~(copy)~~) photocopy of one of the following:

- Valid photo identification;
- A valid enrollment card of a federally recognized tribe in Washington;
- A current utility bill;
- A current bank statement;
- A current government check;
- A current paycheck; or
- A government document, other than a voter registration card, that shows both your name and address.

You may return (~~(the)~~) a photocopy with your ballot but, in order to protect the secrecy of your ballot, do not place the photocopy inside the security envelope.

If you do not provide a copy of your identification, your ballot will not be counted.

If you have any questions, please feel free to contact the _____ County Auditor's Office at _____.

(3) If the voter provides one of the acceptable forms of identification no later than the day before certification of the election, the flag on the voter registration record must be removed and the ballot must be counted.

(4) If the voter fails to provide one of the acceptable forms of identification by the day prior to certification of the election, the ballot shall not be counted. If the voter provides one of the acceptable forms of identification at a later date, the ballot cast in that election shall not be counted but the flag on the voter registration record must be removed.

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

WAC 434-250-070 Forwarding ballots. (1) If the county auditor chooses to forward ballots(~~(, as authorized by RCW 29A.40.091)~~), the county auditor must utilize postal service endorsements that allow the ballots to be forwarded, allow the county auditor to receive the updated address information, and allow the return of ballots not capable of being forwarded. A voter may only vote a ballot specific to the address where he or she is registered to vote, rather than a ballot specific to a new address. (~~The county auditor must include instructions substantially similar to the following:~~

~~If you have changed your permanent residence address, please contact your county auditor to ensure the ballot you receive in future elections contains the races and issues for your residential address. If you have any questions about your eligibility to vote in this election, please contact your county auditor.))~~

(2) If the county auditor does not forward ballots, the envelope must clearly indicate the ballot is not to be forwarded and is to be returned to the county auditor with any available address updates. If the county auditor receives updated address information from the post office, the county auditor may send the voter a ballot specific to the address where the voter is registered to vote.

(3) If a ballot is returned or forwarded, the county auditor must, following certification of the election, either:

(a) Transfer the voter registration and send the voter an acknowledgment notice, if the updated address is within the county; or

(b) Place the voter on inactive status and send the voter a confirmation notice to all known addresses, if no updated address information was received or the updated address is outside the county.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-250-080 Replacement ballots. The county auditor may issue a replacement ballot, as authorized by RCW (~~(29A.40.061)~~) 29A.40.070, if the request is received prior to 8:00 p.m. on election day. Requests may be made in person, in writing, by telephone, or electronically, by the voter, a family member, or a registered domestic partner.

Replacement ballots or the original ballot, whichever is received first, shall be credited to the voter's registration file and tabulated if the ballot meets all requirements for tabulation. If the auditor receives additional ballots from a voter, as indicated by the fact that the voter is already credited with voting, the additional ballots shall not be counted and shall be forwarded to the county canvassing board for rejection.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-250-095 (~~(Voting on)~~) Direct recording electronic voting devices. (1) If a voter (~~(who was issued an absentee or mail ballot)~~) requests to vote on a direct recording electronic voting device, the county auditor must first confirm that the voter has not already returned a voted ballot. Confirmation that the voter has not already returned a voted ballot may be achieved by accessing the county voter registration system by electronic, telephonic, or other means. If the county auditor is unable to confirm that the voter has not already returned a voted ballot, the voter may not vote on a direct recording electronic voting device.

~~((Consistent with RCW 29A.46.110,))~~ In order to prevent multiple voting, the voter must be immediately credited or otherwise flagged as having voted. If a voted (~~(absentee or)~~) mail ballot is subsequently returned after a ballot is cast on the direct recording electronic voting device, the (~~(absentee or)~~) mail ballot must not be counted.

(2) Before a direct recording electronic voting device may be used by a voter, an election officer must verify:

(a) The paper printer or paper canister is secured so that the paper record may not be removed from the device by anyone other than an election officer;

(b) Only a blank portion of the paper record is visible to the voter as he or she approaches the device; and

(c) The paper printer or paper canister is sealed with a numbered seal to ensure the paper tape cannot be removed by the voter.

(3) (a) If a ballot on a direct recording electronic device has not been cast but has been printed by the voter, the election

officer may cast the ballot.

(b) If a ballot on a direct recording electronic device has not been printed nor cast by the voter, the election officer must cancel the ballot and make a corresponding notation in the accountability form.

(4) If any seal or lock on a direct recording electronic device, including seals for the paper printer or paper canister, has been broken or tampered with, the direct recording electronic device and paper printer must be removed from service for the remainder of the election. A written report regarding the circumstances of the removal from service must be sent to the county canvassing board.

(5) If the paper printer for a direct recording electronic device malfunctions or runs out of paper, the following must occur:

(a) If the election officer has confirmed that no ballots have been cast after the printer ran out of paper or malfunctioned, he or she must remove the direct recording electronic device and paper printer from service, and document the problem. The direct recording electronic device and paper printer may be returned to service only if the problem has been corrected.

(b) If the election officer is unable to confirm that no ballots were cast after the printer ran out of paper or malfunctioned, or if the problem cannot be corrected, the direct recording electronic device and paper printer must be removed from service for the remainder of the election. The auditor must present a written report regarding the circumstances of the removal from service to the county canvassing board.

(6) If an electronic ballot has been cast without a readable corresponding paper record, the county auditor may print the ballot image stored on the device for use as a paper record for that device, in the case of an audit or manual recount. This may require printing all ballot images from that machine.

(7) A provisional ballot may only be voted on a direct recording electronic voting device if the voting system has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state.

(8)(a) If a direct recording electronic voting device must be transferred from a voting center that is not in the same location as the counting center, the paper records must be either:

(i) Placed in transfer containers; or

(ii) Transferred in the paper printer or paper canister if the paper printer or paper canister is sealed so the paper record cannot be removed without breaking the seal.

(b) Paper records must be accompanied by a transmittal sheet which must include at a minimum:

(i) The voting center where the direct recording electronic device was utilized;

(ii) The seal number from the paper printer; and

(iii) The serial number or other identifier of the direct recording electronic device if distinctly unique from the seal number on the paper record printer or paper canister.

(c) If paper records are placed in a transfer container, the

election officer must sign the transmittal sheet and place it in the transfer container. The number of paper record tapes included in the container must be recorded on the transmittal sheet. A unique prenumbered seal must be applied to the container.

(d) The data pack or cartridge of the direct recording device must be transported to the counting center in a sealed container.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-250-100 Ballot deposit sites (~~and voting centers~~).

(1) If a location only receives ballots and does not issue any ballots, it is considered a ballot deposit site. Ballot deposit sites may be staffed or unstaffed.

(a) If a ballot deposit site is staffed, it must be staffed by at least two people. Deposit site staff may be employees of the county auditor's office or persons appointed by the auditor. If a deposit site is staffed by two or more persons appointed by the county auditor, the appointees shall be representatives of different major political parties whenever possible. Deposit site staff shall subscribe to an oath regarding the discharge of their duties. Staffed deposit sites open on election day must be open (~~from 7:00 a.m.~~) until 8:00 p.m. Staffed deposit sites may be open (~~prior to the election~~) according to dates and times established by the county auditor. Staffed deposit sites must have a secure ballot box that is constructed in a manner to allow return envelopes, once deposited, to only be removed by the county auditor or by the deposit site staff. If a ballot envelope is returned after 8:00 p.m. on election day, deposit site staff must note the time and place (~~of deposit on the ballot envelope,~~) and (~~such ballots must be referred~~) refer the ballot to the canvassing board.

(b) Unstaffed ballot deposit sites consist of secured ballot boxes that allow return envelopes, once deposited, to only be removed by authorized staff. Ballot boxes located outdoors must be constructed of durable material able to withstand inclement weather, and be sufficiently secured to the ground or another structure to prevent their removal. From eighteen days prior to election day until 8:00 p.m. on election day, two people who are either employees of or appointed by the county auditor must empty each ballot box with sufficient frequency to prevent damage and unauthorized access to the ballots.

~~(2) (If a location offers replacement ballots, provisional ballots, or voting on a direct recording electronic device, it is considered a voting center. The requirements for staffed ballot deposit sites apply to voting centers. Each voting center must:~~

~~(a) Be posted according to standard public notice procedures;~~

~~(b) Be an accessible location consistent with chapters 29A.16 RCW and 434-257 WAC;~~

~~(c) Be marked with signage outside the building indicating the location as a place for voting;~~

~~(d) Offer disability access voting in a location or manner that provides for voter privacy;~~

~~(e) Offer provisional ballots, which may be sample ballots that meet provisional ballot requirements;~~

~~(f) Require each voter who votes on a direct recording electronic voting device to sign and date the following oath, and record the information in such a manner that the ballot cannot be traced back to the voter:~~

~~I do solemnly swear or affirm under penalty of perjury that I am:~~

~~A citizen of the United States;~~

~~A legal resident of the state of Washington;~~

~~At least eighteen years old on election day;~~

~~Voting only once in this election;~~

~~Not ineligible to vote due to a felony conviction; and~~

~~Not disqualified from voting due to a court order.~~

~~It is illegal to forge a signature or cast a ballot in another person's name. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of ten thousand dollars, or both.~~

~~(g) Request identification, consistent with RCW 29A.44.205 and WAC 434-253-024, from each voter voting on a direct recording electronic voting device or voting a provisional ballot;~~

~~(h) Issue a provisional ballot to each voter who is unable to provide identification in accordance with (g) of this subsection;~~

~~(i) Have electronic or telephonic access to the voter registration system consistent with WAC 434-250-095 if voters are voting on a direct recording electronic voting device;~~

~~(j) Provide either a voters' pamphlet or sample ballots;~~

~~(k) Provide voter registration forms;~~

~~(l) Display a HAVA voter information poster;~~

~~(m) Display the date of that election;~~

~~(n) Provide instructions on how to properly mark the ballot;~~

~~(o) Provide election materials in alternative languages if required by the Voting Rights Act; and~~

~~(p) Use an accountability form to account for all ballots issued.~~

~~(3))~~ Ballot boxes must be secured at all times, with seal logs that document each time the box is opened and by whom. Ballots must be placed into secured transport carriers and returned to the county auditor's office or another designated location. At exactly 8:00 p.m. on election day, all ballot boxes must be emptied or secured to prevent the deposit of additional ballots.

