

Title 434 WAC

SECRETARY OF STATE

Chapters

434-12A 434-110 434-112 434-120 434-208 434-215 434-219 434-230 434-235 434-250 434-253 434-260 434-261 434-262 434-264 434-264 434-324 434-335 434-379 434-381 434-840	Public records and rules of procedure. Corporation filing procedures and special fees. Corporations division and charities program services. Charitable solicitation organizations and charitable trusts. Elections. Declarations of candidacy and filing procedures. Presidential primary. Ballots. Service and overseas voters. Voting by mail. The polling place—Before, during and after the election. Election review process and certification of election administrators. Counting center procedures. Canvassing and certification. Recounts. Statewide voter registration data base. Voting systems. Initiatives and referenda. State voters' pamphlet. Address confidentiality program.
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Chapter 434-12A WAC

PUBLIC RECORDS AND RULES OF PROCEDURE

WAC

434-12A-010 434-12A-030 434-12A-040 434-12A-045 434-12A-055 434-12A-100 434-12A-110 434-12A-120 434-12A-150	Authority and purpose. Description of the organization of the office of the secretary of state. Public records available. Processing of public records requests—General. Processing of public records requests—Electronic records. Inspection and copying. Exemptions. Review of denials of public records request. Revolving fund.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-12A-020 434-12A-050 434-12A-060 434-12A-070 434-12A-080 434-12A-090	Definitions. [Order 74-2, § 434-12A-020, filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Office hours. [Order 74-2, § 434-12A-050, filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Public records officer. [Order 74-2, § 434-12A-060, filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Protection of public records. [Order 74-2, § 434-12A-070, filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Records index. [Order 74-2, § 434-12A-080, filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Requests for public records. [Order 74-2, § 434-12A-090, filed 2/19/74.] Repealed by 09-04-026, filed
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1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040.

434-12A-130 434-12A-140 434-12A-990 434-12A-99001	Adoption of standard request form. [Order 74-2, § 434-12A-130, filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Communications and submissions relating to public records. [Order 74-2, § 434-12A-140, filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Appendix A—Form—Organization chart. [Order 74-2, Appendix A (codified as WAC 434-12A-990), filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040. Appendix B—Form—Request for public record. [Order 74-2, Appendix B (codified as WAC 434-12A-99001), filed 2/19/74.] Repealed by 09-04-026, filed 1/28/09, effective 2/28/09. Statutory Authority: RCW 42.56.040.
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WAC 434-12A-010 Authority and purpose. (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures the office of the secretary of state will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the office of the secretary of state and establish processes for both requestors and secretary of state staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the office of the secretary of state will be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 42.56.040. 09-04-026, § 434-12A-010, filed 1/28/09, effective 2/28/09; Order 74-2, § 434-12A-010, filed 2/19/74.]

WAC 434-12A-030 Description of the organization of the office of the secretary of state. (1) The secretary of state's general duties are set forth in chapter 43.07 RCW, and relate generally to elections, the formation and maintenance of business organizations, charitable solicitations, charitable trusts, registration of domestic partnerships, archives and records management, the state library, and the address confidentiality program. Additional functions include regulating the use of the state seal, filing or attesting to official acts of the legislature or governor, certifying to the legislature all matters legally required to be certified, issues apostilles, and other actions required or authorized by law. In addition to these constitutional and statutory duties, the secretary of state is frequently called upon to represent the state of Washington in international trade and cultural missions, and to greet and

confer with dignitaries and delegations visiting the state of Washington from other countries.

(2) The functions of the secretary of state are performed through the following divisions and programs:

(a) The elections division, through which the secretary acts as the state's chief election officer;

(b) The corporations division, through which the secretary accepts filings as provided by law related to profit and nonprofit corporations and other forms of business organization, accepts registrations pursuant to the Charitable Solicitations Act and the Charitable Trust Act, accepts filings and issues licenses related to digital signatures, accepts registrations of domestic partnerships, and issues apostilles;

(c) The archives and records management division, through which the secretary provides services as required by law related to archives and records management;

(d) The Washington state library, providing library services to the public and state government and related services;

(e) The special programs division, which includes:

(i) The productivity board, which the secretary chairs and whose staff provides organizational support and which provides awards and incentives related to state employee brainstorm and teamwork incentive programs;

(ii) The address confidentiality program, for victims of domestic violence, sexual assault and stalking; and

(iii) The legacy project, which conducts, publishes and preserves oral histories of significant figures in Washington history.

(3) The offices of the secretary of state and their staff are located at:

(a) Main Administrative Office, Legislative Building, 416 Sid Snyder Way, P.O. Box 40220, Olympia, WA 98504-0220.

(b) Elections Division, 520 Union Ave. S.E., P.O. Box 40229, Olympia, WA 98504-0229;

(c) Corporations Division, 801 Capitol Way South, P.O. Box 40234, Olympia, WA 98504-0234;

(d) Archives and Records Management Division, 1129 Washington Street S.E., P.O. Box 40238, Olympia, WA 98504-0238. The archives and records management division also includes:

(i) The state records center, located at 7590 New Market Street S.W., Tumwater, WA, mailing address: P.O. Box 40239, Olympia, WA 98504-0239;

(ii) Regional archive facilities:

(A) Olympia Regional Branch, located at 1129 Washington Street S.E., P.O. Box 40238, Olympia, WA 98504-0238;

(B) Puget Sound Regional Branch, located at 3000 Landerholm Circle S.E., MS-N100, Bellevue, WA 98007-6484;

(C) Northwest Regional Branch, located at Western Washington University, MS-9123, Bellingham, WA 98225-9123;

(D) Central Branch, located at 400 E. University Way, Mail Stop 7547, Ellensburg, WA 98926-7547; and

(iii) The Washington State Digital Archives, and Eastern Washington Regional Branch, located at 960 Washington Street, Cheney, WA 99004;

(e) The Washington State Library, Point Plaza East, 6880 Capitol Blvd. South, Tumwater, P.O. Box 42460, Olympia, WA 98504-2460;

(f) The Productivity Board and Legacy Project, 6880 Capitol Blvd. South, Tumwater, P.O. Box 40224, Olympia, WA 98504-0224; and

(g) The Address Confidentiality Program, Legislative Building, P.O. Box 40220, Olympia, WA 98504-0220.

(4) Any person wishing to request access to public records of the office of the secretary of state, or seeking assistance in making such a request, should contact the public records officer by mail at P.O. Box 40224, Olympia, WA 98504-0224, or by fax at 360-586-4311, or by e-mail at Publicrecords@secstate.wa.gov. Information is also available at the secretary of state's web site, at www.secstate.wa.gov.

(5) The public records officer will oversee compliance with the act but another secretary of state staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the office of the secretary of state will provide the fullest assistance to the requestor; create and maintain for use by the public and the office of the secretary of state an index to public records of the office by making available those records retention schedules applicable to the office of the secretary of state; and prevent fulfilling public records requests from causing excessive interference with essential functions of the office.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-030, filed 1/28/09, effective 2/28/09; Order 74-2, § 434-12A-030, filed 2/19/74.]

WAC 434-12A-040 Public records available. All public records of the office are deemed to be available for public inspection and copying pursuant to these rules and applicable state law, as follows:

(1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the office of the secretary of state, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the office of the secretary of state. An appointment may be required.

(2) **Records index.** An index of public records is available for use by members of the public, consisting of those records retention schedules applicable to the office of the secretary of state.

(3) **Organization of records.** The office of the secretary of state will maintain its records in a reasonably organized manner. The office will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original records from the office. A variety of records are available on the secretary of state web site at www.secstate.wa.gov. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) **Making a request for public records.**

(a) Any person wishing to inspect or obtain copies of public records of the office of the secretary of state should make the request in writing by letter, fax, or e-mail addressed to the public records officer and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;

- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Copies will be made by secretary of state staff unless other arrangements are agreed upon. Costs for copying are specified in WAC 434-12A-100.

