



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Secretary of State, Elections Division

- Permanent Rule
 Emergency Rule

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)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

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

- Yes No If Yes, explain:

Purpose: Significant election legislation passed during the 2005 legislative session. The rules implement this legislation. Some rules are also reorganized into chronological order of the election process.

Citation of existing rules affected by this order:

Repealed: WAC 434-238-010, WAC 434-238-020, WAC 434-238-025, WAC434-238-030, WAC434-238-055, WAC 434-238-060, WAC 434-238-070, WAC 434-238-080, WAC 434-238-090, WAC 434-238-100, WAC 434-238-110, WAC 434-238-120, WAC 434-238-140, WAC 434-238-160, WAC 434-238-170, WAC 434-238-180, WAC 434-238-200, WAC 434-240-005, WAC-240-010, WAC 434-240-020, WAC 434-240-027, WAC 434-240-030, WAC 434-240-040, WAC 434-240-050, WAC 434-240-060, WAC 434-240-080, WAC 434-240-090, WAC 434-240-100, WAC 434-240-110, WAC 434-240-120, WAC 434-240-130, WAC 434-240-150, WAC 434-240-180, WAC 434-240-190, WAC 434-240-200, WAC 434-240-205, WAC 434-240-225, WAC 434-240-230, WAC 434-240-235, WAC 434-240-240, WAC 434-240-245, WAC 434-240-250, WAC 434-240-260, WAC 434-240-270, WAC 434-240-290, WAC 434-240-300, WAC 434-240-320, WAC 434-253-040, WAC 434-253-043, WAC 434-253-060, WAC 434-253-180, WAC 434-253-190, WAC 434-253-210, WAC 434-253-260, WAC 434-261-080, WAC 434-261-085, WAC 434-261-090, WAC 434-262-005, WAC 434-262-035, WAC 434-262-045, WAC 434-262-150, WAC 434-262-170, WAC 434-262-180, WAC 434-262-190.

Amended: WAC 434-215-070, WAC 434-215-080, WAC 434-215-090, WAC 434-215-110, WAC 434-253-010, WAC 434-253-020, WAC 434-253-045, WAC 434-253-047, WAC 434-253-048, WAC 434-253-049, WAC 434-253-160, WAC 434-253-165, WAC 434-253-170, WAC 434-253-200, WAC 434-253-230, WAC 434-253-240, WAC 434-253-300, WAC 434-257-030, WAC 434-260-020, WAC 434-260-030, WAC 434-260-040, WAC 434-260-050, WAC 434-260-140, WAC 434-260-145, WAC 434-260-150, WAC 434-260-310, WAC 434-261-005, WAC 434-261-070, WAC 434-261-075, WAC 434-261-100, WAC 434-261-105, WAC 434-261-110, WAC 434-262-010, WAC 434-262-015, WAC 434-262-020, WAC 434-262-025, WAC 434-262-030, WAC 434-262-050, WAC 434-262-080, WAC 434-262-090, WAC 434-262-100, WAC 434-262-110, WAC 434-262-120, WAC 434-262-203, WAC 434-262-204.

Suspended:

Statutory authority for adoption: RCW 29A.04.611

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-14-172 on 7/6/05 (date).

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

WAC 434-250-060 is clarified to exclude the participants of the Address Confidentiality Program from the pre-paid UOCAVA service envelopes paid by the United States government. A sentence is added to the warning in WAC 434-250-070. WAC 434-250-100 is clarified regarding unmanned deposit sites. WAC 434-250-130 clarifies that the county auditor must document the seal numbers. The ID requirement is clarified in WAC 434-250-330. The prohibition in WAC 434-253-010 on the use of information contained in the poll books is removed. In WAC 434-253-160 and 434-253-165, a sentence is added to the instructions of the ballot accountability form. In WAC 434-253-165, "optical scan" is removed from the description of provisional ballot. WAC 434-253-290 is removed from the rulemaking and left in WAC as it currently exists. WAC 434-260-310 is clarified that the forms are also for maintenance of the certification. The punchcard provisions of WAC 434-261-070 are changed to prohibit altering the ballot. In WAC 434-262-030, a duplicative sentence is repealed.

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 _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

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

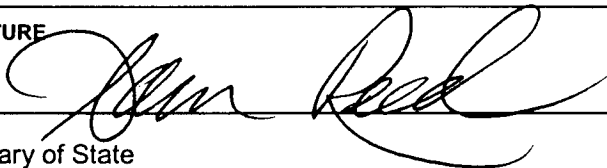
Reasons for this finding:

Date adopted: 8/19/05

NAME (TYPE OR PRINT)

Sam Reed

SIGNATURE



TITLE

Secretary of State

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 19 2005

TIME

1/31

AM

WSR

05-17-145

PM

(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>31</u>	Amended	<u>44</u>	Repealed	<u>61</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	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	<u>31</u>	Amended	<u>44</u>	Repealed	<u>61</u>
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-070 (~~(Definition and standards for systems to file declarations of candidacy electronically.)~~) **Electronic filing--Standards.** An electronic system to file declarations of candidacy shall be an online system accessible to candidates on the world wide web that records the information specified in RCW (~~(29.15.010)~~) 29A.24.031 (1) through (4) and WAC 434-215-090. At a minimum, the system shall perform the following functions:

- (1) Verify the candidate's voter registration status;
- (2) Check the candidate's name against the name returned by the electronic transfer of funds process;
- (3) Allow the filing officer to verify filings before filing information is made public;
- (4) Accept electronic transfer of funds for the payment of filing fees (~~(required by RCW 29.15.050)~~), except that a candidate submitting a (~~(nominating)~~) filing fee petition in the place of a filing fee may not file the declaration of candidacy electronically;
- (5) Inform, and require the candidate to acknowledge, that submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitution and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee (~~(established in RCW 29.15.050)~~); and
- (6) Inform the candidate that knowingly providing false information on a declaration of candidacy is a class C felony as provided by RCW (~~(29.85.100)~~) 29A.84.311.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-080 (~~(Jurisdictions eligible to accept electronically filed declarations of candidacy.)~~) **Electronic filing--Eligible jurisdictions.** (1) The secretary of state and county auditors may accept electronically filed declarations of candidacy for any office for which they are authorized to accept filings (~~(provided by RCW 29.15.030)~~). Any system designed to accept electronically filed declarations of candidacy must comply with the requirements of WAC 434-215-070.

(2) Pursuant to RCW 29A.24.070(2), a candidate for the legislature, the court of appeals, or superior court in a jurisdiction that is within one county may file the declaration

of candidacy with either the secretary of state or the county auditor. If the secretary of state or county auditor receives a declaration of candidacy from such a candidate, the candidacy information must be exchanged with the other filing officer as soon as possible, and within one business day at the latest. All candidacy information must be exchanged with the other filing officer immediately after the close of business on the last day for filings.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-090 (~~Information requirements for electronically filed declarations of candidacy beyond those required in RCW 29.15.010.~~) Electronic filing--Required information. At a minimum, electronically filed declarations of candidacy shall provide:

- (1) The month and day of the candidate's date of birth;
- (2) An electronic mail address, phone number, residential address, and mailing address where the candidate may be contacted.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-110 (~~Interlocal agreements to provide electronic filing services.~~) Electronic filing--Interlocal agreements. The secretary of state may enter into interlocal agreements with county auditors to provide services (~~in order that~~) to allow county auditors (~~may~~) to accept electronic filings. Nothing in an agreement shall contravene RCW (~~29.15.030~~) 29A.24.070, determining where candidates file for office.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-238-010	Authority and purpose.
WAC 434-238-020	Definitions.
WAC 434-238-025	Mail ballot precincts.
WAC 434-238-030	Request for mail ballot election.
WAC 434-238-055	Odd numbered year primaries by mail.
WAC 434-238-060	Notice of election.
WAC 434-238-070	Delivery of ballot to voter.
WAC 434-238-080	Envelope specifications.
WAC 434-238-090	Instructions to voters.
WAC 434-238-100	Depositing of ballots.
WAC 434-238-110	Obtaining replacement ballots.
WAC 434-238-120	Unsigned affidavit.
WAC 434-238-140	Verification of signatures-- Process.
WAC 434-238-160	Master list of voters.
WAC 434-238-170	Logic and accuracy test.
WAC 434-238-180	Tallying of ballots.
WAC 434-238-200	Maintenance of records.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-240-005	Authority and purpose.
WAC 434-240-010	Definitions.
WAC 434-240-020	Applications for single absentee ballots.
WAC 434-240-027	Requesting absentee ballot for family member.
WAC 434-240-030	Application form for a regular absentee ballot.
WAC 434-240-040	Absentee ballot application forms originating outside the state of Washington.
WAC 434-240-050	Ongoing absentee ballot application.
WAC 434-240-060	Termination of ongoing absentee voter status.
WAC 434-240-080	Special absentee ballot.
WAC 434-240-090	Special absentee ballot application form.
WAC 434-240-100	Special absentee ballot--Material to be included.
WAC 434-240-110	Special absentee ballot--Time application received.