NEW SECTION

WAC 434-250-105 Voting centers. (1) If a location offers replacement ballots, provisional ballots, or voting on a direct recording electronic device, it is considered a voting center. The requirements for staffed ballot deposit sites apply to voting centers. Each voting center must:

(a) Be an accessible location. "Accessible" means the combination of factors which create an environment free of barriers to the mobility or functioning of voters. The environment consists of the routes of travel to and through the buildings or facilities used for voting. The Americans with Disabilities Act Checklist for Polling Places shall be used when determining the accessibility of a voting center. A voting center is fully accessible if all responses in each category are "Yes";

(b) Be marked with signage outside the building indicating the location as a place for voting;

(c) Issue ballots that include a declaration in the ballot materials;

(d) Offer disability access voting in a location or manner that provides for voter privacy. For each voting center, the county auditor must have a contingency plan to accommodate accessible voting in the event that an accessible voting unit malfunctions or must be removed from service;

(e) Offer provisional ballots, which may be sample ballots that meet provisional ballot requirements;

(f) For voters voting on a direct recording electronic voting device, require the voter to provide photo identification, consistent with chapter 10, Laws of 2011, section 43(7), and to sign and date the declaration in WAC 434-230-015. The county auditor is not required to compare the signature on the declaration to the signature in the voter registration record if the voter provided identification. To prevent double voting, the voting center must have electronic or telephonic access to the voter registration system, consistent with WAC 434-250-095;

(g) Provide either a voters' pamphlet or sample ballots;

(h) Provide voter registration forms;

(i) Display a HAVA voter information poster;

(j) Display the date of that election;

(k) During a primary that includes a partisan office, display the notice provided in WAC 434-230-015 (3)(j), and during a general election that includes a partisan office, display the notice provided in WAC 434-230-015 (3)(k). The party preference notices may also be posted on-screen in direct recording electronic voting devices;

(l) Provide instructions on how to properly mark the ballot; and

(m) Provide election materials in alternative languages if required by the Voting Rights Act.

(2) Where it appears that a particular voter is having difficulty casting his/her vote, and as a result, is impeding other voters from voting, the staff may provide assistance to that voter in the same manner as provided by law for those voters who request

assistance. Where it appears that a voter is impeding other voters from voting to simply cause delay, the staff shall ask the voter to expedite the voting process. In the event the voter refuses to cooperate, the staff shall, whenever practical, contact the county auditor, who may request assistance from the appropriate law enforcement agencies if he or she deems such action necessary.

(3) At exactly 8:00 p.m. on election day, all ballot boxes must be emptied or secured to prevent the deposit of additional ballots. Voted ballots, including provisional, mail-in, and direct recording electronic and paper records, must be placed into secured transport carriers for return to the county auditor's office or another designated location.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-250-110 Processing ((of absentee)) ballots. (1) "Initial processing" means all steps taken to prepare ballots for tabulation. Initial processing includes, but is not limited to: Verification of the signature and postmark on the ballot declaration; removal of the security envelope from the return envelope; removal of the ballot from the security envelope; manual inspection for damage, write-in votes, and incorrect or incomplete marks; duplication of damaged and write-in ballots; scanning and resolution of ballots on a digital scan voting system; and other preparation of ballots for final processing.

(2) "Final processing" means the reading of ballots by an electronic vote tallying system for the purpose of producing returns of votes cast, but does not include tabulation.

(3) "Tabulation" means the production of returns of votes cast for candidates or ballot measures in a form that can be read by a person, whether as precinct totals, partial cumulative totals, or final cumulative totals.

(4) Prior to initial processing of ballots, the county auditor shall notify the county chair of each major political party of the time and date on which ((absentee)) processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of ((absentee)) ballots. If any major political party has appointed observers, such observers may be present for initial processing, final processing, or tabulation, if they so choose, but failure to appoint or attend shall not preclude the processing or tabulation of ((absentee)) ballots.

~~((2) In counties tabulating absentee ballots on an electronic vote tallying system, the canvassing board or its representatives may perform))~~ (5) Initial processing of ((absentee)) voted ballots ((upon their return)), which may include scanning and resolving ballots on a digital scan voting system, may begin as soon as voted ballots are received. All ((absentee)) ballots must be kept in

secure storage until final processing. Secure storage must employ the use of numbered seals and logs, or other security measures which will detect any inappropriate or unauthorized access to the secured ballot materials when they are not being prepared or processed by authorized personnel. The county auditor must ensure that all security envelopes and return envelopes are empty, either by a visual inspection of the punched hole to confirm that no ballots or other materials are still in the envelopes, or by storing the envelopes with a tie, string, or other object through the holes.

~~((3))~~ (6) Final processing of voted ballots, which may include scanning ballots on an optical scan voting system, may begin after 7:00 a.m. on the day of the election. Final processing may begin after 7:00 a.m. the day before the election if the county auditor has submitted an approved security plan to the secretary of state that prevents tabulation until after 8:00 p.m. on the day of the election.

~~((4))~~ (7) Tabulation may begin after 8:00 p.m. on the day of the election.

~~((5))~~ (8) In counties tabulating ballots on an optical scan vote tallying system, the vote tallying system must reject all overvotes and blank ballots.

(a) All rejected ballots shall be outstacked for additional manual inspection.

(b) The outstacked ballots shall be inspected in a manner similar to the original inspection with special attention given to stray marks, erasures, and other conditions that may have caused the vote-tallying device to misread and reject the ballot.

(c) If inspection reveals that a ballot must be duplicated in order to be read correctly by the vote tallying system, the ballot must be duplicated.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-250-120 Verification of the signature and ~~((postmark on ballots))~~ return date. (1) A ballot shall be counted only if:

~~(a) ((It is returned in the return envelope, or a similar envelope if it contains the same information;~~

~~(b))~~ The ~~((affidavit))~~ ballot declaration is signed with a valid signature ~~((in the place afforded for the signature on the envelope));~~

~~((c))~~ (b) The signature has been verified pursuant to WAC 434-379-020, or if the voter is unable to sign his or her name, two other persons have witnessed the voter's mark; and

~~((d))~~ (c) (i) The envelope is postmarked not later than the day of the election ~~((, or deposited in the auditor's office, a polling location, or a designated deposit site not later than 8:00~~

~~p.m. on election day; and~~

~~(e) The ballot is received prior to certification of the election)) and received not later than the day before certification of the election;~~

~~(ii) The ballot is deposited in a ballot drop box no later than 8:00 p.m. on election day; or~~

~~(iii) The ballot of a service or overseas voter received by fax or e-mail is received no later than 8:00 p.m. on election day.~~

(2) Postage that includes a date, such as meter postage or a dated stamp, does not qualify as a postmark. If an envelope lacks a postmark or if the postmark is unreadable, the date to which the voter has attested on the ~~((oath))~~ ballot declaration determines the validity of the ballot, per RCW 29A.40.110. If a ballot is from a service or overseas voter, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW 29A.40.100.

(3) The signature on the ~~((return envelope, or on a copy of the return envelope,))~~ ballot declaration must be compared with the signature in the voter's voter registration file using the standards established in WAC 434-379-020. The signature on a ~~((return envelope))~~ ballot declaration may not be rejected merely because the name in the signature is a variation of the name on the voter registration record. The canvassing board may designate in writing representatives to perform this function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of his or her duties. Personnel shall be instructed in the signature verification process prior to actually canvassing any signatures. Local law enforcement officials may instruct those employees in techniques used to identify forgeries.

(4) The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-250-130 Maintenance of an audit trail. Each county auditor shall maintain an audit trail with respect to the processing of ~~((absentee))~~ ballots, which shall include, but not be limited to, the following:

(1) A record of ~~((the date each absentee ballot application was received,))~~ the date the ballot was mailed or issued, and the date the ballot was received;

(2) The number of ~~((absentee))~~ ballots issued and returned, by legislative and congressional district, for each primary and general election;

(3) A record of the disposition of each request for ~~((an~~

~~absentee~~) a ballot that was not honored;

(4) A record of the disposition of each returned (~~absentee~~) ballot that was not counted;

(5) A record of the time and place each time the county canvassing board met; and

(6) (~~A~~) Documentation of the security procedures undertaken to protect the integrity of all ballots after receipt, including the seal numbers used to secure the ballots during all facets of the (~~absentee ballot~~) process.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-250-140 Ballot process to be expedited. All election officials charged with any duties or responsibilities with respect to (~~absentee~~) ballots shall ensure that those duties are performed in an expeditious manner, in order to maximize the opportunity for voters to receive, vote, and return the ballots in time to be counted.

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-250-320 (~~Ballot deposit sites and voting centers in mail elections~~) Locations to deposit ballots. A county auditor (~~conducting a county-wide election entirely by mail~~) must provide at least two locations to deposit ballots. These locations may be either a ballot deposit site, as defined in WAC 434-250-100, or a voting center, as defined in WAC (~~434-250-100~~) 434-250-105. At least one location may be at the county auditor's office. All other deposit sites must be at geographical locations that are different from the county auditor's office.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-250-010	Purpose.
WAC 434-250-020	Definitions.
WAC 434-250-040	Instructions to voters.

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WAC 434-250-050

Envelopes.

WAC 434-250-085

Provisional ballots issued before election day.

WAC 434-250-090

Absentee ballots issued after the poll lists have been marked.