(c) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing. The office will presume that the request is fully and accurately described in this confirmation unless the requestor promptly indicates otherwise in writing.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-040, filed 1/28/09, effective 2/28/09; Order 74-2, § 434-12A-040, filed 2/19/74.]

WAC 434-12A-045 Processing of public records requests—General. (1) Providing "fullest assistance."

The office of the secretary of state is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or
- (d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or
- (e) Deny the request.

(3) **Consequences of failure to respond.** If the office of the secretary of state does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the office of the secretary of state believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, the office of the secretary of state shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the office's notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the office of the secretary of state may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the office of the secretary of state has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the office of the secretary of state has closed the request.

(11) **Later discovered documents.** If, after the office of the secretary of state has informed the requestor that it has provided all available records, the office becomes aware of additional responsive documents existing at the time of the

request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-045, filed 1/28/09, effective 2/28/09.]

WAC 434-12A-055 Processing of public records requests—Electronic records. (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by WAC 434-12A-100.

(3) **Customized access to data bases.** With the consent of the requestor, the agency may provide customized access under RCW 43.105.280 if the record is not reasonably locatable or not reasonably translatable into the format requested. The office of the secretary of state may charge a fee consistent with RCW 43.105.280 for such customized access.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-055, filed 1/28/09, effective 2/28/09.]

WAC 434-12A-100 Inspection and copying. (1) No fee shall be charged for the personal inspection of public records.

(2) Where an individual requests a copy, or a certified copy, of a document or instrument for which the cost of copies is not governed by chapter 42.56 RCW, the office of the secretary of state may charge fees specified pursuant to other law, including other chapters of this title.

(3) Where an individual requests a copy of a document or record for which fees are established pursuant to chapter 42.56 RCW, a requestor may obtain standard black and white photocopies for fifteen cents per page. Copies in color or larger-sized documents will be based on the actual cost to reproduce them at the time of the request.

The Washington state archives research fees covered by WAC 434-690-080 are determined by archives according to its terms. The corporations fees are per WAC 434-112-085.

(4) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The office of the secretary of state will not charge sales tax when it makes copies of public records.

(5) **Costs for electronic records.** The cost of electronic copies of records shall be five dollars for information on a CD-ROM or DVD. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee.

(6) **Costs of mailing.** The office of the secretary of state may also charge actual costs of mailing, including the cost of the shipping container.

(7) **Payment.** Payment may be made by cash, check, or money order to the office of the secretary of state, or by those credit or debit cards accepted by the office.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-100, filed 1/28/09, effective 2/28/09; Order 74-2, § 434-12A-100, filed 2/19/74.]

WAC 434-12A-110 Exemptions. (1) The Public Records Act provides that a number of document types are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the office of the secretary of state for inspection and copying:

RCW 5.60.060(2) (attorney-client privilege, together with attorney work product privilege).

RCW 5.60.060(5) (communications to a public officer in official confidence).

RCW 5.60.070 (communications between a mediator and a party to mediation).

RCW 19.34.240 (digital signatures).

RCW 19.34.420 (digital signatures).

RCW 29A.08.710 through 29A.08.785 (voter registration records).

RCW 29A.32.100 (arguments and statements for voters pamphlet).

RCW 29A.60.080 (sealing of voting devices).

RCW 29A.60.110 (sealing of ballot containers).

RCW 40.14.030 (exempt records accessioned into state archives).

RCW 40.24.070 (address confidentiality program).

RCW 43.07.100 (records of entities supplying information to the bureau of statistics).

5 U.S.C. § 552(a) (the federal Privacy Act).

The foregoing list is for informational purposes only and failure to list an exemption shall not affect the efficacy of any exemption. The secretary of state reserves the right to determine that a public record is exempt under the provisions of state law.

(2) The office of the secretary of state is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-110, filed 1/28/09, effective 2/28/09; Order 74-2, § 434-12A-110, filed 2/19/74.]

WAC 434-12A-120 Review of denials of public records request. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the assistant secretary of state or the deputy secretary of state. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the office's receipt of the petition, or within such other time as the office of the secretary of state and the requestor mutually agree to.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the office of the secretary of state denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-120, filed 1/28/09, effective 2/28/09; Order 74-2, § 434-12A-120, filed 2/19/74.]

WAC 434-12A-150 Revolving fund. Pursuant to RCW 43.07.130, and subject to the current availability of such materials, the office of the secretary of state will supply any of the following items of printed matter to the public for a charge equal to the costs of printing, reprinting, and distributing such printed matter:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23A RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29 RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state Constitution;
- (11) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and
- (12) Rules and informational publications related to the statutory provisions set forth above.

Upon request, any person may receive a list of such printed matter currently available, the cost of each such item of printed matter, and instructions for ordering one or more items. The revenue derived in this manner shall be placed in the secretary of state's revolving fund.

[Statutory Authority: RCW 42.56.040, 09-04-026, § 434-12A-150, filed 1/28/09, effective 2/28/09; Order 74-2, § 434-12A-150, filed 2/19/74.]

**Chapter 434-110 WAC
CORPORATION FILING PROCEDURES AND
SPECIAL FEES**

WAC

434-110-010	Purpose.
434-110-030	Office hours.
434-110-050	Mail-in service.
434-110-100	Registered office address—Requirements.
434-110-120	Initial and annual reports—Form of content.
434-110-130	Annual reports—Due date for all nonprofit corporations.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

434-110-020	Office address. [Statutory Authority: Titles 23, 23B, 245 and 46 RCW, chapter 43.07 RCW. 00-21-084, § 434-110-020, filed 10/17/00, effective 11/17/00. Statu-
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tory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-020, filed 10/1/93, effective 11/1/93.] Repealed by 09-06-036, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120.

434-110-040

Telephone services. [Statutory Authority: Titles 23, 23B, 245 and 46 RCW, chapter 43.07 RCW. 00-21-084, § 434-110-040, filed 10/17/00, effective 11/17/00. Statutory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-040, filed 10/1/93, effective 11/1/93.] Repealed by 09-06-036, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120.

WAC 434-110-010 Purpose. These rules establish procedures and fee schedules for filings, for expedited services, and for access to public records in the corporations division of the office of the secretary of state. These rules are adopted pursuant to Titles 23, 23B, 24, and 46 RCW, and chapters 19.77 and 43.07 RCW.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120, 09-06-036, § 434-110-010, filed 2/24/09, effective 3/27/09. Statutory Authority: Title 23B RCW and chapter 19.77 RCW. 94-19-004, § 434-110-010, filed 9/8/94, effective 10/9/94. Statutory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-010, filed 10/1/93, effective 11/1/93.]

WAC 434-110-030 Office hours. (1) Business office hours are from 8:00 a.m. to 5:00 p.m. daily, Monday through Friday, excluding legal holidays. Walk-in, counter services are available for an expedited fee specified in WAC 434-112-080. Emergency counter service at other times is available under terms of WAC 434-112-080(8).

(2) Documents, including substitute service-of-process on the secretary of state, delivered after normal working hours will be deemed to be received on the next working day. The secretary assumes no responsibility for any form of delivery other than that received personally by an employee of the office of the secretary of state.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120, 09-06-036, § 434-110-030, filed 2/24/09, effective 3/27/09. Statutory Authority: Titles 23, 23B, 245 and 46 RCW, chapter 43.07 RCW. 00-21-084, § 434-110-030, filed 10/17/00, effective 11/17/00. Statutory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-030, filed 10/1/93, effective 11/1/93.]