WAC 434-240-120	Health care facility absentee ballot application form.
WAC 434-240-130	Incomplete application from elector.
WAC 434-240-150	Verification of absentee ballot application.
WAC 434-240-180	Service and overseas voters--Material and postage.
WAC 434-240-190	Absentee ballot envelopes.
WAC 434-240-200	Absentee ballot--Instructions to voters.
WAC 434-240-205	Replacement absentee ballots.
WAC 434-240-225	Definitions regarding absentee ballots.
WAC 434-240-230	Processing of absentee ballots.
WAC 434-240-235	Unsigned affidavit.
WAC 434-240-240	Verification of the signature and postmark on absentee ballots.
WAC 434-240-245	Procedure for signatures that don't match.
WAC 434-240-250	Absentee voter attempting to vote at the polls.
WAC 434-240-260	Absentee ballots returned after the poll lists have been marked.
WAC 434-240-270	Maintenance of an audit trail on absentee ballots.
WAC 434-240-290	Security of absentee ballots.
WAC 434-240-300	Absentee ballot process to be expedited.
WAC 434-240-320	Mail ballot precincts.

Chapter 434-250 WAC

VOTING BY MAIL

NEW SECTION

WAC 434-250-010 Purpose. This chapter implements the various methods for voting by mail and conducting elections by mail.

(1) These rules establish standards and procedures for the issuance of:

(a) Ongoing absentee ballots, as authorized by RCW 29A.40.040;

(b) Single absentee ballots, as authorized by RCW 29A.40.020; and

(c) Special absentee ballots, as authorized by RCW 29A.40.050.

(2) These rules also establish standards and procedures for the following methods of conducting elections by mail:

(a) Counties designated as mail ballot counties, as authorized by RCW 29A.48.010(1);

(b) Precincts designated as mail ballot precincts, as authorized by RCW 29A.48.010(2);

(c) Special elections conducted by mail, as authorized by RCW 29A.48.020; and

(d) Odd year primary elections conducted by mail, as authorized by RCW 29A.48.030.

NEW SECTION

WAC 434-250-020 Definitions. As used in this chapter:

(1) "Absentee ballot" includes:

(a) An ongoing absentee ballot issued to a voter who has requested status as an ongoing absentee voter, as authorized by RCW 29A.40.040;

(b) A single absentee ballot issued to a voter who has requested an absentee ballot for a single election, as authorized by RCW 29A.40.020;

(c) A special absentee ballot issued to a voter who has indicated that he or she will be unable to vote and return a regular absentee ballot timely, as authorized by RCW 29A.40.050; and

(d) A hospital absentee ballot issued to a voter confined to a health care facility on the day of a primary or election, as authorized by RCW 29A.40.080.

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

(3) "Initial processing" means all steps taken to prepare absentee ballots for tabulation, except for the reading of ballots by an electronic vote tallying system. Initial processing includes, but is not limited to: Verification of the signature and postmark on the return envelope, 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; and other preparation of ballots for final processing.

(4) "Mail ballot" means a ballot used in an election conducted by mail, as authorized by RCW 29A.48.010, 29A.48.020, or 29A.48.030. Unless specified otherwise, mail ballots must be prepared and processed in the same manner as absentee ballots.

(5) "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.

BALLOTS

NEW SECTION

WAC 434-250-030 Applications. (1) As authorized by RCW 29A.40.040, requests for status as an ongoing absentee voter must be made in writing. A voter may request status as an ongoing absentee voter by indicating such on a standard voter registration form.

(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, or in writing, and may be made by a family member. 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 an out-of-state, overseas, or service voter not registered to vote in Washington to indicate his or her last residential address in Washington;

(b) A checkbox requesting that a single absentee ballot be forwarded as soon as possible; and

(c) The declaration required in WAC 434-250-050.

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.

(5) If an application for an absentee ballot does not contain sufficient information to enable the auditor to issue the correct absentee ballot, the auditor shall notify the person and explain why the application is not accepted. If, in the judgment of the county auditor, enough time exists to correct the application, the county auditor must request the proper information from the voter in order to facilitate the application. If, in the judgment of the county auditor, insufficient time exists to correct the application, the auditor must issue the absentee ballot as if the voter had listed the county auditor's office as his or her residence. Upon its return, the ballot must be referred to the county canvassing board, and the only offices or issues that may be tabulated are those common to the entire county and those for which it can be conclusively determined the voter is qualified to vote.

NEW SECTION

WAC 434-250-040 Instructions to voters. (1) In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning an absentee ballot must also include:

(a) How to correct a ballot;

(b) How to complete and sign the affidavit on the return envelope;

(c) How to make a mark, witnessed by two other people, if unable to sign the affidavit;

(d) How to place the ballot in the security envelope and place the security envelope in the return envelope;

(e) How to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(f) Notice that postage is required, if applicable; and

(g) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated place no later than election day, and providing the location, dates, and times for depositing the ballot as an alternative to mailing the ballot.

(2) Instructions that accompany a special absentee ballot must also include:

(a) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office; and

(b) Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification of the election, it will be tabulated and the special absentee ballot will be voided.

NEW SECTION

WAC 434-250-050 Ballot materials. In addition to the instructions and in addition to materials required by chapters 29A.36 and 29A.40 RCW, each absentee ballot 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 words "OFFICIAL BALLOT - DO NOT DELAY" prominently on the front, the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and the following oath with a place for the voter to sign, date, and write his or her daytime phone number:

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

I am a legal resident of the state of Washington;
I am entitled to vote in this election;
I have not already voted in this election;
It is illegal to vote if I am not a United States citizen;
It is illegal to vote if I have been convicted of a felony
and have not had my voting rights restored;
It is illegal to cast a ballot or sign an absentee envelope

on behalf of another voter, except as otherwise provided by law; and

Attempting to vote when not entitled, 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.

Signature _____ Date _____

The return envelope must conform to postal department regulations.

County auditors may use existing stock of absentee envelopes until January 1, 2006.

NEW SECTION

WAC 434-250-060 Service and overseas voters--Material and postage. Pursuant to RCW 29A.40.150, the secretary of state must furnish envelopes and instructions for out-of-state, overseas, and service voters. For purposes of RCW 29A.40.150, out-of-state voters are limited to voters who are spouses or dependents of service voters, and service voters do not include participants of the address confidentiality program established in chapter 40.24 RCW. All absentee ballots to voters in these categories will be sent postage-free, pursuant to the provisions of federal law, and the return envelopes must be marked as to indicate that they may be returned free of postage.

NEW SECTION

WAC 434-250-070 Forwarding ballots. If the county auditor chooses to forward absentee ballots, as authorized by RCW 29A.40.091, the auditor must include with the ballot an explanation that is substantially similar to the following:

For each jurisdiction listed on the ballot, you must reside in the jurisdiction in order to vote for that office or issue. If you have any questions about your eligibility to vote in this election, please contact your county auditor.