WAC 434-250-300

Elections by mail.

WAC 434-250-310

Notice of elections by mail.

WAC 434-250-330

County auditor's office as a voting center.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-253-005	Broken or missing seals.
WAC 434-253-010	Polling place--Activities prohibited.
WAC 434-253-020	Polling place--Election supplies.
WAC 434-253-023	Voter verified paper audit trail--Duties prior to opening of the polls.
WAC 434-253-024	Poll book of registered voters.
WAC 434-253-025	Polling place--Items to be posted.
WAC 434-253-030	Securing the ballot box.
WAC 434-253-045	Provisional ballots--Required information.
WAC 434-253-047	Provisional ballots--Disposition.
WAC 434-253-048	Provisional ballots--Free access system.
WAC 434-253-049	Provisional ballots--Processing.
WAC 434-253-050	Voter unable to sign name--Authority to vote.
WAC 434-253-070	Accounting for ballot stub.
WAC 434-253-080	Voter leaving polling place prior to casting ballot.
WAC 434-253-090	Designation of poll watchers.
WAC 434-253-100	Electronic voting devices--Identified for specific offices or measures.
WAC 434-253-110	Examination of voting devices.
WAC 434-253-115	Direct recording electronic device paper printer malfunction.
WAC 434-253-120	Spoiled ballot procedures.
WAC 434-253-130	Assistance to voters.
WAC 434-253-140	Voter intentionally causing delay.
WAC 434-253-150	Closing the polls.
WAC 434-253-160	Ballot accountability form--Poll-sites without direct recording devices.
WAC 434-253-165	Ballot accountability form--Precincts with direct recording devices.
WAC 434-253-170	Securing provisional, challenged, spoiled, unused, and absentee ballots.
WAC 434-253-200	Count of regular voted ballots.
WAC 434-253-203	Precinct count optical scan and

WAC 434-253-220	direct recording devices--Poll-site reconciliation.
WAC 434-253-225	Transfer of ballots prior to closing of the polls.
WAC 434-253-240	Preparation for transfer of direct recording electronic device paper records.
WAC 434-253-250	Return of election supplies and materials.
WAC 434-253-270	Paper ballot precincts--General applicability of rules.
WAC 434-253-280	Counting of ballots after polls close.
WAC 434-253-280	Paper ballots--Counting and tabulation--Procedure.
WAC 434-253-290	Counting and tabulation of paper ballots where more than one set of precinct election officers are appointed--Procedure.
WAC 434-253-300	Paper ballots--Count continuous--When duties completed.
WAC 434-253-310	Paper ballots--Unofficial results--Copies--Posting--Transmittal.
WAC 434-253-320	Rejection of ballots or parts of ballots--Questions on the legality of ballots.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-257-010	Purpose.
WAC 434-257-020	Definitions.
WAC 434-257-030	Standards for accessible polling places.
WAC 434-257-040	Use of public buildings as polling places.
WAC 434-257-070	Report of precincts and polling places.
WAC 434-257-090	Accessible polling places-- Exceptions.
WAC 434-257-100	Procedures for inaccessible polling places.
WAC 434-257-130	Voting instructions.
WAC 434-257-140	Contingency plans for disability access units.
WAC 434-257-150	Notice of accessibility.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-020 Definitions. As used in this chapter:

(1) "Election review" means the process of examining all or a part of a county's election policies and procedures and includes the review of any documentation of those procedures;

(2) "Election review staff" means the person or persons employed by the secretary of state for the purpose of conducting election reviews;

(3) "Special election review" means an election review conducted in a county or counties whenever the unofficial returns of a primary or election indicate that a mandatory recount is likely in a race for the state legislature, congress, or statewide office;

(4) "Preliminary review report of findings and recommendations" means that draft report made by the election review staff to the county auditor and which contains any recommendations made by the review staff and a preliminary conclusion regarding the county's election procedures;

(5) "Draft election review report" means that report made by the election review staff to the county auditor and the designated members of the county canvassing board. The auditor and/or county canvassing board must respond to the draft election review report in writing and may appeal the report to the election administration and certification board;

(6) "Final election review report" means that report made by the election review staff which contains a copy of the recommendations made by the review staff, the response to those recommendations made by the county auditor or the county canvassing board, and a conclusion written by the staff;

(7) "Special review recommendations" means recommendations made by the review staff to the county auditor and the county canvassing board following the conduct of any special review;

(8) "County auditor designee" is that person designated by the county auditor to participate in the review process, pursuant to the provisions of RCW 29A.04.580. Such a designee must be certified as required by chapter 29A.04 RCW.

(9) "Election administrator" means the person or persons appointed by the county auditor to election management positions as required by RCW 36.22.220 and the state director of elections, assistant directors of elections, certification and training program staff members, and any other secretary of state election division employees designated by the director of elections;

(10) "Assistant election administrator" means any person involved in the administration of elections at the state or county level who has been designated as an assistant election administrator by the state director of elections or the county

auditor as applicable;

(11) "County canvassing board members" means those officers designated as such pursuant to the provision of chapter 29A.60 RCW;

(12) "Election administration and certification board" means that board created pursuant to the provisions of RCW 29A.04.510 (~~(~~

~~(13) "Creditable training hours" means each creditable training hour contemplated in WAC 434-260-230 and shall consist of a minimum of fifty minutes of instructional activity programmed for the purpose of mastering information beneficial to the performance of the duties of administering elections)).~~

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-040 Election reviews--Secretary of state to designate. Not later than ((~~May 15~~)) thirty days prior to the start of an election review the secretary of state shall notify, in writing, the counties selected for an election review ((~~and the chairs of the state committees of any major political party~~)). Whenever possible, election reviews shall be conducted on dates that are mutually agreeable to the secretary and to the county auditor ((~~except that those parts of the review process dealing with the actual conduct and canvassing of the election itself must be conducted between election day and the certification of the election returns~~)) allowing the reviewer to observe all election procedures. In designating counties to be reviewed, the secretary shall take into consideration any complaints filed with his or her office pursuant to the provisions of RCW 29A.04.570 (1)(b).

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-260-050 Notice of special review. Notice of a special review shall be provided to the county auditor ((~~and the political party chairs~~)) by telephone and ((~~by electronic facsimile transmission~~)) e-mail not later than twenty-four hours after the determination has been made to conduct the special review.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-110 Election review checklist. The secretary of state shall develop an election review checklist, which shall be the basis for any election review and which shall also serve, in whole or in part, as the basis for any special review. The checklist for a regular review shall be provided to the county auditor at least one week prior to the beginning of the reviews. (~~(A checklist shall be provided to the chairs of the state central committees of each major political party at least once per year.)~~)

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-130 Preliminary review report of findings and recommendations. The review staff shall verbally relay any recommendations found during observation of the county's procedures by certification of the election. As soon as practical, but in any event not later than ~~((sixty))~~ ninety days following the certification of the election, the review staff shall issue a preliminary review report of a findings and recommendations. The report shall be made to the county auditor.

The preliminary review report of findings and recommendations is exempt from public inspection and copying, as provided by RCW ~~((42.17.310))~~ 42.56.280.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-150 Final election review report. As soon as practicable, but in any event not later than ~~((thirty))~~ ten business days after the ~~((issuance of the draft election review report))~~ receipt of the county's response, the review staff shall issue a final election review report. The report shall be made to the county canvassing board, and shall include, but not be limited to, the following:

- (1) A narrative description of any general observations by the review staff;
- (2) A narrative description of any recommendations made by the review staff;
- (3) A response by the county auditor or the county canvassing board;
- (4) A conclusion by the review staff.

A copy of the final review report shall be provided to the chairperson of the election administration and certification board and a copy shall also be kept on file by the secretary of state.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-155 County review follow-up. Within one year following the issuance of the final review report, the secretary of state shall verify that the county has taken the steps listed in the response to correct the problems noted in the report. ~~((if steps have not been taken,))~~ The secretary of state shall send a letter to the county canvassing board listing the ~~((areas needing correction))~~ results of the follow-up interview. A copy of the letter shall be provided to the county auditor and kept on file with the secretary of state.

AMENDATORY SECTION (Amending WSR 06-18-103, filed 9/6/06, effective 10/7/06)

WAC 434-260-220 Certification of election administrators. Election administrators shall become certified upon completion of the following:

- (1) Completion of the secretary of state's mandatory orientation course;
- (2) Two years of service during the three-year period immediately prior to the request for initial certification;
- (3) Taking and passing the open book written test described in WAC 434-260-260;
- (4) A minimum of forty hours participation in conferences and workshops ~~((involving elections related subjects or subjects approved by the election administration and certification board and sponsored))~~ provided by:
 - (a) The Washington Association of County Auditors;
 - (b) The secretary of state;
 - (c) The elections center;
 - (d) ~~((Visiting other county election departments for training and/or orientation purposes (maximum four hours);~~
 - (e) ~~The Federal Election Commission;~~
 - (f) ~~Other national associations related to elections or government administration, approved by the Election Administration and Certification Board; or~~
 - (g) ~~Other conferences or courses approved by the Election Administration and Certification Board.~~

Such)) The United States Election Assistance Commission;
(e) The Federal Voting Assistance Program; or
(f) Other conferences or courses related to election
administration or government administration approved by the
Election Administration and Certification Board.

Election administrators may also claim up to four hours of
training credit for training received while visiting other county
election departments.

All training shall be received not more than five years prior to the date of a request for initial certification and shall include at least thirty hours of election-specific training.

(5) A high school diploma or its equivalent.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed (~~((on an absentee ballot))~~) as part of the initial processing(~~(, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election))~~);

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic image of the ballot. The original ballot may not be altered in any way;

(3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of voter intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(5) "Valid signature" on a ballot (~~(envelope)~~) declaration for a registered voter eligible to vote in the election is:

(a) A signature verified against the signature in the voter registration file; or

(b) A mark witnessed by two people.