WAC 434-110-050 Mail-in service. (1) Expedited services for mail-in requests are available for an expedited fee specified in WAC 434-112-080(3).

(2) All mailed-in documents are processed and filed in order of date of receipt unless incomplete or incorrect. A specific filing date may be reserved for up to thirty days in advance. The necessary documents, in appropriate format with correct fees, must be in the office by the specified date.

(3) Requests for name searches coupled with a name reservation are completed in order of date received. A name reservation may be made by completing the form provided by the corporations division or in a letter clearly containing all the following information:

- (a) The corporate name desired, with two alternate names;
- (b) The name, address, and telephone number of the applicant;

- (c) The signature of the applicant; and
- (d) The application date.

An application on behalf of a client should also include the client's name and complete address.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-110-050, filed 2/24/09, effective 3/27/09. Statutory Authority: Titles 23, 23B, 245 and 46 RCW, chapter 43.07 RCW. 00-21-084, § 434-110-050, filed 10/17/00, effective 11/17/00. Statutory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-050, filed 10/1/93, effective 11/1/93.]

WAC 434-110-100 Registered office address—Requirements. (1) A post office box address may be used in addition to a registered geographic office address when the United States Postal Service cannot or will not deliver to the street address.

(2) The registered agent is required to notify the office of the secretary of state and the corporation of any changes in either the street address or the post office box address. Change of address is subject to the fee stated in WAC 434-112-085 (2)(g).

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-110-100, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.170. 04-04-018, § 434-110-100, filed 1/23/04, effective 2/23/04. Statutory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-100, filed 10/1/93, effective 11/1/93.]

WAC 434-110-120 Initial and annual reports—Form of content. (1) Any corporation filing under the Washington Business Corporations Act shall file its initial (annual) report on the form provided by the secretary of state or shall clearly and concisely provide the information typically sectioned exactly in the following manner:

(a) Section 1. Corporate name and registered agent and office address currently on file with the corporations division, the unified business identification number, corporations account number, state of incorporation, and original date filed in Washington;

(b) Section 2. If there has been a change in registered agent or registered office address include the effective date and the new agent's signature signifying acceptance of the appointment or the new address;

(c) Section 3. Address of principal place of business in Washington or, if a foreign corporation, the principal office address in state of original incorporation, the corporation telephone number, and a brief statement of nature of business;

(d) Section 4. A list of names and addresses of all corporate officers and directors; and

(e) Section 5. Signature of either the chair or president of the board of directors or an officer listed within the report.

(2) All profit and nonprofit corporations shall file their annual reports on the form prescribed by the secretary of state or clearly and concisely typically sectioned exactly in the following manner:

(a) Section 1. Corporate name and registered agent and office address currently on file with the corporations division, the unified business identification number, corporations account number, state of incorporation and original date filed in Washington;

(b) Section 2. If there has been a change in registered agent or registered office address include the effective date and the new agent's signature signifying acceptance of the appointment or the new address;

(c) Section 3. A list of names and addresses of all corporate officers and directors; and

(d) Section 4. The signature of either the chair or president of the board of directors or an officer listed within the report.

All annual reports must be accompanied by the statutory fee in RCW 23B.01.530 or 24.03.405 (1)(b).

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-110-120, filed 2/24/09, effective 3/27/09. Statutory Authority: Title 23B RCW and chapter 19.77 RCW. 94-19-004, § 434-110-120, filed 9/8/94, effective 10/9/94. Statutory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-120, filed 10/1/93, effective 11/1/93.]

WAC 434-110-130 Annual reports—Due date for all nonprofit corporations. Each nonprofit corporation shall file its annual report on the last day of the month of its original registration as a corporation. The division shall notify each nonprofit corporation of its annual renewal date forty-five days in advance by a mailing that includes the annual report form. Failure to receive an annual report notice is insufficient reason for failing to file the statutorily required annual report.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-110-130, filed 2/24/09, effective 3/27/09. Statutory Authority: 1993 c 269 and 356, Titles 23, 23B, 24 and 46 RCW and chapter 43.07 RCW. 93-20-072, § 434-110-130, filed 10/1/93, effective 11/1/93.]

Chapter 434-112 WAC

CORPORATIONS DIVISION AND CHARITIES PROGRAM SERVICES

WAC

434-112-020	Corporations division address, telephone number and office hours.
434-112-025	Documents delivered after normal working hours.
434-112-030	Certificates for business filings.
434-112-040	Document standards for filings—Cover sheet requirement and document quality.
434-112-075	On-line services.
434-112-080	In-person or expedited service—Special fees.
434-112-085	Fees and penalties.
434-112-090	Miscellaneous fees.
434-112-100	State registered domestic partnerships.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-112-095	Fee prepayment—When required. [Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.-007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.-170. 04-04-018, § 434-112-095, filed 1/23/04, effective 2/23/04.] Repealed by 09-06-036, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.-120.
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WAC 434-112-020 Corporations division address, telephone number and office hours.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-020, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008,

25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-020, filed 1/23/04, effective 2/23/04.]

WAC 434-112-025 Documents delivered after normal working hours. (1) Documents, including substitute service of process on the secretary of state, delivered after the normal working hours of 8:00 a.m. to 5:00 p.m., will be deemed to be received on the next working day.

(2) Filings submitted on-line will be deemed to be received as of the date and time the corporations division computer system records the complete submission and credit card approval for the transaction.

(3) The secretary assumes no responsibility for any form of delivery other than that:

(a) Received personally by an employee of the office of the secretary of state; or

(b) Received by the corporations division computer system as a result of an on-line filing.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-025, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-025, filed 1/23/04, effective 2/23/04.]

WAC 434-112-030 Certificates for business filings.

Certificates issued by the secretary of state or the secretary's designee in furtherance of duties under Titles 18, 19, 23, 23B, 24 and 25 RCW shall:

(1) Bear a rendition of the Washington state seal;

(2) Bear a mechanical or electronic reproduction of the secretary's signature; and

(3) Be regarded as the secretary of state's official certification of the matters itemized in the certificate.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-030, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-030, filed 1/23/04, effective 2/23/04.]

WAC 434-112-040 Document standards for filings—

Cover sheet requirement and document quality. (1) A completed contact information cover sheet shall be submitted with each filing with the corporations division or the charities program if:

(a) The filing party is not the registered agent and would like the completed filing returned to them directly;

(b) The filing party would like expedited service under WAC 434-112-080; or

(c) The filing party would like correspondence related to a charities program filing sent to an individual at an address other than the mailing address of record.

(2) The cover sheet will include contact telephone and address information related to the filing, and provide an opportunity to advise the corporations division whether the request is for expedited service and designate the address to which the corporations division is to return the completed request.

(3) All corporations related filings received without a contact information cover sheet will be returned to the registered agent for the entity when processing is complete.

(4) Correspondence pertaining to a charities program filing received without a contact information cover sheet will

be sent to the entity's mailing address of record when processing is complete.

(5) The corporations division including the charities program may reject and return documents and copies that are not legible or not capable of being recorded as an image with adequate resolution and clarity.

(a) Paper and ink must be of weight and color capable of producing a legible image regardless of the system used by the corporations division for creating the image.

(b) Documents completed in pencil will not be accepted for filing.

(c) All text must be written or printed in eight point type or larger.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-040, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-040, filed 1/23/04, effective 2/23/04.]

WAC 434-112-075 On-line services. (1) The corporations division web site is located at www.secstate.wa.gov/. The web site provides a variety of services for charities and corporations including on-line lookup, on-line filing and downloadable forms. Please see the web site for the most up to date list of services available.

(2) The following business entities may pay their annual license fees and submit their annual reports on-line, provided they meet the requirements of this subsection:

(a) Domestic or foreign profit corporations organized under Title 23B RCW, including professional service corporations under chapter 18.100 RCW; and Massachusetts trusts under chapter 23.90 RCW.