This explanation may be provided on the ballot envelope, on an enclosed insert, or on the ballot itself. The county auditor must utilize postal service endorsements that allow the ballots to be forwarded, allow the county auditor to receive from the post office the addresses to which ballots were forwarded, and allow the return of ballots that were not capable of being forwarded. If the above explanation is not provided to the

voter, the return envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

NEW SECTION

WAC 434-250-080 Replacement ballots. The county auditor may issue a replacement ballot, as authorized by RCW 29A.40.061, if the request is received prior to 8:00 p.m. on election day.

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.

NEW SECTION

WAC 434-250-090 Absentee ballots issued after the poll lists have been marked. Absentee ballots which are issued and returned to the county auditor after the poll lists have been marked shall be segregated from other absentee ballots, and shall not be tabulated until the poll lists have been examined following the election to ensure that those persons did not vote at the polls on election day.

NEW SECTION

WAC 434-250-100 Depositing of ballots. Ballots may be deposited in the auditor's office during normal business hours prior to the day of the election, and from 7:00 a.m. to 8:00 p.m. on the day of the election. Other places of deposit may be staffed or unstaffed.

(1) Staffed sites must be staffed by at least two persons appointed by the auditor. Whenever possible, the persons appointed shall be representatives of each major political party. Deposit site staff may not be an employee of the jurisdiction for whom the election is conducted and shall

subscribe to an oath regarding the discharge of the duties, administered by the county auditor. Staffed deposit sites must be open from 7:00 a.m. until 8:00 p.m. on the day of the election and may be open prior to the election on 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 to the canvassing board for consideration of whether special circumstances warrant consideration, as documented by the deposit site staff.

(2) Unstaffed sites may be used if the ballot drop box is either:

(a) Constructed and secured according to the same requirements as United States Postal Service postal drop boxes; or

(b) Secured and located indoors.

Ballot boxes must be locked and sealed at all times, with seal logs that document each time the box is opened, by whom, and the number of ballots removed. From eighteen days prior to election day until 8:00 p.m. on election day, two county auditor staff members must empty each ballot drop box with sufficient frequency to prevent damage or unauthorized access to the ballots. Ballots must be placed into sealed transport carriers and returned to the county auditor's office or another designated location. On election day, ballot drop boxes must be emptied at exactly 8:00 p.m. to ensure that all ballots meet the 8:00 p.m. delivery deadline.

NEW SECTION

WAC 434-250-110 Processing of absentee ballots. (1) 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 initial processing of absentee ballots upon their return. In counties tabulating absentee ballots by hand, the inner security envelope may not be opened until after 8:00 p.m. on election day. Following initial processing, 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) Final processing may begin after 7:00 a.m. on the day of the election.

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

(5) 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.

NEW SECTION

WAC 434-250-120 Verification of the signature and postmark on ballots. A ballot shall be counted only if:

(1) It is returned in the return envelope, or a similar envelope if it contains the same information and signed affidavit and is approved by the auditor;

(2) The affidavit is signed with a valid signature in the place afforded for the signature on the envelope;

(3) 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;

(4) It 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

(5) The ballot is received prior to certification of the election.

The signature on the return envelope, or on a copy of the return envelope, must be compared with the signature as it appears on the voter's voter registration application, as described in WAC 434-379-020. 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.

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.

NEW SECTION

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 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 to process absentee ballots;

(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; and

(7) A reconciliation that all absentee ballots counted plus all absentee ballots rejected is equal to the total number of absentee ballots received.

NEW SECTION

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.

ELECTIONS BY MAIL

NEW SECTION

WAC 434-250-300 Elections by mail. Elections may be conducted either partially or entirely by mail, as authorized by RCW 29A.48.010, 29A.48.020, or 29A.48.030. If every precinct in a county has been designated a mail ballot precinct, as authorized by RCW 29A.48.010(2), the county is considered a mail ballot county, as authorized by RCW 29A.48.010(1). Separate absentee ballots need not be provided in an election conducted by mail. Unless specified otherwise, mail ballots must be prepared and processed in the same manner as absentee ballots.

NEW SECTION

WAC 434-250-310 Notice of elections by mail. (1) A jurisdiction requesting that a special election be conducted entirely by mail, as authorized by RCW 29A.48.020, may include the request in the resolution calling for the special election, or may make the request by a separate resolution. Not less than forty days prior to the date for which a mail ballot special election has been requested, the county auditor shall inform the requesting jurisdiction, in writing, whether the request is granted and, if not granted, the reasons why.

(2) In the event that a primary is to be conducted by mail, the auditor must notify the jurisdiction involved not later than forty-five days before the primary date.

(3) In addition to the information required in the notice of election published pursuant to RCW 29A.52.351, a county auditor conducting an election by mail, whether for a single jurisdiction or the entire county, must also state:

(a) That the election will be conducted by mail and regular polling places will not be open;

(b) The precincts that are voting by mail if it is only specific precincts rather than the entire county;

(c) The location where voters may obtain replacement ballots;

(d) The amount of postage required on the return envelope;

(e) The dates, times and locations of designated deposit sites and sites for voting devices that are accessible to the visually impaired.

NEW SECTION

WAC 434-250-320 Deposit sites. A county auditor conducting a county-wide election entirely by mail must provide at least one site for the deposit of ballots in addition to the county auditor's office. All deposit sites must meet the requirements of WAC 434-250-100.

NEW SECTION

WAC 434-250-330 County auditor's office as a polling place. For elections conducted entirely by mail, services that would have been provided at the polling place must, at a minimum, be provided at the county auditor's office, including provisional ballots and, after January 1, 2006, voting devices that are accessible to the visually impaired. Identification must be provided in compliance with RCW 29A.44.205 and WAC 434-253-055, except in the case of replacement ballots as authorized by RCW 29A.48.040.

Such services must be provided beginning the date that ballots are mailed to voters.

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

WAC 434-253-010 Polling place--Activities prohibited (~~((within the polling place))~~). The county auditor shall ensure that all precinct election officers receive instruction regarding activities that are not permitted within the polling place, including electioneering, circulation of campaign material, soliciting petition signatures, ~~((or))~~ impeding the voting process, or get-out-the-vote campaigns. Whenever it is necessary to maintain order within the polling place and the surrounding environs, the inspector may, if circumstances warrant and if the means to do so are available, contact the county auditor, who shall determine the corrective action required. Such corrective action may include contacting a law enforcement agency for their assistance.

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

WAC 434-253-020 Polling place--Election supplies (~~((-- Polling place))~~). Polling places shall be provided, at a minimum, with the following supplies at every election:

- (1) Precinct list of registered voters or a poll book,

which shall include suitable means to record the signature and address of the voter. Voters issued absentee ballots must either be noted as absentee or not listed in the poll book;

- (2) Inspector's poll book;
- (3) Required oaths/certificates for inspectors and judges;
- (4) Sufficient number of ballots as determined by election officer;
- (5) Ballot containers;
- (6) United States flag;
- (7) Voting instruction signs ((for voters));
- (8) Challenge(~~/special~~) and provisional ballots and envelopes;
- (9) Cancellation cards due to death;
- (10) Voting equipment instructions;
- (11) Procedure guidelines for inspectors and judges and/or precinct election officer guidebooks;
- (12) Keys and/or extra seals;
- (13) Pay voucher;
- (14) Ballots stub envelope;
- (15) Emergency plan of action;
- (16) Either sample ballots or voters' pamphlets;
- (17) HAVA voter information poster; and
- (18) Voter registration forms.

NEW SECTION

WAC 434-253-025 Polling place--Items to be posted. The following items must be posted or displayed at each polling place while it is open:

- (1) United States flag;
- (2) HAVA voter information poster;
- (3) Voting instructions printed in at least 16 point bold type;
- (4) Either sample ballots or voters' pamphlets;
- (5) Voter registration forms;
- (6) Election materials in alternative languages if so required by the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and
- (7) Any other items the county auditor deems necessary.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-045 Provisional ballots--Required information.