(6) "Overvote" is votes cast for more than the permissible number of selections allowed in a race or measure. An overvoted race or measure does not count in the final tally of that race or measure. Example of an overvote would be voting for two candidates in a single race with the instruction, "vote for one."

(7) "Undervote" is no selections made for a race or measure.

(8) "Election observers" means those persons designated by the county political party central committee chairperson to observe the counting of ballots and related elections procedures.

(9) "Seal log" is a log documenting each time a numbered seal is attached or removed from a ballot container. The log must include the seal number, date, and identifying information of persons attaching or removing the seal. Following certification of the election, the seal log must include documentation as to why the seal was removed from a ballot container.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-261-010 Counting center location--Direction of proceedings. (~~(In counties using voting devices and vote tallying systems where the ballots are to be processed and/or tabulated at a location other than the precinct,))~~ The county auditor shall designate a location to serve as the counting center. If that location is other than the ((courthouse)) county auditor's office or county election office, the auditor shall include the location of the counting center in the published notice of elections. The county auditor shall be responsible for all counting center functions. Within the counting center, no person except those authorized by the county auditor may touch any ballot or ballot container, or operate a vote tallying system. The auditor shall identify either by roster or identification tag, or both, those persons so authorized. The vote tallying process shall be open to the public to the extent that public observation does not interfere with the proceedings or jeopardize the security of the ballots. The auditor shall establish local administrative rules pertaining to public observers including the media and how they may be accommodated and the necessary limitations thereto.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-261-020 ((Counting center--)) Political party observers. Counting center operations shall be observed by at least one representative from each political party, if representatives have been appointed by the respective political parties and those representatives are present while the counting center is in operation.

Prior to the primary or election, the county auditor shall determine the number of observers required in order to observe all aspects of the counting center proceedings, and shall request, in writing, that each major political party appoint representatives to fill the requirements. Where more than one observer is to be appointed, the political party shall designate one of their observers as supervisor. (~~(Counting center)~~) The county auditor may require observers ((shall be provided)) to receive training with respect to ballot processing procedures and the vote tallying system ((as required by RCW 29A.12.120)).

Before final assignment as observers, major political party representatives so appointed shall be reviewed by the county auditor, who may refuse to approve any person so appointed. In the event the auditor rejects a person designated, he or she shall promptly notify the political party concerned and request that a substitute observer be appointed, and shall ensure that the

substitute observer is trained (~~(as provided in subsection (2) of this section)~~).

Representatives of the major political parties appointed as observers shall be identified by roster, including assigned observer stations if more than one in the counting center, and by identification tags which will indicate the observer's name and the party represented.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-261-050 Unsigned (~~(oath)~~) ballot declaration or mismatched signatures. (1) If a voter neglects to sign (~~(the oath on an absentee or provisional ballot envelope)~~) a ballot declaration, signs (~~(the oath)~~) with a mark and fails to have two witnesses attest to the signature, or signs (~~(the ballot envelope)~~) but the signature on the (~~(envelope)~~) ballot declaration does not match the signature on the voter registration record, the auditor shall notify the voter by first class mail of the correct procedures for curing the signature. If the ballot is received during the last three business days before the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded by the last three business days before the final meeting of the canvassing board, the auditor must attempt to notify the voter by telephone using information in the voter registration record.

(2) If the voter neglects to sign (~~(the oath on an absentee or provisional ballot envelope,)~~) or signs (~~(the oath)~~) with a mark and fails to have two witnesses attest to the signature, the voter must either:

(a) Appear in person and sign the (~~(affidavit)~~) declaration no later than the day before certification of the primary or election; or

(b) Sign a copy of the (~~(affidavit)~~) declaration provided by the auditor, or mark the (~~(affidavit)~~) declaration in front of two witnesses, and return it to the auditor no later than the day before certification of the primary or election.

(3) If the signature on the (~~(oath of an absentee or provisional ballot envelope)~~) declaration does not match the signature on the voter registration record, the voter must either:

(a) Appear in person and sign a new registration form no later than the day before certification of the primary or election. The updated signature provided on the new registration form becomes the signature on the voter registration record for the current election and future elections; or

(b) Sign a copy of the (~~(affidavit)~~) declaration provided by the auditor, and provide a photocopy of a valid government or tribal identification that includes the voter's current signature.

The signature on the (~~affidavit~~) copy of the declaration must match the signature on the identification, and both of those signatures must match the signature on the ballot (~~envelope~~) declaration. The voter must return the signed (~~affidavit~~) declaration and identification to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections; or

(c) Sign a copy of the (~~affidavit~~) declaration provided by the auditor in front of two witnesses who attest to the signature. The signature on the (~~affidavit~~) copy of the declaration must match the signature on the ballot (~~envelope~~) declaration. The voter must return the signed (~~affidavit~~) declaration to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections.

(4) If the signature on (~~an absentee or provisional ballot envelope~~) the declaration does not match the signature on the registration record because the name is different, the ballot may be counted as long as the handwriting is clearly the same. If it appears that the voter has changed his or her name, and the information required under RCW 29A.08.440 to complete a name change is not provided or is illegible, the auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form. If the signature on (~~an absentee or provisional ballot envelope~~) a ballot declaration does not match the signature on the registration record because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(5) If the name on the signature does not match the printed name (~~printed on the absentee ballot envelope~~), and the signature on the (~~absentee~~) ballot (~~envelope~~) declaration does not match the signature on the voter registration record, because the ballot was signed by another registered voter, the ballot may be counted for the registered voter who actually signed the (~~envelope~~) ballot declaration if:

(a) The voter who signed the (~~envelope~~) declaration can be identified;

(b) (~~The voter who signed the envelope is registered at the same address as the voter to whom the envelope was issued;~~

~~(c)~~) The signature on the (~~envelope~~) declaration matches the signature on the voter registration record; and

~~(d)~~) (c) The voter who signed the (~~envelope~~) declaration has not returned another ballot.

The county auditor may only count the races and measures for which the voter who signed the declaration is eligible to vote.

(6) If it is determined that the signature on a ballot declaration does not match the signature on the registration record and, prior to 8:00 p.m. on election day, the registered voter asserts that the signature on the ballot declaration is not his or her signature, the voter may be provided the opportunity to vote a

replacement ballot.

(7) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

~~((7))~~ (8) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter (~~signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form~~) subsequently submitted a signature to cure the missing or mismatched signature. That record is a public record under chapter 42.56 RCW and may be disclosed to interested parties on written request.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-261-055 Returned ballot lacking verification of identity. If a voter who is provisionally registered and must still verify his or her identity as part of the registration process (~~(votes an absentee or provisional)~~) casts a ballot without providing adequate identification, the ballot cannot be counted unless the voter provides adequate identification no later than the day before certification of the election.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-261-070 Manual inspection of ballots. (1) (~~Upon receiving absentee ballots and upon breaking the seals and opening the ballot containers from the precincts,~~) All voting positions on voted ballots shall be manually inspected on both sides of the ballot to determine whether the ballot is readable by the vote tabulating system. This manual inspection is a required part of processing ballots.

(2) (~~The inspection of ballots tabulated at the poll site is not required provided that the poll site ballot programming provisions of RCW 29A.44.340 are in effect.~~

~~(3))~~ If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or marks that differ from those specified in the voting instructions, the county auditor shall refer such ballots to the county canvassing board to be counted according to the statewide standards on what is a vote, as provided in WAC 434-261-086. The county canvassing board shall

make the final determination of voter intent for ballots not addressed in the statewide standards on what is a vote.

~~((4))~~ (3) The county canvassing board may delegate duplication of the ballots consistent with RCW 29A.60.140.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-261-075 Votes on something other than a ballot. If the voter returns voting responses by mail on any form other than ~~((the))~~ a ballot ~~((sent))~~, the votes thereon shall be acceptable and tallied provided that:

(1) Only votes for offices or measures for which the voter is eligible are counted.

(2) The candidate or measure response position for which the voter is voting can be clearly identified.

(3) The ballot issued is not returned, or if returned, contains no marks indicating an attempt to vote it.

(4) A valid signature on ~~((an absentee oath))~~ a ballot declaration is received with the voting responses.

The votes accepted must then be duplicated to a ballot that can be read by the electronic voting equipment.

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-261-102 Resolving ballots on digital scan vote tallying systems. In counties tabulating ballots on a digital scan vote tallying system, two staff designated by the auditor's office must resolve ballots identified as requiring resolution. A log of the resolutions must be printed ~~((and))~~ linking staff conducting the resolutions to the ballots resolved. The log must be signed by the two staff.

NEW SECTION

WAC 434-261-106 Manual counting of ballots. Procedures for manual counting of ballots shall be substantially the same as a manual recount according to chapter 434-264 WAC.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-261-110 Election results anomalies. Precinct results, showing overvotes and undervotes, shall be inspected by the county canvassing board, or their designees, for anomalies that may indicate problems with the hardware or programming used to tabulate the votes. Anomalies may include, but are not limited to, an abnormal number of overvotes, undervotes, vote distribution, and voter turnout in any precinct, race, or jurisdiction. This inspection shall be completed within two days of the election.

Additionally, these results shall be used in the reconciliation process required in ((~~WAC 434-253-165~~ and)) RCW 29A.60.235.

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-261-120 Referral of questionable ballots to canvassing board. Whenever ((~~a precinct election officer or~~)) counting center personnel has a question about the validity of a ballot or the votes contained on the ballot that they are unable to resolve, the ballot shall be ((~~placed in a special container marked "for canvassing board."~~)) forwarded to the canvassing board for review. The facts giving rise to the question of validity must be noted.