(b) Foreign and domestic limited liability companies registered or formed under chapter 25.15 RCW, including limited liability companies formed under RCW 25.15.045 to provide professional services.

(3) Entities filing annual reports on-line must have twenty-five or fewer board members, officers, shareholders, members or managers to report.

(4) On-line filings for foreign and domestic corporations, foreign and domestic limited liability companies, and registrations under the charities programs:

(a) Will be processed as expedited filings under WAC 434-112-080;

(b) Will be subject to the expedited processing fee set forth in WAC 434-112-080; and

(c) Be treated as received when the corporations division system records receipt of the completed transaction including payment authorization.

(5) When submitting an on-line filing, the person completing the filing shall sign the application by: Typing their full name in the space provided on the web form; stating their capacity with the entity addressed in the filing; and following the directions for signing the web form.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-075, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-075, filed 1/23/04, effective 2/23/04.]

WAC 434-112-080 In-person or expedited service—Special fees. (1) The corporations division counter is open

for corporations and charities program services to in-person requests from 8:00 a.m. to 5:00 p.m. each business day.

(a) Staff provides expedited, same-day processing of documents or requests submitted in person prior to 4:30 p.m. on that day. The corporations division is unable to guarantee same day processing of any filing or request submitted after 4:30 p.m. on that day.

(b) Expedited requests submitted by fax, mail or on-line will be completed within two working days of submission, or as soon thereafter as possible.

(2) Expedited services under this section are available for the following transactions:

(a) Business filing transactions:

(i) Charter document review and filing;

(ii) Name reservation review and filing;

(iii) Document certification;

(iv) Document copying or status certificates;

(v) Status change filings;

(vi) Reinstatements; and

(vii) Trademark filings.

(b) Charities program filings:

(i) Document review and filing including initial registration and renewals of charities, commercial fund-raisers and charitable trusts;

(ii) Document copying and status verification letters;

(iii) Status change filings.

(c) Apostille requests submitted at the corporations division counter.

(3) The fee for expedited service is twenty dollars for single or multiple transactions within each new or existing corporation program file, or charities program file. In addition, the filing fee for each transaction will apply.

(4) Except for on-line filings, the filing party shall indicate that expedited processing is requested by:

(a) Submitting a completed contact information cover sheet as described by WAC 434-112-040 indicating that the document is submitted for expedited filing; or

(b) Placing the word "expedite" conspicuously on either the face of the document to be filed, or on any cover letter submitted with the document.

(5) All documents submitted for filing on-line and corporations documents submitted via facsimile transmission are treated as expedited processing requests. Registrations with the charities program may not be submitted by facsimile. Documents transmitted via facsimile will receive expedited processing within two working days of submission, or as soon thereafter as possible when the documents are received between 8:00 a.m. and 5:00 p.m. Pacific time each business day. The fee for facsimile filings is twenty dollars for single or multiple transactions within each new or existing corporation or trademark file. In addition, the filing fee for each transaction will apply.

(6) There is no expedited fee for the following transactions, unless they are submitted via facsimile transmission or on-line:

(a) Registered agent or address change;

(b) Initial reports;

(c) License renewal and required annual report;

(d) Amended annual reports;

(e) In-person inspection or review of corporation files or other public documents located in the corporations division office;

(f) Documents left at the counter for processing with mail-in documents received the same day; or

(g) A search for nonactive corporations less than twenty years old or trademark files less than six years old.

(7) If staff cannot complete the expedited service request before the end of the same day, or the second consecutive business day for facsimile filings, the transaction will be completed as soon as possible.

(8) Emergency services needed outside regular business hours requiring employee overtime are one hundred fifty dollars per hour plus regulatory or statutory fees due for the form of the filing. When the division receives an emergency request, staff notifies the customer of the service fee and any other reasonable conditions set by the director. The customer must agree to pay the fees or have received a fee waiver before emergency services are provided.

(9) Service may be limited under extraordinary circumstances.

(a) Over-the-counter service hours may be shortened under extraordinary circumstances.

(b) Separate over-the-counter service requests by one person may be limited to those relating to three corporations per day.

(c) Documents submitted by courier services or document-handling companies may receive twenty-four-hour service or as soon thereafter as possible.

(d) A customer may make alternate arrangements with the director prior to bringing or sending in documents, if a sudden, unexpected situation occurs during the business day.

(10) A person submitting a filing or request may submit a written request asking the secretary to waive emergency or penalty fees.

(a) The request must include the special circumstances justifying the fee waiver.

(b) Under special circumstances the secretary may waive emergency or penalty fees.

(11) Fees for expedited or in-person processing will not be refunded.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120, 09-06-036, § 434-112-080, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-080, filed 1/23/04, effective 2/23/04.]

WAC 434-112-085 Fees and penalties. (1) For Washington registered profit domestic and foreign corporations, including profit cooperative associations, employee cooperative associations, limited liability companies, limited partnerships, Massachusetts trusts and limited liability partnerships, fees and penalties are as follows:

(a) Articles of incorporation, certificates of formation, certificate of limited partnership and other original filings, one hundred eighty dollars;

(b) Articles of amendment, restatement, correction, or revocation of dissolution, thirty dollars; articles of amendment for limited partnerships are twenty-five dollars;

(c) License renewal with required annual report filed after due date and before administrative dissolution, penalty

fee of twenty-five dollars, plus the statutory fee of fifty dollars and the department of licensing handling fee of nine dollars; limited partnership and limited liability partnership annual report statutory fee is fifty dollars;

(d) Reinstatement, one hundred dollars plus all delinquent license or annual fees and a twenty-five percent penalty computed on the total amount;

(e) Articles of merger or exchange, twenty dollars for each listed company;

(f) Resignation of registered agent, twenty dollars;

(g) Resignation of officer or director, an initial report or amended annual report, and the appointment or change of registered agent or change of registered address, ten dollars;

(h) Registration, reservation, or transfer of name, thirty dollars;

(i) Articles of dissolution, certificate of withdrawal, dissolution by judicial decree, or revocation of certificate of authority by either failure to renew or judicial decree, no fee;

(j) Agent's consent to act as agent, agent's resignation if appointed without consent, or annual report when filed concurrently with annual license fee, no fee; and

(k) Other statement or report filed, ten dollars.

(2) For Washington registered domestic and foreign nonprofit corporations, nonprofit miscellaneous and mutual corporations, building corporations, and other associations and corporations under Title 24 RCW, fees and penalties are as follows:

(a) Articles of incorporation and other original filings, thirty dollars;

(b) Articles of amendment, restatement, twenty dollars;

(c) Articles of dissolution or certificate of withdrawal, no fee;

(d) Revocation of dissolution, twenty dollars;

(e) Reinstatement following administrative dissolution, thirty dollars plus all delinquent annual fees and a five-dollar penalty;

(f) Articles of merger or exchange, twenty dollars for each listed corporation;

(g) Resignation of officer or director, an initial report or amended annual report, the appointment or change of registered agent, or change of registered address, ten dollars;

(h) Resignation of registered agent, twenty dollars;

(i) Registration, reservation, or transfer of reservation of name, twenty dollars;

(j) Certificate of election adopting provisions of chapter 24.03 RCW as described in RCW 24.03.017, thirty dollars; and

(k) Other statement or report filed, ten dollars.

(3) For registering trademarks for use within the state, the fees are as follows:

(a) For a five-year registration or renewal, fifty dollars for each class in which the trademark is registered;

(b) For recording the assignment of a trademark and its registration or application for registration, ten dollars;

(c) For a new certificate with the name of the new assignee, five dollars;

(d) For reservation of a trademark for one hundred eighty days, thirty dollars for each class in which the trademark is reserved;

(e) For amendment of a trademark to add new classes of goods or services, fifty dollars for each class added by the amendment;

(f) Cancellation of trademark, no fee; and

(g) Other statement or report filed, ten dollars.