At a minimum, the following information ~~((will be))~~ is required to be printed on the outer provisional ballot envelope:

- (1) Name ~~((and signature))~~ of voter.
- (2) Voter's registered address both present and former if applicable.
- (3) Voter's date of birth.
- (4) Reason for the provisional ballot.
- (5) ~~((Precinct and))~~ Polling place and precinct number, if applicable, at which voter ~~((has))~~ voted.
- (6) Sufficient space to list disposition of the ballot after review by the county auditor.

~~((Each provisional ballot voter shall be required to sign an oath as required by the Help America Vote Act of 2002, Section 302. The oath may be located on the provisional ballot envelope or in the poll book. The voter must attest that they are:~~

- ~~((a) A registered voter in the jurisdiction in which the voter desires to vote; and~~
- ~~((b) Eligible to vote in that election.~~

~~No provisional ballot shall be rejected for lack of the information described in this section as long as the voter provides a valid signature and sufficient information to determine eligibility.))~~ (7) The following oath with a place for the voter to sign and date:

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

I am a legal resident of the state of Washington;

I am entitled to vote in this election;

I have not already voted in this election;

It is illegal to vote if I am not a United States citizen;

It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;

It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law; and

Attempting to vote when not entitled, 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.

Signature _____ Date _____

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-047 Provisional ballots--Disposition. Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the 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 ~~((will))~~ is not ~~((be))~~ 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 ~~((will))~~ 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 ~~((shall))~~ must be ~~((afforded))~~ offered the opportunity to reregister~~((,))~~ and the provisional ballot ~~((will))~~ is not ~~((be))~~ counted.

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

(5) If the voter is a registered voter in another county ~~((or state))~~, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted ~~((including rotation if applicable, within five working days after election day))~~, to the supervisor of elections for the ~~((county for which the voter is resident. If the provisional ballot envelope is not signed by the voter, a copy of the poll book page shall be included))~~ jurisdiction in which the voter is registered. The ballot must be forwarded within seven calendar days after a primary or special election and fifteen calendar days after a general election, and as soon as possible if past that date. ~~((If the county is not known, it~~

~~shall be forwarded to the secretary of state, or counterpart, for the state in which the voter is resident.))~~

(6) ~~If ((the auditor finds that))~~ an absentee voter who voted a provisional ballot at the polls has ~~((also voted an))~~ already returned a voted absentee ballot ((in that primary or election)), the provisional ballot ~~((will))~~ is not ~~((be))~~ counted. If the absentee voter who voted a provisional ballot at the polls has not returned a voted absentee ballot, the provisional ballot is counted. If a voted absentee ballot is returned after the provisional ballot has been counted, the absentee ballot is not counted.

(7) If the voter voted a provisional ballot ((was voted)) because ((a voter)) he or she failed to produce ((required)) identification as required by RCW 29A.44.205, the ballot ((shall be)) is counted if the ((voter is otherwise eligible)) signature on the envelope matches the signature in the voter registration record.

(8) ~~Provisional ballots voted for reasons not covered by this section ((shall)) or state statute must be determined by the county canvassing board. ((The auditor will prepare a tally displaying the number of provisional ballots received, the number found valid and counted, the number rejected and not counted, and the reason for not counting the ballots, as part of the canvassing process and presented to the canvassing board prior to the certification of the primary or election.))~~

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-048 Provisional ballots--Free access system.

(1) Each county shall establish a free access system, as ~~((described))~~ required by the Help America Vote Act, 42 USC sec. 15482 (a)(5), and RCW 29A.60.195 for provisional ballot voters. ~~((The system shall include the following:~~

~~(1) The voter may determine if their provisional ballot counted and, if not, why not. This information shall be without cost to the voter. Examples of a free access system include a toll free telephone number, a web site, or a letter sent to every provisional ballot voter.~~

~~(2) At the time of voting, provisional voters are given written information that states how information on their ballot will be made available to them. In the case of absentee provisional ballots, notification may be sent to the voter promptly after the county auditor determines that the ballot will be treated as a provisional ballot.~~

~~(3))~~ (2) The free access system ~~((shall))~~ must employ measures to ensure ~~((the system))~~ 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.

~~((4))~~ (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 ~~((their))~~ the ballot was counted in ~~((the voter's home county shall be available without cost to the voter))~~ that county.

~~((5))~~ (4) For ballots received from another county, ~~((a provisional ballot voter shall be able to determine if their))~~ the free access system must provide the voter with information as to whether the ballot was counted and, if not, why ~~((not, shall be available without cost to the voter))~~. ~~((If needed,))~~ The county may send instructions to the voter on how to access the information.

~~((6))~~ (5) Provisional ballot disposition information ~~((shall))~~ must be available on a county's free access system ~~((within))~~ no later than one week following ~~((the))~~ certification of ~~((a primary or))~~ the election.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-049 Provisional ballots--Processing. When the disposition of the ballot determines that the ballot is to be counted, the ballot shall be processed in a manner similar to an absentee ballot ~~((as provided in chapter 434-240 WAC))~~ except the outer provisional ballot envelopes must be retained separately from the absentee ballot return envelopes. ~~((The manual inspection of the ballots as required in WAC 434-261-070 must also be carried out.))~~ Ballots, including those ballots that are rejected, must be kept in secure storage when not being processed.

NEW SECTION

WAC 434-253-055 Identification. A voter must provide photo identification to the precinct election officer before signing the poll book. If the voter cannot provide photo identification, he or she may satisfy the requirements of RCW 29A.44.205 by providing a voter registration card issued by the county auditor or a copy of a current utility bill, bank statement, paycheck, government check, or other government document. If the voter cannot provide any identification, the voter must be issued a provisional ballot rather than a regular ballot.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-160 Ballot accountability form--Poll-sites without direct recording devices. Precinct election officials shall maintain accountability for all ballots issued for each precinct. The county auditor shall provide a ballot accountability sheet with each list of registered voters for each precinct or combination of precincts, upon which shall be recorded, at a minimum, the following information:

- (1) Identification of the precinct or combination of precincts;
- (2) The number of ~~((ballots issued;~~
- ~~(3) The number of signatures in the poll book;~~
- ~~(4) The number of issued ballots which are provisional or challenged;~~
- ~~(5) The number of issued ballots that are spoiled;~~
- ~~(6) The number of unused ballots;~~
- ~~(7) The number of absentees accepted at the poll site.~~
- At)) regular ballots delivered to the poll site;
- (3) The number of provisional ballots delivered to the poll site;
- (4) The number of signatures in the poll book;
- (5) The number of regular ballots issued;
- (6) The number of provisional ballots issued;
- (7) The number of ballots that are challenged;
- (8) The total number of ballots voted;
- (9) The difference between the number of signatures in the

poll book and the total number of ballots voted;

(10) The number of regular ballots spoiled;

(11) The number of provisional ballots spoiled;

(12) The number of regular ballots not used;

(13) The number of provisional ballots not used;

(14) The number of absentee ballots accepted at the poll

site;

(15) The total number of ballots returned to the county auditor; and

(16) The total number of ballots accounted for.

Before the opening of the polls, the information enumerated in subsections (1) through (3) of this section must be recorded on the ballot accountability sheet. If additional ballots are delivered to the poll site during the day, the precinct election officials must reflect the number of ballots delivered in subsections (2) and (3) of this section. After the closing of the polls, the ((ballots of each category)) information enumerated in subsections ((+1)) (4) through ((+7)) (16) of this section ((shall)) must be ((counted and)) recorded on the ballot accountability sheet. Discrepancies must be reported and explained by the precinct election officers.

((The accountability sheet shall be maintained with the precinct list.)) The precinct election officers shall attest to the accuracy of the ballot accountability sheet by each signing in the spaces provided. The ballot accountability sheet and the precinct list((7)) shall be placed in the appropriate container for return to the counting center or auditor's office. The inspector shall remove and retain a copy of the list of participating voters as the "inspector's copy" for the statutorily required retention period.