((~~If the question arises at a polling place, the precinct inspector shall note the ballot on the ballot accountability form in a manner similar to recording other irregularly voted ballots and shall transfer it to the elections office in accordance with WAC 434-253-170.~~

~~If the question arises in the counting center, the counting center supervisor shall record the ballot on an irregularly voted ballot log sheet.))~~

Ballots being held for determination of validity or voter's intent shall be provided the same security as regular voted ballots and shall be kept in a secure area when not being processed.

NEW SECTION

WAC 434-261-125 Free access system for provisional ballots.

(1) Each county shall establish a free access system, as required by the Help America Vote Act, 42 U.S.C. sec. 15482 (a) (5), and RCW 29A.60.195 for provisional ballot voters.

(2) The free access system must employ measures to ensure that access is free of cost to the voter and restricted to the individual who cast the ballot, and that the voter's personal information is secure and confidential.

(3) For provisional ballots sent to other counties in the state, the free access system must provide the voter with information as to where the ballot was sent and how to find out if the ballot was counted in that county.

(4) For ballots received from another county, the free access system must provide the voter with information as to whether the ballot was counted and, if not, why. The county may send instructions to the voter on how to access the information.

(5) Provisional ballot disposition information must be available on a county's free access system no later than one week following certification of the election.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-261-030	Receipt of ballots at intermediate collection station.
WAC 434-261-040	Receipt of ballots at the counting center.
WAC 434-261-105	Tabulation of ballots to be continuous--Exception.

AMENDATORY SECTION (Amending WSR 06-14-046, filed 6/28/06, effective 7/29/06)

WAC 434-262-010 Definitions. As used in these regulations:

(1) "Canvassing" is that process of examining in detail a ballot, groups of ballots, election subtotals, or grand totals, in order to determine the final official returns of a primary, special, or general election, and to safeguard the integrity of the election process.

(2) "County canvassing board" is that body charged by law with the duty of canvassing ballots, ~~((of))~~ ruling on the validity of questioned or challenged ballots, ~~((of the))~~ verifying all unofficial returns as listed in the auditor's abstract of votes, and ~~((the))~~ producing ~~((of))~~ the official county canvass report; it shall be composed of the county auditor, prosecuting attorney, and chairman of the board of the county legislative authority, or their designated representatives.

(3) "Auditor's abstract of votes" is that report prepared by the county auditor which lists the number of registered voters, votes cast, all of the vote totals by precinct, or by combination of precincts if applicable ~~((, absentee ballot totals))~~, legislative and congressional district subtotals, if any, and county-wide totals. In a gubernatorial general election, the auditor's abstract of votes must also include the number of write-in votes cast for governor. The auditor's abstract of votes must also include the reconciliation report required by RCW 29A.60.235 ~~((+1))~~. Vote totals in the auditor's abstract of votes shall be unofficial until verified and certified by the county canvassing board.

(4) "County canvass report" is the auditor's abstract of votes after verification by the county canvassing board and shall contain a certificate which shall include the oath as specified in RCW 29A.60.200, the original signatures of each member of the county canvassing board, the county seal, and all other material pertinent to the election.

~~((5) "Certified copy of the county canvass report" is that report transmitted by the county auditor to the secretary of state which contains registered voters and votes cast by precinct, or combination of precincts if applicable, votes cast for and against state measures, and votes cast for candidates for federal and statewide offices and for any office whose jurisdiction encompasses more than one county, absentee ballot totals for those measures and candidates, subtotals if applicable, and county-wide totals. It shall also include a certificate, bearing original signatures and an original county seal, identical to that included in the official county canvass report, and any other material which may be pertinent to the canvass of the election.))~~

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-262-013 Crediting voters. (~~Voters shall be credited for voting after each special, primary and general election.~~)

(1) A voter may not be credited for voting if the ballot was voted after election day, was received (~~after~~) later than the day before certification of the election, or will otherwise not be counted.

(2) The crediting of (~~absentee or mail ballot~~) voters in the county election management system must be completed prior to (~~the~~) certification of the election. (~~The crediting of poll voters must be completed within thirty days of the election, and prior to the certification of the election when possible.~~)

(3) The reconciliation of voters credited with ballots counted shall be completed (~~within thirty days following certification of a primary or~~) prior to certification of the election. The certification must include, but is not limited to, information indicating that the number of ballots counted equals the number of voters credited. If these numbers do not match, the county auditor must take steps to reconcile the numbers and any discrepancies. If the county auditor cannot reconcile the numbers, documentation of steps taken to reconcile and any other applicable information must be included with the official reconciliation.

(4) Changes to the list of registered voters, such as new registrations, transfers, or cancellations, may not be made following a general election until the crediting reconciliation is complete. Correction of errors is allowed.

(5) The county auditor shall make an electronic or paper copy of the list of registered voters immediately following this reconciliation. Using this data, the county auditor shall also produce validation statistics for each minor taxing district in the county. Once the list is copied and the validation statistics are complete, changes to the data base may be made.

(6) Following certification of the election, each credited voter's history of voting must be updated in the statewide voter registration data base.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

WAC 434-262-020 Preliminary abstract of votes. (~~Following the election and~~) (1) Prior to the official canvass, the county auditor shall prepare a preliminary abstract of votes, listing the number of registered voters and votes cast. (~~Provisional ballot results must be combined with precinct results.~~

~~(1))~~) The preliminary abstract of votes must list separately for each precinct:

(a) Votes cast by (~~absentee or~~) mail ballot (~~and votes cast at the polls~~);

(b) Votes cast for and against measures;

(c) Votes cast for candidates; and

(d) Overvotes and undervotes.

(2) Pursuant to RCW 29A.60.230, the county auditor may aggregate results or take other necessary steps to maintain the secrecy of ballots.

(3) The county auditor shall inspect the preliminary abstract of votes for errors or anomalies that may affect the results of the election. Correction of any errors or anomalies discovered must be made prior to the official canvass.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-025 Canvassing board--Notice of open public meeting. All activities of the canvassing board shall be open to the public, although the board may limit the number of persons observing any aspect of the process whenever, in the judgment of the board, it is necessary to do so to preserve order and to safeguard the integrity of the process. The canvassing board may adopt and promulgate rules and regulations, not inconsistent with the provisions of this section, to ensure that the process is open to the public and that the procedures themselves are performed by the board free of any outside interference. The auditor shall publish notice of the meetings of the canvassing board. (~~Such notice or notices shall be in substantially the following form:~~

OPEN PUBLIC MEETING NOTICE

~~The canvassing board of (Name of County) County, pursuant to chapter 29A.60 RCW, will hold public meetings at (Time of Meetings), (Dates), at (Locations), to (Purpose of Meetings). These meetings of the canvassing board are open, public meetings, and shall be continued until the activity for which the meetings are held has been completed.~~

~~A record of the proceedings of the county canvassing board shall be made and maintained in the county auditor's office, and shall be available for public inspection and copying. The record shall be retained for the same time period required by law for the retention of absentee ballots:))~~

AMENDATORY SECTION (Amending WSR 09-12-078, filed 5/29/09, effective 6/29/09)

WAC 434-262-030 County auditor's abstract of votes. No later than ~~((the fifteenth))~~ fourteen days following any primary or special election and ~~((the twenty-first))~~ twenty-one days following any general election the county canvassing board shall meet and canvass all ballots. Upon completion of this canvass, the board shall direct the county auditor to prepare the auditor's abstract of votes as defined by WAC 434-262-010. The reconciliation of ~~((absentee and vote by mail))~~ ballots must include documentation that the number of ballots counted plus the number of ballots rejected is equal to the number of ballots received. In addition, county auditors must provide any additional information necessary to explain variances between the number of ballots counted compared to the number of ballots received and credited. The certification report ~~((s established in))~~ required by RCW 29A.60.235 ~~((+))~~ must be included with the abstract of votes and must be submitted at the time of the county certification.

AMENDATORY SECTION (Amending WSR 09-12-078, filed 5/29/09, effective 6/29/09)

WAC 434-262-031 Rejection of ballots or parts of ballots.

(1) The disposition of provisional ballots is governed by WAC ~~((434-253-047))~~ 434-262-032. The county canvassing board must reject any ballot cast by a voter who was not qualified to vote, or for other reasons required by law or administrative rule. A log must be kept of all voted ballots rejected, and must be included in the minutes of each county canvassing board meeting.

(2) Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(a) Where a voter has already voted one ballot;

(b) Where two voted ballots are contained within a returned mail ballot envelope containing only one valid signature ~~((under the affidavit))~~ on the ballot declaration, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures ~~((under the affidavit))~~ on the ballot declaration, both ballots must be counted;

(c) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent consistent with WAC 434-261-086;

(d) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;

(e) Where the voter has overvoted;

(f) Where the voter validly transferred out of the county.

NEW SECTION

WAC 434-262-032 Provisional ballots--Disposition. Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the county auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election. A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record. Once the provisional ballot has been investigated, disposition of the ballot is as follows:

(1) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the provisional ballot is not counted.

(2) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration must be immediately restored and the provisional ballot counted.

(3) If the voter was previously registered and later canceled and the auditor determines that the cancellation was not in error, the voter must be offered the opportunity to reregister and the provisional ballot is not counted.

(4) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received for his or her precinct, the auditor must ensure that only those votes for the positions and measures for which the voter was eligible to vote are counted.

(5) If the voter is a registered voter in another county, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted, to the elections official for the jurisdiction in which the voter is registered. The ballot must be forwarded within seven calendar days after a primary or special election and fourteen calendar days after a general election, and as soon as possible if past that date.

(6) If the voter voted a regular ballot and a provisional ballot, the provisional ballot is not counted if the regular ballot has already been counted. The regular ballot is not counted if the provisional ballot has already been counted.

(7) If the voter voted a provisional ballot because he or she failed to produce identification at a voting center, the ballot is counted if the signature on the envelope matches the signature in the voter registration record.

(8) If the voter voted a provisional ballot because the voter is provisionally registered and the voter's registration record is still flagged as requiring verification of identity, the provisional ballot is not counted.