(4) For registration of a declaration of state registered domestic partnership, or registration of a notice of termination of state registered domestic partnership, fifty dollars each.

(5) Fees paid under WAC 434-112-085 are not refundable. Under special circumstances, the filing party may petition the secretary in writing to request a waiver of emergency or penalty fees.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-085, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 43.07.400 and 9A.56.078. 07-20-065, § 434-112-085, filed 9/28/07, effective 10/29/07. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].-315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-085, filed 1/23/04, effective 2/23/04.]

WAC 434-112-090 Miscellaneous fees. (1) Copy fees for corporate documents are:

(a) Each annual report, five dollars;

(b) Initial articles of incorporation, initial certificate of formation, other initial organizing document, ten dollars;

(c) Articles of incorporation, certificate of formation, other organizing documents including all subsequent amendments and restatements, twenty dollars;

(d) Copy of any filing related to a state registered domestic partnership, five dollars;

(e) Surcharge for files exceeding one hundred pages of copy, thirteen dollars for each fifty-page increment (number of pages determined by weight of copies);

(2) For certificates of existence fees are as follows:

(a) With complete historical data, under embossed seal, thirty dollars;

(b) Without complete historical data, twenty dollars;

(c) Duplicate certificate twenty dollars.

(3) For additional certificates of registration or termination of a state registered domestic partnership, five dollars. For an additional or replacement state registered domestic partnership wallet card, ten dollars.

(4) For verifying the signature of a notary or public official for an apostille or certification authenticating a sworn document, the fee is fifteen dollars.

(5) For each certified copy of any document the fee is twenty dollars.

(6) For any service of process the fee is fifty dollars.

(7) Dishonored checks. If a person, corporation or other submitting entity has attempted to pay any fee due to the secretary of state by means of a check, and the check is dishonored by the financial institution when presented, the secretary of state will impose a twenty-five-dollar penalty, payable to the secretary of state.

In the event a valid replacement check and dishonor charge is not received in the office of the secretary of state within the time prescribed by its accounting division, the transaction covered by the dishonored check will be canceled and all other late filing fees and penalties will be instituted.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-090, filed 2/24/09, effective

3/27/09. Statutory Authority: RCW 43.07.400 and 9A.56.078. 07-20-065, § 434-112-090, filed 9/28/07, effective 10/29/07. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09]-315, 19.77.115, and 43.07.170. 04-04-018, § 434-112-090, filed 1/23/04, effective 2/23/04.]

WAC 434-112-100 State registered domestic partnerships. (1) State registered domestic partnerships will be registered by the corporations program, in the corporations division of the office of the secretary of state.

(2) Declarations of state registered domestic partnerships, and notices of termination of state registered domestic partnerships may be submitted to the corporations division by mail, or in person. See WAC 434-112-020 for the corporations division hours of service.

(3) The document standards in WAC 434-112-040(5) apply to declarations of state registered domestic partnerships and to notices of termination of state registered domestic partnerships.

(4) At the time of registration of a declaration of state registered domestic partnership or of filing of a notice of termination of state registered domestic partnership the corporations division will provide to each state registered domestic partner:

(a) One original certificate of registration or termination. Further certificates or additional certificates requested after registration are available subject to the fees set forth in WAC 434-112-090.

(b) One wallet sized card documenting registration of the state registered domestic partnership.

(5) Registrations of state registered domestic partnerships are public records and all documents related to the registration are subject to public disclosure.

[Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. 09-06-036, § 434-112-100, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 43.07.400 and 9A.56.078. 07-20-065, § 434-112-100, filed 9/28/07, effective 10/29/07.]

Chapter 434-120 WAC

CHARITABLE SOLICITATION ORGANIZATIONS AND CHARITABLE TRUSTS

WAC

434-120-025	Definitions.
434-120-045	Change in status, notification.
434-120-107	Audited financial report—Tiered reporting requirements (effective January 1, 2010).
434-120-110	Organizations exempt from filing requirements—Optional filing.
434-120-140	How and when.
434-120-160	Fees for late registration.
434-120-220	Change in status, notification.
434-120-240	Contract between a commercial fund-raiser and a charitable organization.

WAC 434-120-025 Definitions. (1) A "bona fide officer or employee" of a charitable organization is one:

(a) Whose conduct is subject to direct control by such organization;

(b) Who does not act in the manner of an independent contractor in his or her relation with the organization; and

(c) Whose compensation is not computed on funds raised or to be raised.

(2) "Annual gross revenue" means, for any accounting period, the total gross amounts, including cash or noncash

contributions received by or on behalf of a charitable organization from all sources, without subtracting any costs or expenses.

(3) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable purpose, but does not include any commercial fundraiser, commercial fund-raising entity, commercial covenanturer, or any fund-raising counsel, as defined in this section. Churches and their integrated auxiliaries are not charitable organizations, but are subject to RCW 19.09.100 (12), (15), and (18).

(4) "Charitable purpose" means any religious, charitable, scientific, testing for public safety, literary, or educational purpose or any other purpose that is beneficial to the community, including but not limited to recreational, environmental, humanitarian, patriotic, or civic purposes, the support of national or international amateur sports competition, the prevention of cruelty to children or animals, the advancement of social welfare, or the benefit of law enforcement personnel, firefighters, and other persons who protect public safety. The term "charitable" is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

(5) "Charitable trust" means any real or personal property right held by an entity or person that is intended to be used for a charitable purpose(s). The trust may be created by will, deed, articles of incorporation, or other governing instrument. It may be express or constructive.

(6) "Commercial coventurer" means a corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, individual, or other entity that:

(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public; and

(b) Is not otherwise regularly or primarily engaged in making charitable solicitations in this state or otherwise raising funds in this state for one or more charitable organizations; and

(c) Represents to prospective purchasers that if they purchase a good or service from the commercial coventurer, a specified portion of the sales price or a certain sum of money or some other specified thing of value will be donated to a named charitable organization; and

(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.

(7) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits or receives contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contribu-

tions for such purposes. However, a commercial coventurer, fund-raising counsel, or consultant, as defined by this section, is not a commercial fund-raiser or commercial fund-raising entity.

(8) "Compensation," means salaries, wages, fees, commissions, or any other remuneration or valuable consideration. Compensation shall not include reimbursement for expenses incurred and documented or noncash awards or prizes, valued at one hundred dollars or less, given annually to each volunteer.

(9) "Contribution" means the payment, donation, promise, or grant, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights.

(10) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation.

(11) "Entity" means an organization, individual or institution with its own existence for legal and/or federal tax purposes. It has the capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions. Entity may include, but is not limited to, an individual, organization, corporation, association, limited liability company, trust, group, partnership, proprietorship, company, estate, agency or unit of state government, person as defined in RCW 1.16.080, or any combination thereof.

For purposes of complying with registration requirements under Washington's Charitable Solicitations Act, "entity" does not include a branch, chapter, unit, affiliate or similar subordinate of another entity if said subordinate:

(a) Is under the direct supervision and control of the related entity;

(b) Does not have its own separate existence from the related entity for legal and/or federal tax purposes; and

(c) The related entity maintains registration under chapter 19.09 RCW.

Regardless of whether or not a subordinate is required to register under the act, it shall comply with the conditions set forth under RCW 19.09.100.

Interpretive note: Notwithstanding other facts that may be indicative of a separate existence for legal and federal tax purposes, a branch, chapter, unit, affiliate or similar subordinate; (i) has its own existence for legal purposes if said subordinate has an organizational structure separate from a related entity; and (ii) has its own existence for federal tax purposes if it has been issued a federal employer identification number separate from a related entity, falls under a central organization's IRS group exemption, has obtained its own federal tax exempt status separate from a related entity, is required to file a separate federal informational return, or is included in a central organization's group return.