Whenever anything occurs at a polling place that the precinct election officers feel may create a discrepancy in accounting for all of the ballots, the election officers shall note such events. The auditor may direct that such comments be included with the ballot accountability form or may be included on a separate comments sheet. If a separate sheet is used, it shall be signed by the precinct election officers.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-165 Ballot accountability form--Precincts with direct recording devices. Precinct election officials shall maintain accountability for all ballots issued for each precinct. The county auditor shall provide a ballot accountability sheet with each list of registered voters for each precinct or combination of precincts, upon which shall be recorded, at a minimum, the following information:

(1) Identification of the precinct or combination of precincts~~((-))~~;

~~(2) The number of ((signatures in the poll book.~~

~~(3) The number of optical scan ballots issued, if applicable.~~

~~(4) The number of ballots listed on each of the individual direct recording devices. The number of optical scan ballots plus the total number of ballots from the direct recording devices should match the number of signatures in the poll book.~~

~~(5) The number of provisional and challenged ballots issued.~~

~~(6) The number of absentees accepted at the poll site.~~

~~(7) The number of unused optical scan ballots.~~

~~(8) The number of spoiled ballots.~~

~~(9) List any other irregularities noted throughout election day for each direct recording device.~~

~~At))~~ regular optical scan ballots delivered to the poll site;

(3) The number of provisional ballots delivered to the poll site;

(4) The number of signatures in the poll book;

(5) The number of regular optical scan ballots issued;

(6) The number of provisional ballots issued;

(7) The number of ballots listed on each direct recording device;

(8) The number of regular optical scan ballots that are challenged;

(9) The total number of ballots voted;

(10) The difference between the number of signatures in the poll book and the total number of ballots voted;

(11) The number of regular optical scan ballots spoiled;

(12) The number of provisional ballots spoiled;

(13) The number of regular optical scan ballots not used;

(14) The number of provisional ballots not used;

(15) The number of absentee ballots accepted at the poll site;

(16) The total number of ballots returned to the county auditor; and

(17) The total number of ballots accounted for.

Before the opening of the polls, the information enumerated in subsections (1) through (3) of this section must be recorded on the ballot accountability sheet. If additional ballots are delivered to the poll site during the day, the precinct election officials must reflect the number of ballots delivered in subsections (2) and (3) of this section. After the closing of the polls, the ~~((ballots of each category))~~ information enumerated in subsections ~~((1))~~ (4) through ~~((9))~~ (17) of this section ~~((shall))~~ must be recorded on the ballot accountability sheet. Discrepancies must be reported and explained by the precinct election officers.

~~((The accountability sheet shall be maintained with the precinct list.))~~ The precinct election officers shall attest to the accuracy of the ballot accountability sheet by each signing in the spaces provided. The ballot accountability sheet and the precinct list shall be placed in the appropriate container for return to the counting center or auditor's office. The inspector shall remove and retain a copy of the list of participating voters as the "inspector's copy" for the statutorily required retention period.

Whenever anything occurs at a polling place that the precinct election officers feel may create a discrepancy in accounting for all of the ballots, the election officers shall note such events. The auditor may direct that such comments be included with the ballot accountability form or may be included on a separate comments sheet. If a separate sheet is used, it shall be signed by the precinct election officers.

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

WAC 434-253-170 ~~((Audit trail for unused ballots.))~~
Securing provisional, challenged, spoiled, unused, and absentee ballots. After the polls have closed, and before the container holding the voted ballots is opened, the unwrapped unvoted regular and provisional ballots shall be rendered unusable. ~~((The unusable ballots shall then be placed in an envelope or container marked "unused ballots," the envelope or container shall be sealed, and placed into the container provided for the return of voting materials to the counting center or auditor's office. The unused ballots must not be placed in the same container as the regular voted ballots.))~~ Provisional, challenged, spoiled, unused, and absentee ballots must be placed in containers that are marked and sealed. These containers must then be placed in the transfer case provided for the return of voting materials to the counting center or auditor's office.

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

WAC 434-253-200 **Count of regular voted ballots.** After the ~~((irregular voted))~~ provisional, challenged, spoiled, unused, and absentee ballots have been sorted, counted and secured, the regular voted ballots shall be removed from the ballot box and counted, and the number recorded on the ballot accountability sheet. ~~((County auditors may require additional procedures to permit the segregation of various types of voted ballots.))~~ The voted ballots must be placed in a sealed container marked with the transmittal sheet listing the precincts, the number of ballots, and the seal number. The inspector and one judge from each political party must sign the transmittal sheet. The container must then be placed in the transfer case provided for the return of voting materials to the counting center or auditor's office.

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

WAC 434-253-230 Sealing the ballot pages appearing in punchcard voting devices. In polling places where punchcard voting devices are used, the county auditor shall ensure that adequate procedures are in place to permit the ballot pages within the voting device to be sealed following the election. This shall be done in such a way so that the ballot pages cannot be altered or otherwise tampered with, and in a manner that will provide an audit trail from ballot to precinct. This may be accomplished by securing the entire device by means of an external seal, or by securing and sealing the ballot pages themselves.

If a unique numbered seal is used, a certificate shall be placed inside the device signed by the precinct election officials recording the serial number of the seal. If some other means of sealing is used, a certificate, signed by the election officials, shall be provided to identify the seal by some appropriate means. The certificate, if not secured inside, shall be returned to and retained by the county auditor.

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

WAC 434-253-240 Return of election supplies and materials. Supplies and voting materials, including ~~((spoiled))~~ voted, provisional, challenged, spoiled, unused, and absentee ballots and ballot stubs~~((, irregularly voted ballots, and unused ballots shall))~~ must be secured and returned to the counting center, the county auditor's office, or any other location designated by the auditor.

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

WAC 434-253-300 Paper ballots--Count continuous--When duties completed. In a paper ballot precinct, the ballot container shall not be removed from the polls nor shall the counting of the votes be discontinued until all are counted (~~(except as provided in WAC 434-253-260)~~). The duties of the precinct election officers counting ballots in such precincts shall not be complete until it is determined that:

(1) A recheck of the tally marks accurately reflect the total vote credited to each candidate and the total vote credited for and against each proposition;

(2) The total number of votes cast for all candidates for a single position to be filled does not exceed the number of voters who have signed the poll book;

(3) The records of the votes in each tally book are the same.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-253-040	Verification of voter's name.
WAC 434-253-043	Provisional ballots--When issued.
WAC 434-253-060	Credit for voting.
WAC 434-253-180	Recording of spoiled ballots.
WAC 434-253-190	Disposition of irregularly voted ballots.
WAC 434-253-210	Preparing voted ballots for transfer.
WAC 434-253-260	Counting and tabulation prior to closing of the polls--Secrecy of the returns.

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

WAC 434-257-030 Standards for accessible polling places.

The Americans with Disabilities Act Checklist for Polling Places shall be used when determining the accessibility of a polling place ~~((is accessible if the standards of the state building code council are met or exceeded))~~.

If the standards ~~((cannot be))~~ are not met, temporary or permanent modifications shall be made to make the polling place accessible. Alternative accommodations may be permitted under RCW 29A.16.020. ~~((The following survey form may be used to determine if a polling place is accessible and meets or exceeds the standards of the state building code council.))~~ A poll site is fully accessible if all responses in each category are ~~((either))~~ "YES" ~~((or "N/A."))~~ A poll site is considered accessible but inconvenient if all "NO" responses in each category are only in shaded boxes and all responses in the unshaded boxes are either "YES" or "N/A")."

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SUMMARY OF ACCESSIBILITY BY CATEGORIES

Please review the responses within each category on the previous pages and indicate below whether each category is:

- **INACCESSIBLE** (If there is a "NO" response in any unshaded box in the category.)
- **ACCESSIBLE BUT INCONVENIENT** (If all "NO" responses in the category are only in shaded boxes and all the responses in the unshaded boxes are either "YES" or "N/A".)
- **FULLY ACCESSIBLE** (If all responses in the category are either "YES" or "N/A".)