(9) Provisional ballots voted for reasons not covered by this section or state statute must be determined by the county canvassing board.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-040 Verification of auditor's abstract of votes.

The county canvassing board shall examine the auditor's abstract of votes and shall verify that all of the ~~((individual))~~ precinct ~~((and absentee))~~ ballot totals have been included in the abstract, and that the subtotals and county-wide totals for registered voters and votes cast are an accurate reflection of the sum of those ~~((individual))~~ precinct ~~((and absentee))~~ ballot totals.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-070 Official county canvass report.

Upon completion of the verification of the auditor's abstract of votes and the documentation of any corrective action taken, the county canvassing board shall sign a certification that the abstract is a full, true, and correct representation of the votes cast for the issues and offices listed thereon. The certification shall also state the total number of registered voters and votes cast in the county. The certification shall contain the oath required by RCW 29A.60.200, signed by the county auditor and attested to by the chairman of the board of the county legislative authority, and shall have a space where the official seal of the county shall be attached. This certification, the auditor's abstract of votes, ~~((any adding machine tapes produced during the verification process, and))~~ the written narrative of errors and discrepancies discovered and corrected, if applicable, and the reconciliation report required by RCW 29A.60.235 shall constitute the official county canvass report. This report may not be subsequently amended or altered, except in the event a recount conducted pursuant to chapter 29A.64 RCW, or upon order of the superior court, or by the county canvassing board reconvened specifically for that purpose. The vote totals contained therein shall constitute the official returns of that election.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-262-080 Transmittal of ~~((certified copy of))~~ county canvass report to the secretary of state. Immediately following the certification of the returns of any primary, special, or general election in which state measures, federal or state offices,

or legislative or judicial offices whose jurisdiction encompasses more than one county appeared on the ballot, the county auditor must transmit ~~((those returns))~~ a copy of the official county canvass report to the secretary of state by ~~((fax, e-mail, or other))~~ electronic means. ~~((No later than the next business day, the county auditor must send to the secretary of state a certified copy of that part of the county canvass report and, if applicable, the written narrative, covering those issues and offices.))~~

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-090 Receipt of ~~((certified copy of))~~ county canvass report by secretary of state. The secretary of state shall ensure that all material required to be submitted pursuant to state law and these regulations has been included in the ~~((certified))~~ copy of the county canvass report transmitted to his or her office. In the event the secretary of state determines that the report is incomplete, he or she shall notify the county auditor of that fact and shall request that the missing part be forwarded immediately. No ~~((county's certified copy of the))~~ county canvass report shall be considered complete for acceptance by the secretary of state until all of the material required by statute and regulation has been received by the secretary of state. ~~((In the event the certified copy of the county canvass report is illegible or in improper form, the secretary of state shall return it and require an immediate resubmission of the report in proper or legible form.))~~

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-100 Canvass of returns by the secretary of state--Powers and duties. Upon receipt of a complete ~~((certified))~~ copy of the county canvass report from a county auditor, the secretary of state shall proceed to include the results from that abstract in the official canvass of the primary, special, or general election. This shall be accomplished by adding the certified returns from each county abstract of votes in order to determine the final results for those offices and issues he or she is required by law to certify. The secretary of state shall accept the ~~((certified copy of the))~~ official abstract of votes from each county as being full, true, and correct in all respects. The secretary of state may include in the official canvass, a narrative

which details or describes any apparent discrepancies discovered during the canvassing procedure, and may notify the county or counties involved of such discrepancies.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-110 Certification of primary returns by the secretary of state. Pursuant to RCW 29A.60.240, upon completion of the canvass of each (~~county's certified copy of the~~) county auditor's abstract of votes and no later than (~~the third Tuesday~~) seventeen days following the primary, the secretary of state shall certify to the appropriate county auditors the returns for all state ballot measures, federal and statewide offices, and those legislative and judicial offices whose jurisdiction encompasses more than one county. In the event the secretary of state is unable to certify all or part of a primary election (~~by the third Tuesday~~) seventeen days following that primary because he or she has not received a (~~certified~~) copy of a county canvass report from one or more counties, or because there are discrepancies on a received report, he or she shall certify the state ballot measures and candidates for which completed abstracts have been received (~~The secretary of state shall also set forth, by letter to the county auditors, those~~), and provide reasons which render him or her unable to certify the entire primary. The certification of the remainder of the primary shall take place when all outstanding (~~certified copies of~~) county canvass reports have been received and filed.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-120 Certification of general election returns by the secretary of state. Pursuant to RCW 29A.60.250, upon completion of the canvass of each county's (~~certified copy of the auditor's~~) abstract of votes and no later than (~~the thirtieth~~) thirty days following a general election, the secretary of state shall certify to the governor, president of the senate, and speaker of the house of representatives the returns for all state ballot measures, federal and statewide offices, and those legislative and judicial offices whose jurisdiction encompasses more than one county. In the event the secretary of state is unable to certify all or part of a general election (~~by the thirtieth~~) thirty days following that election because he or she has not received a

((certified)) copy of a county canvass report from one or more counties, or because there are discrepancies on a received report, he or she shall certify the state ballot measures and candidates for which completed abstracts have been received. The secretary of state shall also set forth, by letter to the governor, president of the senate, and speaker of the house of representatives those reasons which render him or her unable to certify the entire election. The certification of the remainder of the election shall take place when all outstanding county canvass reports have been received.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-262-075	Election of political party precinct committee officers.
WAC 434-262-135	Thirty day reconciliation report.
WAC 434-262-203	Poll-site ballot reconciliation-- Central count optical scan.
WAC 434-262-204	Poll-site ballot reconciliation-- Precinct count optical scan and direct recording devices.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-264-090 Manual recount--(~~(Preparation)~~) Sorting.
~~((Prior to beginning a manual recount, all ballots that were originally tabulated at the poll site must be inspected.))~~ All ballots must be sorted by precinct. If a results report from the original count or the previous machine recount can be produced by batch, ballots may be sorted by batch instead of precinct.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-264-130 Recount--Completion. On completion of the recount:

(1) The county auditor (~~(shall)~~) must prepare an amended abstract of the recounted ballots for the county canvassing board. The amended abstract (~~(shall)~~) must include a revised cumulative summary, as well as the votes cast in each precinct for the office or measure that was recounted.

(2) The results must be formally reviewed and approved by the county canvassing board.

(3) If the results of the manual count do not match the results of the original count, the county canvassing board (~~(shall)~~) must verify all ballots have been recounted. The county canvassing board shall take all necessary steps to investigate and resolve any discrepancies.

(4) The county canvassing board (~~(shall)~~) must certify the amended abstract that, for each precinct, displays the results of the office that has been recounted. The new abstract (~~(shall)~~) must be included in the amended certified canvass report.

(5) Copies of the certified amended abstract (~~(will)~~) must be distributed to the same persons or agencies as the original certified abstract of votes.

(6) The amended certified canvass report must be available to the public by the next business day following the recount.

(7) Interim reports of the recount may be published at the discretion of the county canvassing board.

(8) If the recount involves ballots from more than one county, the secretary of state may require that amended abstracts be certified by each county canvassing board on a uniform date.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-005 Definitions. As used in this chapter:

(1) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.

(2) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.

(3) "Auditor" means "county auditor" and means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.

(4) "County election management system" means software used by county auditors to manage computer files pertaining to elections and includes, but is not limited to, voter registration records.

(5) "County registration number" means an identifier assigned to each registered voter by the county auditor.

(6) "Electronic registration" means the electronic submission of voter registration applications.

(7) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration data base.

(8) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.

(9) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.

(10) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter.

(11) "Pending cancellation" means the registered voter's registration record must be canceled within a specified amount of time and he or she is not eligible to vote.

(12) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.

(13) "Secretary" means secretary of state or any other person authorized by the secretary of state to act on his or her behalf.

(14) "State registration number" means a unique identifier assigned to each registered voter by the state, pursuant to RCW ((~~29A.08.651~~)) 29A.08.125.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-008 Review of county election management systems.

(1) Each auditor must notify the secretary of the intent to purchase or install a new county election management system. The county election management system must be approved by the secretary to ensure it meets the technical specifications promulgated by the secretary to interface with the official statewide voter registration data base. This approval must be obtained prior to the purchase or installation of the system.

(2) A county election management system must have the capability to:

(a) Store information required in WAC 434-324-010;

(b) Generate a list of registered voters in a county and their registration statuses;

(c) Track information specific to single elections, including the issuance and return of (~~vote by mail and absentee~~) ballots;

(d) Scan voter registration forms; and

(e) Store and provide access to images of signatures of registered voters.

(3) A county's election management system must conform to all of the requirements of state law and of these regulations, and if it does not, the secretary must notify the auditor of the nature of the nonconformity. The auditor must correct the nonconforming aspects of the county election management system and provide to the secretary such evidence of the change or changes in the system as the secretary may deem appropriate.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

**WAC 434-324-010 County election management system--
Applications for voter registration.**

(1) Each auditor must enter and maintain voter registration records in the official statewide voter registration data base by using a county election management system. Each record must contain at least the following information from the voter registration application in a format compatible with the official statewide voter registration data base:

(a) Name;

(b) Complete residential address;

(c) Complete mailing address;

(d) County registration number;

(e) State registration number;

(f) Gender;

(g) Date of birth;

(h) Date of registration;

- (i) Applicable district and precinct codes;
- (j) Elections in which the individual has voted, if available;
- (k) Washington state driver license number, Washington state identification card number, and/or the last four digits of the applicant's Social Security number; and

(l) A scanned image file (format .tiff) of the applicant's signature.

(2) In the case of an applicant who provides a copy of one of the alternative forms of identification listed in RCW 29A.08.107 for registration purposes, the auditor must either maintain a scanned image of the identifying document or make a notation in the registration record indicating which alternative form of identification was provided to the auditor. Pursuant to RCW 29A.08.710, a scanned image of the identification is not available for public inspection or copying.