(12) "Fund-raising counsel" or "consultant" means any entity or individual who is retained by a charitable organization for a fixed fee or rate, that is not computed on a percentage of funds raised, or to be raised, under a written agreement

only to plan, advise, consult, or prepare materials for a solicitation of contributions in this state, but who does not manage, conduct, or carry on a fund-raising campaign and who does not solicit contributions or employ, procure, or engage in any compensated person to solicit contributions, and who does not at any time, have custody or control of contributions. A volunteer, employee, or salaried officer of a charitable organization maintaining a permanent establishment or office in this state is not a fund-raising counsel. An attorney, investment counselor, or banker who advises an individual, corporation, or association to make a charitable contribution is not a fund-raising counsel as a result of the advice.

(13) "General public" or "public" means any individual located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.

(14) "Income-producing assets" means assets that are purchased with the prospect that the assets will generate income or appreciate in the future. In finance, an investment is a monetary asset purchased with the idea that the asset will provide income in the future or appreciate and be sold at a higher price; these investments would include, but are not limited to stocks, bonds or real property.

(15) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(16) "Other employee" of a charitable organization means any person:

(a) Whose conduct is subject to direct control by such organization;

(b) Who does not act in the manner of an independent contractor in his or her relation with the organization; and

(c) Who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable purposes or religious activities.

(17) "Political organization" means those organizations whose activities are subject to chapter 42.17 RCW or the Federal Election Campaign Act of 1971, as amended.

(18) "Religious organizations" means those entities that are not churches or integrated auxiliaries as defined and includes nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, speakers' organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

(19) "Renewal date" means the fifteenth day of the fifth month after the close of the organization's fiscal or accounting year.

(20) The "review" as used in WAC 434-120-107(2), means a review of a tax reporting form, including financial presentations included in the tax return, for state reporting purposes in accordance with chapter 19.09 RCW. "Review" does not mean a "review engagement" as defined by the American Institute of Certified Public Accountants (AICPA) Statements of Standards for Accounting and Review Services (SSARS).

(21) "Secretary" means the secretary of state or the secretary's designee, or authorized representative.

(22) "Signed" means hand-written, or, if the secretary adopts rules facilitating electronic filing that pertain to this chapter, in the manner prescribed by those rules.

(23)(a) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(i) Any appeal is made for any charitable purpose; or

(ii) The name of any charitable organization is used as an inducement for consummating the sale; or

(iii) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

(b) The solicitation shall be deemed complete when made, whether or not the person making it receives any contribution or makes any sale.

(c) A commercial fund-raiser is considered to solicit or receive contributions from the public directly if contributions are solicited or received by the fund-raiser or by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members.

(d) Contributions are considered to be solicited or received indirectly if they are solicited or received by:

(i) Any organization owned or controlled by the commercial fund-raiser or owned or controlled by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members; or

(ii) Any person or organization, other than the charitable organization for which funds are solicited, with which the commercial fund-raiser as a contractual relationship governing the solicitation or receipt of contributions.

(e) "Solicitation" as defined in RCW 19.09.020(18), for the purposes of these regulations, does not include any of the following:

(i) An application or request for application for a grant, contract, or similar funding from any foundation, corporation, governmental agency or similar entity which has an established application and review procedure for reviewing such requests;

(ii) The attempt to sell a service or good which constitutes the basis of the charitable organization's activities under which the federal income tax exemption was granted, or is the primary purpose for the existence of the charitable organization. This includes, but is not limited to, admission to a theatrical or other performance presented by a charitable organization that is a drama, musical, dance, or similar group and fees for services such as a hospital provides or use of the charitable organization's facilities; or

(iii) Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-025, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 19.09.097, [19.09.]315, [19.09.]540, 43.07.125. 09-01-106, § 434-120-025, filed 12/17/08, effective 1/17/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.170. 04-04-018, § 434-120-025, filed 1/23/04, effective 2/23/04. Statutory Authority: RCW 19.09.079, 19.09.190 and 19.09.315. 97-16-036, § 434-120-025, filed 7/30/97, effective 8/30/97. Stat-

utory Authority: RCW 11.110.070 and 19.09.315. 95-11-135, § 434-120-025, filed 5/24/95, effective 6/24/95. Statutory Authority: Chapters 34.05, 19.09, 11.110 and 43.07 RCW and 1993 c 471. 94-01-004, § 434-120-025, filed 12/1/93, effective 1/1/94. Formerly WAC 434-19-020.]

WAC 434-120-045 Change in status, notification. An entity required to register under chapter 19.09 RCW shall notify the charities program in writing of any changes to its registration pursuant to WAC 434-120-105 and 434-120-215, or any other changes within thirty days after the change.

The organization shall submit changes using the form available from the charities program and the appropriate fee per WAC 434-120-145.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-045, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 19.09.097, [19.09.]315, [19.09.]540, 43.07.125. 09-01-106, § 434-120-045, filed 12/17/08, effective 1/17/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.170. 04-04-018, § 434-120-045, filed 1/23/04, effective 2/23/04.]

WAC 434-120-107 Audited financial report—Tiered reporting requirements (effective January 1, 2010). (1) Charitable organizations submitting an initial registration, shall meet the financial reporting requirements, specified in RCW 19.09.075 or WAC 434-120-105. If an organization does not file a federal form (990, 990PF, 990EZ, 990T), the organization must complete the solicitation report contained in the form prescribed by the secretary.

(2) Charitable organizations with more than one million dollars in annual gross revenue averaged over the last three fiscal years, shall have the federal tax reporting form (990, 990EZ, 990PF or 990T) prepared or reviewed by a certified public accountant or other professional, independent third-party who normally prepares or reviews the federal returns in the ordinary course of their business. If the federal tax form is not signed by a preparer who is so qualified, the charitable organization must, using a reporting form provided by the secretary, confirm that the federal tax form was reviewed by an independent third-party who normally prepares or reviews federal returns in the ordinary course of their business.

(3) Charitable organizations with more than three million dollars in annual gross revenue averaged over the last three fiscal years, shall submit an audited financial statement prepared by an independent certified public accountant for the year immediately following any year in which the organization achieves a three year average of more than three million dollars. For organizations with more than three million dollars in annual gross revenue averaged over the last three fiscal years, but directly or indirectly receive five hundred thousand dollars or less in cash contributions averaged over the last three fiscal years, the audit requirement is waived. Organizations with five hundred thousand dollars or less in cash contributions averaged over the last three fiscal years shall meet the financial reporting requirements described in subsection (2) of this section. For purposes of meeting the financial requirements in this section, "cash" includes currency, checks, credit card payments, donor advised funds, and electronic fund transfers, but does not include gifts of tangible, real, or personal property or in-kind services.

(4) The secretary may waive the requirement to file audited financial statements prepared by an independent cer-

tified public accountant when the organization can demonstrate that they have reached a three year average of more than three million dollars in gross revenue through unusual or nonreoccurring revenue received in a single year without which they would have not met the three year annual gross average threshold.

(5) This rule becomes effective January 1, 2010.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-107, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 19.09.097, [19.09.]315, [19.09.]540, 43.07.125. 09-01-106, § 434-120-107, filed 12/17/08, effective 1/17/09.]

WAC 434-120-110 Organizations exempt from filing requirements—Optional filing. (1) Charitable organizations exempt from the filing requirements of this chapter under RCW 19.09.076(1) and WAC 434-120-100 (2)(b), (c), or (e) may register with the charities program.

(2) Charitable organizations choosing to register under this section shall register by:

(a) Completing the registration form specified by the secretary; and

(b) Paying the appropriate registration fee per WAC 434-120-145.