Category	Inaccessible	Accessible But Inconvenient	Fully Accessible
I. Parking			
II. Walkways or pathways to building			
III. Ramps and elevators entering or inside of the building			
IV. Other architectural features			
V. Voting area			
VI. Other			

OVERALL DETERMINATION OF POLLING PLACE ACCESSIBILITY

(mark one box only)

If one or more of the categories above is marked "INACCESSIBLE", then the polling place isINACCESSIBLE

If no category is marked "INACCESSIBLE", but one or more is marked "ACCESSIBLE BUT INCONVENIENT", then the polling place isACCESSIBLE BUT INCONVENIENT

If all categories above are marked "FULLY ACCESSIBLE", then the polling place isFULLY ACCESSIBLE

DISPOSITION OF INACCESSIBLE POLLING PLACE

If the polling place is INACCESSIBLE:

	Yes	No
a. Has an alternative accessible facility been sought?	<input type="checkbox"/>	<input type="checkbox"/>
b. Are permanent or temporary alterations planned to render the polling place accessible in the coming elections?	<input type="checkbox"/>	<input type="checkbox"/>

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

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 (~~may~~) must respond to the draft election review report in writing (~~and/or~~) 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, (~~any~~) 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 observers" means those persons designated by the county political party central committee chair person to observe the counting of ballots and related elections procedures;

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

(14) "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 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-030 Scheduled reviews--Auditor request. Not later than ((July)) June 1, any county auditor may request that the secretary of state designate his or her county for an election review. The secretary of state shall, whenever practical, honor that request.

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

WAC 434-260-040 Election reviews--Secretary of state to designate. Not later than ~~((August 1))~~ June 15 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. The notification ~~((may))~~ shall include ~~((tentative))~~ the date~~((s for))~~ and time the ~~((conduct of the))~~ review~~((s))~~ is scheduled to begin. 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. 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 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-050 Notice of special review. ~~((Whenever any election review is to be held in a county, the secretary of state shall provide written notice to the county auditor and to the chairs of the state committees of any major political party of the date and time the review is scheduled to begin. Notice for scheduled reviews shall be provided at least thirty days in advance of the review.))~~ Notice of a special review shall be provided to the county auditor and the political party chairs, by telephone ~~((or))~~ and by electronic facsimile transmission, not later than twenty-four hours after the determination has been made to conduct the special review.

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

WAC 434-260-140 Draft election review report. As soon as practicable, but in any event not later than thirty days after the issuance of the preliminary report of findings and recommendations, the review staff shall issue a draft of the election review report to the county auditor and the designated members of the county canvassing board as provided in chapter 29A.60 RCW, and shall include, but not be limited to, the following:

(1) A narrative description of recommendations made by the review staff;

(2) Any other information the review staff deems pertinent;

(3) A preliminary conclusion/evaluation of the county's election procedures.

~~((The draft election review report is exempt from public inspection and copying, as provided by RCW 42.17.310.))~~

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

WAC 434-260-145 Response to draft election review report. The county auditor and/or county canvassing board ~~((shall have the right to))~~ must respond, in writing, to the draft election review report, listing the steps that will be taken to correct any problems listed in the report. Such response shall be submitted to the review staff not later than ten days following the issuance of the draft election review report.

Nothing in this section shall prevent the review staff from modifying or amending its recommendations, based on the response received from the county auditor or canvassing board. ~~((In the event the review recommendations are modified or amended, only the final recommendations and any response by the county shall be made available for inspection and copying.))~~

Any county auditor or other member of the county canvassing board may appeal the recommendations or the conclusion of any draft election review report to the election administration and certification board. Any appeal must be in writing, must detail specific exceptions made to the draft election review report, and must be filed with the board not later than thirty days

following the issuance of the report.

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

WAC 434-260-150 Final election review report. As soon as practicable, but in any event not later than forty-five days after the issuance of the draft election review report, the review staff shall issue a final election review report. The final election review report shall be available for public inspection and copying. 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(~~(, if any)~~);

(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.

NEW SECTION

WAC 434-260-155 County review follow-up. Following the final review report, the secretary of state shall visit the county before the next state primary or general election to 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. The letter shall be made a part of the county's review report.

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

WAC 434-260-310 Application for initial certification and maintenance of certification. The secretary of state shall ~~((not later than July 1 of each year, distribute))~~ make available certification application and maintenance forms to the county auditors. The county auditor in each county shall, not later than ~~((December))~~ January 1 of each year, submit an application for certification for each employee for whom certification and maintenance is requested.

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot ~~((upon))~~. 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 ~~((to blank ballots of the same type and style, or as directed by the canvassing board))~~. Ballots may be duplicated on blank ballots or by making changes on an electronic facsimile of the ballot. The original ballot may not be altered in any way;

(3) ~~((("Ballot enhancement" is the process of adding or covering marks or punches on an optical scan ballot to ensure that the electronic voting equipment will tally the votes on the ballot in the manner intended by the voter, or as directed by the canvassing board;~~

~~((4)))~~ "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. In the case of punch cards, this means all voting response positions are cleanly punched and removed from the card;

~~((5))~~ (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 or punches, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

~~((6))~~ (5) "Valid signature" is the ~~((verified))~~ signature of a registered voter eligible to vote in the ~~((primary or))~~ election as ~~((contained in))~~ verified against the voter registration files ~~((of the county))~~. On an absentee ballot, a mark with two witnesses ~~((on an absentee ballot, a mail ballot precinct ballot, or a vote by mail ballot shall be considered))~~ is a valid signature.

NEW SECTION

WAC 434-261-050 Unsigned oath or mismatched signatures.
If a voter neglects to sign the oath on an absentee or provisional ballot envelope, or the signature on the envelope does not match the signature on the voter registration file, the auditor shall notify the voter by phone, as required by RCW 29A.60.165, if the voter has provided the auditor with a phone number. Leaving a message for the voter is not sufficient. If, at least one week prior to the certification of the election, the county auditor still has not been able to contact the voter by phone, the county auditor shall send a first class letter to the voter. If the ballot is received within one week of certification, the county auditor shall both send a letter and telephone the voter. The voter must sign the oath that appeared on the envelope.

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

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 ~~((and every voting position for unreadable ballots))~~ to determine whether the ballot will be readable by the vote tabulating system. ~~((The same manual inspection process shall apply to absentee ballots, mail ballot precinct ballots, and vote by mail ballots.))~~ This manual inspection ~~((shall include examining each voter response position, and))~~ is a required part of processing ballots ~~((used with all electronic vote tabulating systems))~~.

(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 ~~((being complied with))~~ 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 ~~((that contain))~~ marks or punches that differ from those specified in the voting instructions ~~((contained on or with the ballot))~~, but the marks clearly form a discernible and consistent pattern on the ballot to the extent that the voter's intent can be clearly determined, the county auditor may either:

(a) Refer the ballots to the county canvassing board; or

(b) Duplicate the ballots if authorized by the county canvassing board ~~((as per WAC 434 261 090; or~~

~~(c) Enhance the ballots if authorized by the county canvassing board and enhancement can be accomplished without permanently obscuring the original marks or punches of the voters as per WAC 434 261 080 and 434 261 085))~~.

If the voter's intent is not clear, the ballot must be referred to the county canvassing board.

(4) In the case of punch card ballots, if two or more corners or attachment points are detached in a punch position, the vote is valid and the ~~((had must be removed))~~ ballot may be duplicated without ~~((duplication, enhancement, or reference))~~ referral to the county canvassing board. ~~((If less than two corners are detached, then subsection (3) of this section shall apply.))~~

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-261-075 Manual inspection of ballot--Acceptability of marks or punches. (1) If the voter returns voting responses by mail on any form other than the ballot sent, the votes thereon shall be acceptable and tallied provided that:

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

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

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

(d) A valid signature on an absentee oath is on file with the county auditor.

The votes accepted must then be duplicated to a ballot that can be read by the electronic voting equipment (~~as prescribed in WAC 434-261-090~~).

(2) Corrected absentee ballots shall be counted in the following manner:

(a) If a voter follows the instructions for correcting a vote, either the written instructions or other ~~(s)~~ instructions given to the voter by the county auditor, the correction shall be made ~~(and the corrected vote tabulated. The county auditor may enhance or duplicate the ballot)~~ by duplicating the ballot and then tabulating the duplicated ballot.