(3) (a) If a voter registration application is incomplete, the county auditor may use other government resources and public records to confirm the missing information, except if the missing information is the applicant's signature or confirmation of United States citizenship. The county auditor may also attempt to contact the applicant by phone, e-mail or other means to obtain identification information.

(b) If, after these attempts, the county auditor is still unable to obtain the incomplete information, the county auditor must send the applicant a verification notice as defined by RCW 29A.08.030.

(4) Upon entry of an applicant's information, the auditor must check for duplicate entries.

~~((4))~~ (5) Each auditor must have a quality assurance program to maintain accurate data entry into the statewide voter registration data base.

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

WAC 434-324-020 County codes. All auditors shall use the following system of two character codes for designating the county in which the voter is registered:

((Adams	=	AD	Lewis	=	LE
Asotin	=	AS	Lincoln	=	LI
Benton	=	BE	Mason	=	MA
Chelan	=	CH	Okanogan	=	OK
Clallam	=	CM	Pacific	=	PA
Clark	=	CR	Pend Oreille	=	PE
Columbia	=	CU	Pierce	=	PI
Cowlitz	=	CZ	San Juan	=	SJ
Douglas	=	DG	Skagit	=	SK

Ferry	=	FE	Skamania	=	SM
Franklin	=	FR	Snohomish	=	SN
Garfield	=	GA	Spokane	=	SP
Grant	=	GR	Stevens	=	ST
Grays Harbor	=	GY	Thurston	=	TH
Island	=	IS	Wahkiakum	=	WK
Jefferson	=	JE	Walla Walla	=	WL
King	=	KI	Whatcom	=	WM
Kitsap	=	KP	Whitman	=	WT
Kittitas	=	KS	Yakima	=	YA
Klickitat	=	KT))			

(1) Adams: AD;
(2) Asotin: AS;
(3) Benton: BE;
(4) Chelan: CH;
(5) Clallam: CM;
(6) Clark: CR;
(7) Columbia: CU;
(8) Cowlitz: CZ;
(9) Douglas: DG;
(10) Ferry: FE;
(11) Franklin: FR;
(12) Garfield: GA;
(13) Grant: GR;
(14) Grays Harbor: GY;
(15) Island: IS;
(16) Jefferson: JE;
(17) King: KI;
(18) Kitsap: KP;
(19) Kittitas: KS;
(20) Klickitat: KT;
(21) Lewis: LE;
(22) Lincoln: LI;
(23) Mason: MA;
(24) Okanogan: OK;
(25) Pacific: PA;
(26) Pend Oreille: PE;
(27) Pierce: PI;
(28) San Juan: SJ;
(29) Skagit: SK;
(30) Skamania: SM;
(31) Snohomish: SN;
(32) Spokane: SP;
(33) Stevens: ST;
(34) Thurston: TH;
(35) Wahkiakum: WK;
(36) Walla Walla: WL;
(37) Whatcom: WM;
(38) Whitman: WT; and
(39) Yakima: YA.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-324-031 Electronic voter registration. (1) The secretary of state's electronic voter registration web page must have the capability to:

(a) Reject applicants without a Washington state driver's license or state identification card;

(b) Require the applicant to affirmatively assent to the use of his or her driver's license or state identification card signature for voter registration purposes;

(c) Require the applicant to attest to the truth of the information provided on the application;

(d) Retrieve a digital copy of each applicant's driver's license or state identification card signature from the department of licensing and include it with the other information required for each applicant's voter registration; and

(e) Electronically transfer all information required for each applicant's voter registration to his or her county auditor for entry into the statewide voter registration data base through the county election management system.

(2) Once election registration information is entered into county election management systems, the same timelines and processes used for registration by mail apply to electronic registration. A county auditor may allow voters registering in person at the county auditor's office between twenty-nine days before an election and eight days before an election to register using the electronic voter registration system.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-045 Verification of applicant's identity. (1) If the applicant is provisionally registered pursuant to WAC 434-324-040(5), the county auditor (~~((must verify the applicant's identity before counting the applicant's ballot. The county auditor))~~) may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number. The county auditor may also attempt to contact the applicant by phone, e-mail or other means to obtain identification information.

(2) If, after these attempts, the county auditor is still unable to verify the applicant's identity, the county auditor must

send the applicant an identification notice at the time of registration that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identification notice must include:

(a) A statement explaining that because the applicant's identity cannot be verified with the information provided on the application, he or she is provisionally registered to vote.

(b) A statement explaining that if this information is not provided, the applicant's ballot will not be counted.

(c) A statement explaining that federal law requires the applicant to provide a copy of one of the following forms of identification either before or when they vote:

(i) A Washington driver's license or state ID card;

(ii) The last four digits of his or her Social Security number;

(iii) Valid photo identification;

(iv) A valid enrollment card of a federally recognized tribe in Washington;

(v) A current utility bill, or a current bank statement;

(vi) A current government check;

(vii) A current paycheck; or

(viii) A government document, other than a voter registration card, that shows both the registrant's name and current address.

(3) If the applicant responds with updated driver's license, state ID card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time he or she votes after registering.

(4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter registration record must remain flagged. ~~((If))~~ The applicant ~~((votes by mail, he or she))~~ must be notified at the time of each election that the ballot will not be counted unless he or she provides adequate verification of identity.

(5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified his or her identity, the provisional registration shall be canceled.

AMENDATORY SECTION (Amending WSR 10-03-072, filed 1/18/10, effective 2/18/10)

WAC 434-324-106 Felony screening process. (1) The law on when the right to vote is restored following a felony conviction is established in RCW 29A.08.520. Three times a year, the secretary must compare the voter registration records to lists of felons who are either incarcerated or on community supervision with the

Washington state department of corrections, and to lists of felons convicted in federal district courts with a sentence of at least fifteen months incarceration. The secretary must create a list of felon voters by matching the first name, last name, date of birth, and other identifying information.

(2) For each felon voter, the secretary must change the voter's registration status to "pending cancellation." This change of status must be entered prior to the first extraction or pull of (~~absentee or~~) mail ballots. The official statewide voter registration data base must automatically notify the county election management system of the change. Voters with pending cancellation status must not be (~~included in a poll book or be mailed an absentee or mail~~) issued a ballot.

(3) The secretary must mail a notification letter to each felon whose status is pending cancellation. The notification letter must be sent to the felon's last known registration mailing address and, if the person is incarcerated or on community supervision with the department of corrections, to the offender's department of corrections address indicating that his or her voter registration is about to be canceled. The letter must contain language notifying the felon that he or she must contact the auditor's office to contest the pending cancellation. The letter must also inform the felon that he or she may request a provisional ballot for any pending elections. The notification letter must include:

(a) An explanation that a felon loses the right to vote until the right is restored;

(b) For a conviction in a Washington state court, the right to vote is restored as long as the felon is not serving a sentence of confinement or subject to community custody with the department of corrections. For a conviction in another state or federal court, the right to vote is restored as long as the felon is no longer incarcerated;

(c) The reason the felon has been identified as ineligible to vote;

(d) An explanation that the felon's voter registration will be canceled due to the felony conviction; and

(e) How to contest the pending cancellation. The secretary must send to each auditor the voter registration and conviction information for each matched felon registered in that county.

(4) If the felon fails to contact the auditor within thirty days, the felon's voter registration must be canceled. If an election in which the felon would otherwise be eligible to vote is scheduled to occur during the thirty days, the felon must be allowed to vote a provisional ballot.

(5) The felon's eligibility status may be resolved and the pending cancellation status reversed without scheduling a hearing if the felon provides satisfactory documentation that the felon's voting rights have been restored, the conviction is not a felony, the person convicted is not the registered voter, or the felon is otherwise eligible to vote. The auditor must notify the voter, retain a scanned copy of all documentation provided, and notify the secretary. The secretary must flag the voter registration record

to prevent future cancellation on the same basis.

(6) If the felon requests a hearing, the auditor must schedule a public hearing to provide the felon an opportunity to dispute the finding. In scheduling the hearing, the auditor may take into account whether an election in which the felon would otherwise be eligible to vote is scheduled. The notice must be mailed to the felon's last known registration mailing address and must be postmarked at least seven calendar days prior to the hearing date. Notice of the hearing must also be provided to the prosecuting attorney.

(7) The auditor must provide the prosecuting attorney a copy of all relevant registration and felony conviction information. The prosecuting attorney must obtain documentation, such as a copy of the judgment and sentence((7)) or custody or supervision information from the Washington department of corrections, the out-of-state court or prison, or the federal court or Bureau of Prisons, sufficient to prove by clear and convincing evidence that the felon is ineligible to vote. It is not necessary that the copy of the document be certified.

(8) If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility in time to hold a hearing prior to certification of an election in which the felon would otherwise be eligible to vote, the prosecuting attorney must request that the auditor dismiss the current cancellation proceedings. The auditor must reverse the voter's pending cancellation status, cancel the hearing, and notify the voter. A provisional ballot voted in the pending election must be counted if otherwise valid. The prosecuting attorney must continue to research the felon's voting eligibility. If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility prior to the next election in which the felon would otherwise be eligible to vote, the prosecuting attorney must notify the auditor. The auditor must notify the secretary, who must flag the voter registration record to prevent future cancellation on the same basis.