(3) Charitable organizations registered under this section may change or update their registration by:

(a) Filing the update with the charities program; and

(b) Paying the appropriate fee per WAC 434-120-145.

(4) Expedited processing under WAC 434-112-080 is available for registrations and updates under this section.

(5) The secretary offers this optional registration because some grant making entities and programs require registration with the charities program.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-110, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 19.09.097, [19.09.]315, [19.09.]540, 43.07.125. 09-01-106, § 434-120-110, filed 12/17/08, effective 1/17/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.170. 04-04-018, § 434-120-110, filed 1/23/04, effective 2/23/04.]

WAC 434-120-140 How and when. (1) Original registration: An entity required to register as a charitable organization shall complete the form described in WAC 434-120-105 and submit it with the fee in WAC 434-120-145 prior to conducting any solicitation.

(2) Annual renewal:

(a) An entity shall renew its charitable registration by no later than the fifteenth day of the fifth month after the end of its fiscal year.

(b) The renewal shall include the same information required for registration as described in WAC 434-120-105 and RCW 19.09.075, except that a determination letter from the Internal Revenue Service need not be attached if it was previously filed. The solicitation report will be based on the most recent filing with the Internal Revenue Service or if the organization does not file with the Internal Revenue Service, the solicitation report will be based on the most recently completed fiscal year. No organization may submit the same fiscal information for two consecutive years.

(c) No change in an entity's fiscal year shall cause the due date of a renewal to be more than one year after the previous registration or renewal. For purposes of renewals that

include financial information for a partial year, due to a change of fiscal year, threshold levels for registration and financial statement requirements shall be determined on a prorated basis.

(3) An organization shall notify the charities program of a change in organization name, mailing address, organization structure, principal officer, Washington representative, tax status, fiscal year, or any other information filed under RCW 19.09.075 or WAC 434-120-105.

(4) The organization shall submit changes using the form available from the charities program within thirty days after the change and include the appropriate fee per WAC 434-120-145.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-140, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 19.09.097, [19.09.]315, [19.09.]540, 43.07.125. 09-01-106, § 434-120-140, filed 12/17/08, effective 1/17/09. Statutory Authority: RCW 19.09.315 and 19.09.075. 96-10-021, § 434-120-140, filed 4/24/96, effective 5/25/96. Statutory Authority: RCW 11.110.070 and 19.09.315. 95-11-135, § 434-120-140, filed 5/24/95, effective 6/24/95. Statutory Authority: Chapters 34.05, 19.09, 11.110 and 43.07 RCW and 1993 c 471. 94-01-004, § 434-120-140, filed 12/1/93, effective 1/1/94.]

WAC 434-120-160 Fees for late registration. (1) A charitable organization that fails to renew its registration by its renewal date shall pay a late fee of fifty dollars. The charitable organization shall pay an additional fifty dollar late fee for each year, including the current year, that it was not registered under this act, but was required to do so. If the registration has lapsed for a period of more than two years, the entity shall provide solicitation information for the previous two years, and shall reregister as a new charitable organization.

(2) The fees for late registration shall be in addition to the filing fees under WAC 434-120-145, and any other remedies that may be imposed by law, including penalties for soliciting without being registered.

(3) The charitable organization may ask the secretary to waive fees for late registration. The request must include a description of the circumstances that justify a waiver of the late fees. Under special circumstances the secretary may waive fees for late registration that are imposed by these regulations.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-160, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.170. 04-04-018, § 434-120-160, filed 1/23/04, effective 2/23/04. Statutory Authority: Chapters 34.05, 19.09, 11.110 and 43.07 RCW and 1993 c 471. 94-01-004, § 434-120-160, filed 12/1/93, effective 1/1/94.]

WAC 434-120-220 Change in status, notification. A commercial fund-raiser shall:

(1) Notify the charities program of a change in organization name, mailing address, principal officer, owner, business structure, Washington representative, fiscal year or any other information filed under RCW 19.09.079 or WAC 434-120-215.

(2) The commercial fund-raiser shall submit changes using the form available from the charities program within thirty days after the change and include the appropriate fee per WAC 434-120-250.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-220, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 19.09.097, [19.09.]315, [19.09.]540, 43.07.125. 09-01-106, § 434-120-220, filed 12/17/08, effective 1/17/09. Statutory Authority: Chapters 34.05, 19.09, 11.110 and 43.07 RCW and 1993 c 471. 94-01-004, § 434-120-220, filed 12/1/93, effective 1/1/94.]

WAC 434-120-240 Contract between a commercial fund-raiser and a charitable organization. (1) A commercial fund-raiser and charitable organization entering into a contract shall register the contract by completing the contract registration form, attaching a copy of the written contract, and filing the form and contract with the secretary. The contract shall be registered before the commencement of the campaign.

(2) The charitable organization is responsible for registering the contract and paying the appropriate fee per WAC 434-120-250.

(3) Both the contract and registration form shall be signed by the commercial fund-raiser owner or principal and the charitable organization president, treasurer, or comparable officer.

(4) In addition to the statutory requirements of RCW 19.09.097, the terms of the contract shall specify who will maintain the donor list.

[Statutory Authority: RCW 19.09.315, 19.09.540, and 43.07.125. 09-22-056, § 434-120-240, filed 10/30/09, effective 11/30/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09.]315, 19.77.115, and 43.07.170. 04-04-018, § 434-120-240, filed 1/23/04, effective 2/23/04. Statutory Authority: Chapters 34.05, 19.09, 11.110 and 43.07 RCW and 1993 c 471. 94-01-004, § 434-120-240, filed 12/1/93, effective 1/1/94.]

Chapter 434-208 WAC

ELECTIONS

(Formerly chapter 434-08 WAC)

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-208-040 Appointment of clerks. [98-08-010, recodified as § 434-208-040, filed 3/18/98, effective 3/18/98; Regulation 4, filed 3/24/60.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.-611.

Chapter 434-215 WAC

DECLARATIONS OF CANDIDACY AND FILING PROCEDURES

(Formerly chapter 434-228 WAC)

WAC

434-215-005 Filing information—Questionnaire—Compiling and dissemination.
434-215-020 Declaration of candidacy—Precinct committee officer.
434-215-040 Filing notification.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-215-080 Electronic filing—Eligible jurisdictions. [Statutory Authority: RCW 29A.04.611. 05-17-145, § 434-215-080, filed 8/19/05, effective 9/19/05. Statutory Authority: 2002 c 140 § 3. 02-15-156, § 434-215-080, filed 7/23/02, effective 8/23/02.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.

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

[Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-215-005, filed 5/29/09, effective 6/29/09. Statutory Authority: RCW 29A.04.611, 2006 c 344. 07-09-035, § 434-215-005, filed 4/11/07, effective 5/12/07. Statutory Authority: RCW 29A.04.611. 06-14-049, § 434-215-005, filed 6/28/06, effective 7/29/06. Statutory Authority: RCW 29A.04.610. 04-15-089, § 434-215-005, filed 7/16/04, effective 8/16/04. 02-09-007, recodified as § 434-215-005, filed 4/4/02, effective 4/4/02. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200. 97-21-045, § 434-228-005, filed 10/13/97, effective 11/13/97.]

WAC 434-215-020 Declaration of candidacy—Precinct committee officer. Declarations of candidacy for the position of precinct committee officer shall be filed in substantially the following form:

<i>Filing Data For Office Use Only</i>		
Date _____	Filing No. _____	Precinct # _____
Voter Registration ID _____		Staff Initials _____

DECLARATION OF CANDIDACY PRECINCT COMMITTEE OFFICER

1. I, _____, declare that I am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

(STREET ADDRESS OR RURAL ROUTE) (CITY) WA (ZIP)

that I am a registered voter in _____ precinct, that I declare myself a candidate for the position of Precinct Committee Officer for the _____ Party,
(DEMOCRATIC / REPUBLICAN)

to be elected at the Primary Election.