(b) If a voter appears to have corrected ~~(their)~~ the ballot in a manner other than as instructed, the vote for that candidate or issue shall not be tabulated unless the voter provides written instructions directing how the vote should be counted or has clearly attempted to erase a mark.

(3) ~~(Where)~~ If a voter has indicated a write-in vote on ~~(their)~~ the ballot which duplicates the name of a candidate who already appears on the ballot for the same office, the ballot shall be ~~(enhanced or)~~ duplicated to count one vote for the candidate indicated. Such a vote shall ~~(not be considered an overvote or a write in vote)~~ be counted pursuant to RCW 29A.60.021.

(4) ~~(An absentee ballot, a mail ballot precinct ballot, and a vote by mail ballot shall not be counted)~~ If a voter signs the oath with a mark and does not have two witnesses attest to the signature, the envelope must be treated as if it were unsigned.

(5) If a ballot contains marks or punches that differ from

those specified in the voting instructions, those marks or punches shall not be counted as valid votes unless there is a discernable and consistent pattern, to the extent that the voter's intent can clearly be determined. If there is such a pattern, the ballot shall be (~~enhanced or~~) duplicated to reflect the voter's intent.

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

WAC 434-261-100 ((Written)) Ballot duplication procedures.
Written procedures shall be established detailing the situations in which ballots may be (~~enhanced or~~) duplicated. These procedures shall be included as a part of the county canvassing board manual.

NEW SECTION

WAC 434-261-105 Tabulation of ballots to be continuous-- Exception. The tabulation of ballots on the day of a primary or election at a polling place or counting center shall proceed without interruption or adjournment until all the ballots cast at the polls at that primary or election have been tabulated except as follows:

(1) Ballots that have been found defective and not capable of being processed by the automated system may, at the discretion of the county auditor, be held over until the working day following the election or primary, duplicated, and the duplicates then tallied no later than the day before the certification of the primary or election;

(2) If the system should become inoperative, the tally may be interrupted until the system is repaired, and if necessary, resumed the day following the election using the repaired system or an alternative method if necessary. If the election or primary includes offices or issues which the secretary of state is required by law to canvass, the auditor shall notify the secretary of state at the time of interruption, its cause and best estimate for resumption, along with the status of the tally, at the first practical opportunity. The public shall be informed of the situation as soon as possible after the interruption if it is evident the tally will not be resumed the same day.

NEW SECTION

WAC 434-261-107 Daily canvassing. Pursuant to RCW 29A.60.160, if a county auditor is in possession of more than twenty-five ballots that have yet to be canvassed, the county auditor in a county with a population of seventy-five thousand people or more must process and canvass the absentee ballots on a daily basis, and the county auditor in a county with a population of less than seventy-five thousand people must process and canvass the absentee ballots at least every third day. Legal holidays, as defined in RCW 1.16.050, and Sundays are exempt. The population of the county is based on the last federal census. For purposes of daily processing, the county auditor must produce a report of cumulative results. If the mail is not delivered to the county auditor's office each day that the county auditor must process ballots, the county auditor must make reasonable efforts to retrieve the mail from the post office.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-261-110 Election results ((reconciliation)) anomalies. ((Immediately following the last ballots counted on election day,)) Precinct results, showing overvotes and undervotes, ((shall be printed for poll site votes. The results)) 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 ((chapter 434-253)) WAC 434-253-165 and RCW 29A.60.235.

NEW SECTION

WAC 434-261-120 Referral of ballots to canvassing board.

Whenever a precinct election officer in a precinct where ballots are being tabulated, or counting center personnel in a county where ballots are being centrally tabulated, 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 envelope marked "for canvassing board." The following information must be provided on the outside of the envelope:

(1) Identification of the precinct from which the ballot originated;

(2) The facts giving rise to the question of validity including, if applicable, the office or issue on the ballot which is affected by the question;

(3) An identification number by which the envelope containing the ballot may be tracked.

If the question arises at a polling place, the precinct inspector shall annotate the ballot accountability sheet in a manner similar to recording other irregularly voted ballots, shall seal the envelope and transfer it to the elections office in the special envelope for irregularly voted ballots.

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. As long as they are in the sealed envelope it is not necessary to seal them in other containers within the counting center provided they are otherwise safeguarded. Once the issue of validity has been determined, the ballots must be tabulated, if applicable, stored, and retained the same as regular voted ballots.

When the determination of validity is made, the disposition of the ballot shall be entered on the envelope and the ballot accountability sheet or the irregularly voted ballot log sheet.

NEW SECTION

WAC 434-261-130 Opening ballot container. Whenever it is determined there is a need to open all containers to conduct a mandatory or requested recount, or when such action is directed by court order, the containers shall be opened and the security of the ballots verified only by those persons designated to do so, in writing, by the canvassing board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-261-080	Ballot enhancement--Optical scan systems.
WAC 434-261-085	Ballot enhancement--Punch card systems.
WAC 434-261-090	Ballot duplication.

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

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 ((absentee)) 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, (~~and which includes~~) absentee ballot totals, legislative district subtotals, if any, and county-wide totals. 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.

NEW SECTION

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 certification of the election, or will otherwise not be counted.

(2) If an election was conducted entirely by mail, the crediting of voters must be completed prior to the certification of the election. If an election was conducted using polling places, the crediting of voters must be completed as soon after the election as possible, 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 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.

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

WAC 434-262-015 Canvassing board--Delegation of authority.

The county auditor, prosecuting attorney, and chair of the county legislative authority, or designees as per chapter 29A.60 RCW, shall be responsible for the performance of all duties of the county canvassing board, as set forth in chapters 29A.40 and 29A.60 RCW, and the rules on canvassing adopted by the secretary of state. These duties shall be performed by the members of the board, or they may delegate in writing representatives to perform these duties. This written delegation of authority shall be filed with the county auditor prior to any person undertaking any action on behalf of the board. In no instance may the members of the county canvassing board delegate the responsibility of certifying the returns of any primary or election, of determining the validity of any challenged ballots, or of ~~((determining the validity of any special ballots referred to them by the county auditor, to anyone other than a person authorized by law to act on their behalf))~~ rejecting ballots. When considering the validity or rejection of ballots, the canvassing board may review the ballots individually, in batches, or as part of a report of ballots presented to the board. In the event the canvassing board determines that the signature on an absentee or provisional ballot was not made by the voter to whom the ballot was issued or that a voter attempted to vote more than once, the board must direct the county auditor to refer the ballot and any relevant material to the county prosecuting attorney.

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

WAC 434-262-020 Preliminary abstract of votes. Following the election and prior to the official canvass, the county auditor shall prepare a preliminary abstract of votes, listing the number of registered voters and votes cast. The preliminary abstract of votes must ~~((also))~~ list separately ~~((for))~~ votes cast by absentee ballot and ~~((these cast))~~ at the polls, votes cast for and against measures, votes cast for candidates, overvotes and undervotes, by precinct or groups of precincts in the event that precincts have been combined in accordance with RCW 29A.16.060, for canvassing purposes. 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 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-025 Canvassing board--Notice of open public meeting. All activities of the canvassing board shall be open to the public, although ~~((they))~~ the board may limit the number of persons observing any aspect of the process whenever, in ~~((their))~~ 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 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-030 Auditor's abstract of votes. No later than the tenth day following any primary or special election and the ~~((fifteenth))~~ twenty-first day following any general election the county canvassing board shall meet and canvass all ~~((absentee ballots not previously processed under the provisions of chapter 29A.40 RCW, together with all special and challenged))~~ ballots. Upon completion of this canvass, the board shall direct the county auditor to include all ~~((absentee ballot totals and all challenged and special))~~ ballot totals, or legislative or congressional district subtotals if applicable, and the reconciliation report in the preliminary abstract of votes prepared pursuant to WAC 434-262-020. ~~((The county auditor shall then add these totals to the existing precinct totals.))~~ The ensuing report, containing a count of all ballots cast in the election, subtotal reports by legislative district, and county-wide totals shall constitute the auditor's abstract of votes.