(9) A hearing to determine voting eligibility is an open public hearing pursuant to chapter 42.30 RCW. If the hearing occurs within thirty days before, or during the certification period of, an election in which the felon would otherwise be eligible to vote, the hearing must be conducted by the county canvassing board. If the hearing occurs at any other time, the county auditor conducts the hearing. Before a final determination is made that the felon is ineligible to vote, the prosecuting attorney must show by clear and convincing evidence that the voter is ineligible to vote due to a felony conviction. The felon must be provided a reasonable opportunity to respond. The hearing may be continued to a later date if continuance is likely to result in additional information regarding the felon's voting eligibility. If the felon is determined to be ineligible to vote due to felony conviction and lack of rights restoration, the voter registration must be canceled. If the voter is determined to be eligible to vote, the voter's pending cancellation status must be reversed and the secretary must flag the voter registration record to prevent

future cancellation on the same basis. The felon must be notified of the outcome of the hearing and the final determination is subject to judicial review pursuant to chapter 34.05 RCW.

(10) If the felon's voter registration is canceled after the felon fails to contact the auditor within the thirty day period, the felon may contact the auditor at a later date to request a hearing to dispute the cancellation. The auditor must schedule a hearing in substantially the same manner as provided in subsections (6) through (9) of this section.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

WAC 434-324-115 Challenge of voter's registration. All county auditors and the secretary of state shall furnish to the public on request forms substantially similar to the sample included below for the purpose of allowing a registered voter to challenge the registration of another voter pursuant to RCW 29A.08.810 through 29A.08.850.

VOTER REGISTRATION CHALLENGE

AFFIDAVIT

I, declare under penalty of perjury under the laws of the State of Washington that I am a registered voter in the State of Washington and that I hereby challenge the voter registration of:

Name	Registered Address
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I have personal knowledge and belief that this person is not qualified to vote or does not reside at the address given on his or her voter registration record, as evidenced below. I have exercised due diligence to personally verify the evidence presented.

REASON FOR CHALLENGE

- Check the appropriate box below. The voter:
- Is not a U.S. Citizen.
 - Will not be at least eighteen years old by the next election.
 - Has been convicted of a felony and his or her right to vote has not been restored.
 - Has been judicially declared ineligible to vote due to mental incompetency.
 - Does not reside at the address at which he or she is

- registered to vote, in which case I am submitting either:
- 1) The address at which the challenged voter actually resides:
 - or
 - 2) Evidence that I exercised due diligence to verify that the voter does not reside at the address provided and to attempt to contact the voter to learn the voter's actual residence. I personally:
 - Sent a letter with return service requested to all known addresses for the voter;
 - Visited the voter's residential address to contact persons at the address to determine if the voter actually resides there. If I was able to contact anyone who owns, manages, resides, or is employed at the address, I am submitting a signed affidavit from that person stating that, to his or her personal knowledge, the voter does not reside at the address;
 - Searched local telephone directories to determine whether the voter maintains a telephone listing at an address within the county;
 - Searched county auditor property records to determine whether the voter owns any property in the county; **and**
 - Searched the statewide voter registration data base to determine if the voter is registered at any other address in the state.

List the evidence for the challenge:

Signature of Challenger	Date and Place Signed
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Address	City, State, Zip
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Attach all necessary documentation.

FILING A VOTER REGISTRATION CHALLENGE

General Information

The registration of a person as a voter is presumptive evidence of that person's right to vote. A voter registration challenge cannot be based on unsupported allegations or allegations by anonymous third parties. All documents pertaining to a challenge are public records. A challenge may be dismissed if it is not in proper form or if the reason is not grounds for a challenge. The challenge process is established in RCW 29A.08.810 through 29A.08.850. Residency requirements are established in Article VI, section 4 of

the Washington state Constitution, RCW 29A.04.151 and 29A.08.112.

Who May File a Challenge and When

A registered voter or the prosecuting attorney may file a challenge. To affect an upcoming election, the challenge must be filed at least forty-five days before the election. However, if the challenged voter registered less than sixty days before the election or moved less than sixty days before the election without transferring the registration, the challenge must be filed at least ten days before the election or ten days after the voter registered, whichever is later. (~~Additionally, a poll site judge or inspector may challenge a voter's right to vote on election day at the poll site.~~)

Exceptions to the Residency Requirements

A voter does not lose his or her voting residency if absent due to state or federal employment, military service, school attendance, confinement in a public prison, out-of-state business, or navigation at sea. A voter who lacks a traditional residential address, such as a person who resides in a shelter, park, motor home or marina, is assigned a precinct based on the voter's physical location.

The Hearing

The county auditor notifies the voter and challenger of the hearing date and time. The voter and challenger may either appear in person or submit testimony by affidavit. The county auditor presides over the hearing, unless the challenge was filed during the forty-five days before an election, in which case the county canvassing board presides over the hearing. The challenger has the burden to prove by clear and convincing evidence that the voter's registration is improper. The voter has an opportunity to respond. The final decision may only be appealed in superior court.

NEW SECTION

WAC 434-324-125 Voter registration data base manual. The secretary of state and each county auditor must conduct voter registration list maintenance, process on-line voter registrations, motor voter registrations and agency-based registrations, and update registrations according to procedures and instructions in the voter registration data base on-line help manual.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-335-040 Voting system requirements. (1) No voting device or its component software may be certified by the secretary of state unless it:

- (a) Secures to the voter secrecy in the act of voting;
- (b) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;
- (c) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- (d) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for President and Vice-President of the United States;
- (e) Produces a machine countable and human readable paper record for each vote that may be accepted or rejected by the voter before finalizing his or her vote. The paper record of an electronic vote may not be removed from the device by the voter. If the voting device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by the voter; and
- (f) Has been tested and approved by the appropriate voting system test laboratory approved by the United States election assistance commission.

(2) No vote tabulating system may be certified by the secretary of state unless it:

- (a) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;
- (b) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;
- (c) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each ballot measure on the ballot in that precinct;
- (d) Produces precinct and cumulative totals in printed form; and
- (e) Produces legislative and congressional district totals for statewide races and issues in electronic and printed form.

(3) A vote tabulating system must:

- (a) Be capable of being secured with lock and seal when not in use;
- (b) Be secured physically and electronically against unauthorized access;
- (c) Not be connected to, or operated on, any electronic network including, but not limited to, internal office networks, the internet, or the world wide web. A network may be used as an

internal, integral part of the vote tabulating system but that network must not be connected to any other network, the internet, or the world wide web; and

(d) Not use wireless communications in any way.

~~((4) The source code of electronic voting system software that has been placed in escrow must be identical to the source code of software that has been tested and certified by the federal voting system test laboratory and installed in the county. The applicant must place in escrow both the human-readable source code and the working or compiled version. In lieu of placing them in escrow, the source code and the working or compiled version may be deposited with the national software reference library. The software may be verified by matching the system's digital software signatures with the digital signatures the elections assistance commission has on file, when available.))~~

AMENDATORY SECTION (Amending WSR 10-03-072, filed 1/18/10, effective 2/18/10)

WAC 434-335-060 Examination of equipment. Secretary of state staff will initiate an examination of the applicant's equipment after receiving a completed application and a working model of the equipment, documentation, and software to be reviewed.

The examination verifies that the system or equipment meets all applicable federal guidelines, and consists of a series of functional application tests designed to ensure that the system or equipment meets Washington state law and rules. The software tested shall be the approved software from the voting system test laboratory.

The examination may include an additional voting system test laboratory test at the discretion of the secretary of state. The examination shall include the set-up and conduct of mock elections, including a machine recount. The elections must feature at least ten precincts, with at least ten ballots in each precinct, and must test split precincts(~~(, precinct committee officer contests)~~), partisan and nonpartisan offices, and contests that allow the voter to vote for multiple candidates. The tests must include ballots of various ballot styles, and include multiple candidates, write-in candidates and overvoted contests.

AMENDATORY SECTION (Amending WSR 10-03-072, filed 1/18/10, effective 2/18/10)

WAC 434-335-520 Logic and accuracy testing of accessible

voting units. (1) The logic and accuracy test of accessible voting units must be completed before they may be used for marking or casting ballots. Counties must complete the testing to have in-person accessible voting available starting (~~twenty~~) eighteen days before the day of a primary or election.

(2) This test serves as the official logic and accuracy test. A log must be created during the test, recording the time of each test, the precinct numbers, the seal number, the machine number, and the initials of each person testing the system. The log must be included in the official logic and accuracy test materials. This process is open to observation and subject to all notices and observers pursuant to WAC 434-335-290 and 434-335-320.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-335-490

Poll site-based optical scan ballot counter preparation and testing.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-381-120 Deadlines. (1) Candidate statements and photographs shall be submitted to the secretary of state no later than the Friday following the last day of the filing period.

(2) For ballot measures, including initiatives, referenda, alternatives to initiatives to the legislature, and constitutional amendments, the following documents shall be filed with the secretary of state on or before the following deadlines:

(a) Appointments of the initial two members of committees to prepare arguments for and against measures:

(i) For an initiative to the people or referendum measure: Within (~~ten~~) seven business days after the submission of signed petitions to the secretary of state;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, within (~~ten~~) seven business days after the adjournment of the regular or special session at which the legislature approved or referred the measure to the ballot:

(b) Appointment of additional members of committees to prepare arguments for and against ballot measures, not later than the date the committee submits its initial argument to the secretary of state;

(c) Arguments for or against a ballot measure, no later than (~~fifteen~~) ten business days following appointment of the initial committee members;

(d) Rebuttals of arguments for or against a ballot measure, by no later than (~~ten~~) five business days following the transmittal of the final statement to the committees by the secretary. The secretary shall not transmit arguments to opposing committees for the purpose of rebuttals until both arguments are complete.

(3) If a ballot measure is the product of a special session of the legislature and the secretary of state determines that the deadlines set forth in subsection (2) of this section are impractical due to the timing of that special session, then the secretary of state may establish a schedule of deadlines unique to that measure.

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters' pamphlet. Nothing in this rule shall preclude the secretary of state from accepting a late filing when, in the secretary's judgment, it is reasonable to do so. Once statements or arguments are submitted to the secretary, changes by the candidate or committee will not be accepted unless requested by the secretary.