NEW SECTION

WAC 434-262-031 Rejection of ballots or parts of ballots. Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(1) Where two ballots are found folded together, or where a voter has voted more than one ballot;

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

(3) 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;

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

(5) Where the voter has voted for more candidates for an office than are permissible;

(6) Where the voter has incorrectly attempted to correct a vote on the ballot contrary to the instructions provided pursuant to WAC 434-250-040 unless the voter provides written instructions directing how the vote should be counted.

Additionally, the canvassing board shall reject any ballot cast by a voter not qualified to vote, and shall reject absentee ballots where such rejection is required by law or administrative rule.

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

WAC 434-262-050 Errors or discrepancies discovered during the verification of the auditor's abstract of votes. In the event that the county canvassing board, during the verifications process, discovers that errors exist in the auditor's abstract of votes or that discrepancies exist between that abstract and the manual or adding machine totals for registered voters and votes cast produced pursuant to WAC (~~((434-62-040))~~) 434-262-040, the board shall investigate those errors and discrepancies. They shall be empowered to take whatever corrective steps a majority of the board deems necessary, including changing or modifying the auditor's abstract of votes if the error or discrepancy is discovered in that document. The canvassing board may then proceed to verify votes cast on measures or for candidates if a majority of the board believes that the nature of the errors or discrepancies discovered warrant such further action on their part.

AMENDATORY SECTION (Amending WSR 00-10-010, filed 4/21/00, effective 5/22/00)

WAC 434-262-080 (~~(Auditor's abstract of votes--Secretary of state to receive certified copy--)~~) Transmittal of certified copy of county canvass report to the secretary of state. (~~(No later than the next business day)~~) Immediately following the certification of the returns of any primary, special, or general election (~~(at which votes were cast for or against state measures or for candidates for federal and statewide office or for state legislative and judicial offices whose jurisdiction encompasses more than one county,)~~) 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 to the secretary of state by fax, e-mail, or other electronic means. No later than the next business day, the county auditor (~~(shall)~~) must send a certified copy of that part of the (~~(auditor's abstract of votes)~~) county canvass report covering those issues and offices to the secretary of state. (~~(This copy must be no larger than eleven inches by fourteen inches and have a certificate identical to that accompanying the official county canvass report, bearing the county seal and original signatures of the officers required to sign that document attached or affixed thereto.)~~) A copy of the written narrative documenting errors and discrepancies discovered and corrective action taken shall accompany the abstract if applicable. Copies of the adding machine tapes used during the verification process need not be sent to the secretary of state.

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

WAC 434-262-090 Receipt of certified copy of ~~((auditor's abstract of votes))~~ 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 ~~((auditor's abstract of votes))~~ county canvass report transmitted to his or her office. In the event the secretary of state determines that the ~~((certified copy of the auditor's abstract of votes))~~ report is incomplete, he or she shall notify the county auditor of that fact and shall request that the missing part ~~((of the abstract))~~ be forwarded immediately. No county's certified copy of the ~~((abstract of votes))~~ county canvass report shall be considered ~~((as))~~ 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 ~~((official abstract))~~ county canvass report is illegible or in improper form, the secretary of state shall return ~~((that abstract))~~ it and require an immediate resubmission of the ~~((abstract))~~ report in proper or legible form.

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

WAC 434-262-100 Canvass of returns by the secretary of state--Powers and duties. Upon receipt of a complete certified copy of the ~~((auditor's abstract of votes))~~ 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 ~~((prepared by that office))~~. This shall be ~~((done))~~ accomplished by adding the certified returns from each ~~((completed))~~ 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 00-10-010, filed 4/21/00, effective 5/22/00)

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 auditor's abstract of votes and no later than the third Tuesday following the primary, the secretary of state shall certify to the appropriate county auditors the returns for all (~~candidates for~~) state ballot measures, federal and statewide offices, (~~for~~) and those (~~state~~) legislative and judicial offices whose jurisdiction encompasses more than one county (~~, and the ballot titles for all state measures~~). In the event the secretary of state is unable to certify all or part of a primary election by the third Tuesday following that primary because he or she has not received (~~completed certified copies of the auditor's abstract of votes~~) a certified copy of a county canvass report from one or more counties, he or she shall certify the state ballot measures and (~~those~~) candidates for which completed abstracts have been received. The secretary of state shall also set forth, by letter to the county auditors, those 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 (~~official abstracts~~) county canvass reports have been received and filed.

AMENDATORY SECTION (Amending WSR 00-10-010, filed 4/21/00, effective 5/22/00)

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 day 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 ~~((candidates for))~~ state ballot measures, federal and statewide offices, ~~((for))~~ and those ((state)) legislative and judicial offices whose jurisdiction encompasses more than one county ~~((, and for all state ballot measures))~~. In the event the secretary of state is unable to certify all or part of a general election by the thirtieth day following that election because he or she has not received ~~((completed certified copies of the auditor's abstract of votes))~~ a certified copy of a county canvass report from one or more counties, he or she shall certify ~~((those))~~ 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 ~~((certified copies of official abstracts))~~ county canvass reports have been received.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-262-203 Poll-site ballot reconciliation--Central count optical scan and punchcard. Using the poll-site ballot accountability forms, the poll books, and election night precinct results, poll-site ballots shall be reconciled in the following manner:

(1) Reconciliation must begin as soon as practical after the election.

(2) Each precinct's results shall be reconciled with the precinct's ballot accountability form. The number of ballots issued should equal the number of ballots counted plus any

ballots not counted. Ballots not counted may include, but not be limited to: Provisional ballots, ballots referred to the canvassing board, ballots to be (~~enhanced or~~) duplicated, ballots with write-in votes, spoiled ballots.

(3) Any discrepancies must be investigated. At a minimum, the following areas must be checked until the discrepancy is resolved:

- (a) Check the accuracy of the ballot accountability form.
- (b) Recount the signatures in the poll book.
- (c) Check the spoiled ballots.
- (d) Check the provisional ballots.
- (e) Count the ballot stubs.
- (f) Check the poll-site supplies for ballots.
- (g) Manually count the number of ballots.
- (h) Call the poll workers.

(4) All steps to reconcile each precinct shall be documented, including any discrepancies that cannot be resolved. Reconciliation of all precincts shall be completed and presented to the county canvassing board before the election can be certified.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-262-204 Poll-site ballot reconciliation--Precinct count optical scan and direct recording devices. Poll-site ballots shall be reconciled in the following manner:

(1) Compare the total number of votes cast from each counter at the poll-site and the number of signatures in the poll book(s).

(2) The number of ballots issued should equal the number of ballots counted plus any ballots not counted. Ballots not counted may include, but not be limited to: Provisional ballots, ballots referred to the canvassing board, ballots to be (~~enhanced or~~) duplicated, ballots with write-in votes, any out-sorted ballots, spoiled ballots.

(3) Any discrepancies must be investigated. At a minimum, the following areas must be checked until the discrepancy is resolved:

- (a) Check the accuracy of the ballot accountability form.
- (b) Recount the signatures in the poll book.
- (c) Ballot counter/direct recording device results.
- (d) Check the bins in the ballot counter(s).
- (e) Check the spoiled ballots.
- (f) Check the provisional ballots.

- (g) Count the ballot stubs.
 - (h) Check the poll-site supplies for ballots.
 - (i) Manually count the number of ballots.
 - (j) Call the poll workers.
- (4) All steps to reconcile each precinct shall be documented, including any discrepancies that cannot be resolved. Reconciliation of all precincts shall be completed and presented to the county canvassing board before the election may be certified.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-262-005	Authority and purpose.
WAC 434-262-035	Canvassing board--Absentee ballot signature verification.
WAC 434-262-045	Canvassing mail ballots.
WAC 434-262-150	Rejection of ballots or parts of ballots.
WAC 434-262-170	Referral of ballots to canvassing board.
WAC 434-262-180	Tabulation of ballots to be continuous--Exception.
WAC 434-262-190	Canvassing board--Opening ballot container.