Further, I declare, under penalty of perjury, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

X _____
(SIGNATURE OF CANDIDATE) (DATE)

Contact Information: _____
(TELEPHONE NUMBER) (EMAIL ADDRESS)

(MAILING ADDRESS, IF DIFFERENT FROM RESIDENTIAL ADDRESS)

2. Please print my name on the ballot exactly as follows:

NOTICE: This document, upon filing, is a public record.

4/10/09

County auditors may design and use a declaration of candidacy different in form and style from that specified by this rule as long as it contains all of the information required by this rule.

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-215-020, filed 9/1/09, effective 10/2/09; 08-15-052, § 434-215-020, filed 7/11/08, effective 8/11/08. Statutory Authority: RCW 29A.04.611, 2006 c 344, 07-09-035, § 434-215-020, filed 4/11/07, effective 5/12/07. Statutory Authority: RCW 29A.04.611, 06-14-049, § 434-215-020, filed 6/28/06, effective 7/29/06. 02-09-007, recodified as § 434-215-020, filed 4/4/02, effective 4/4/02. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200, 97-21-045, recodified as § 434-228-020, filed 10/13/97, effective 11/13/97. Statutory Authority: 1990 c 59, 92-12-083, § 434-28-020, filed 6/2/92, effective 7/3/92. Statutory Authority: RCW 29.04.080, 84-15-050 (Order 84-2), § 434-28-020, filed 7/16/84; Order 75-1, § 434-28-020, filed 6/26/75.]

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-215-040, filed 9/1/09, effective 10/2/09.]

Chapter 434-219 WAC
PRESIDENTIAL PRIMARY
 (Formerly chapter 434-75 WAC)

WAC

434-219-190 Special election held in conjunction with the presidential primary.

WAC 434-219-190 Special election held in conjunction with the presidential primary. If a presidential primary is scheduled concurrently with a special election under RCW 29A.04.321 or 29A.04.330, all measures or candidates for office for which the voters are eligible to vote at that special election shall be listed on the ballot in such a manner that each voter can identify and vote on those candidates or measures separately from the presidential primary candidates.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-219-190, filed 9/1/09, effective 10/2/09; 07-24-044, § 434-219-190, filed 11/30/07, effective 12/31/07. Statutory Authority: RCW 29.19.070. 96-03-141, recodified as § 434-219-190, filed 1/24/96, effective 2/24/96; 91-18-012, § 434-75-190, filed 8/26/91, effective 9/26/91.]

Chapter 434-230 WAC
BALLOTS
 (Formerly chapter 434-30 WAC)

WAC

434-230-010 Sample ballots.
 434-230-015 Ballot format.

WAC 434-230-010 Sample ballots. Sample ballots shall be available at least fifteen days prior to an election. A printed copy must be made available through the office of the county auditor. A sample ballot may be published on the county auditor's web site. Sample paper ballots shall be printed in substantially the same form as official ballots. Sample ballots shall be printed in a manner that makes them easily distinguishable from the official ballot.

At any primary or election when a local voters' pamphlet is published which contains a full sample ballot, a separate sample ballot need not be produced.

Counties with populations of over five hundred thousand may produce more than one sample ballot for a primary or election, each of which lists a portion of the offices and issues to be voted on at that election. Sample ballots may be printed by region or area (e.g., legislative district, municipal, or other district boundary) of the county, provided that all offices and issues to be voted upon at the election appear on at least one of the various sample ballots. Each regional sample ballot shall contain all offices and issues to be voted upon within that region. A given office or issue may appear on more than one sample ballot, provided it is to be voted upon within that

region. Sample ballots shall be made available and distributed to each voting center.

[Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-230-010, filed 5/29/09, effective 6/29/09; 08-15-052, § 434-230-010, filed 7/11/08, effective 8/11/08; 06-14-049, § 434-230-010, filed 6/28/06, effective 7/29/06. Statutory Authority: RCW 29A.04.610. 04-15-089, § 434-230-010, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200. 97-21-045, recodified as § 434-230-010, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080 and 29.04.210. 92-10-038, § 434-30-010, filed 5/4/92, effective 6/4/92.]

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

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

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

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

(b) When the race for president and vice-president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice-president but immediately above the first partisan congressional, state or county office: "READ: Each candidate for president and vice-president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

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

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

(6) Ballots shall be formatted as provided in RCW 29A.36.170. Ballots shall not be formatted as stated in RCW 29A.04.008 (6) and (7), 29A.36.104, 29A.36.106, 29A.36.-121, 29A.36.161(4), and 29A.36.191.

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-230-015, filed 9/1/09, effective 10/2/09; 08-15-052, § 434-230-015, filed 7/11/08, effective 8/11/08.]

Chapter 434-235 WAC
SERVICE AND OVERSEAS VOTERS

WAC

434-235-020 Voter registration.
 434-235-030 Absentee voting.

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

- (a) A voter registration application issued by the state of Washington;
- (b) A federal post card application issued by the federal voting assistance program;
- (c) A federal write-in absentee ballot issued by the federal voting assistance program;
- (d) A national mail voter registration form issued by the election assistance commission; or
- (e) An absentee ballot with a valid signature on the return envelope oath.

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

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

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

(c) If the county auditor is unable to precinct the voter due to a missing or incomplete residential address on the application, the county auditor must attempt to contact the voter to clarify the application. If, in the judgment of the county auditor, there is insufficient time to correct the application before the next election or primary, the county auditor must issue the absentee ballot as if the voter had listed the county auditor's office as his or her residence. A special precinct for this purpose may be created. Upon its return, the ballot must be referred to the county canvassing board. The only offices and issues that may be tabulated are those common to the entire county and congressional races based on the precinct encompassing the auditor's office. Such registrations are only valid for the primary or election for which the ballot was issued. If the actual precinct is not determined before the next primary or election, the registration must be canceled.

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-235-020, filed 9/1/09, effective 10/2/09; 07-20-074, § 434-235-020, filed 10/1/07, effective 11/1/07.]

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

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

(2) Pursuant to RCW 29A.40.070, absentee ballots issued to registered uniformed, service, or overseas voters must be mailed at least thirty days prior to the election or pri-

mary. Requests for absentee ballots received after that day must be processed immediately.

(3) The county auditor may issue an absentee ballot by mail, e-mail, fax, or other means as specifically requested by the voter.

(4) Pursuant to RCW 29A.40.061, the county auditor shall provide the appropriate web site information with the absentee ballot.

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

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-235-030, filed 9/1/09, effective 10/2/09; 07-20-074, § 434-235-030, filed 10/1/07, effective 11/1/07.]

Chapter 434-250 WAC VOTING BY MAIL

WAC

434-250-035	Protected records voters.
434-250-040	Instructions to voters.
434-250-045	Voters requiring verification of identity.
434-250-050	Envelopes.

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

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

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

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-250-035, filed 1/21/09, effective 2/21/09.]

WAC 434-250-040 Instructions to voters. (1) Instructions that accompany an absentee ballot must include:

- (a) How to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;
- (b) Notice that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an over-vote and no votes for that office or ballot measure will be counted;
- (c) Notice that, if a voter has signed or otherwise identified himself or herself on a ballot, the ballot will not be counted;
- (d) An explanation of how to complete and sign the affidavit on the return envelope;

(e) An explanation of how to make a mark, witnessed by two other people, if unable to sign the affidavit;

(f) An explanation of how to place the ballot in the security envelope and place the security envelope in the return envelope;

(g) An explanation of how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(h) Notice that postage is required, if applicable;

(i) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated deposit site no later than election day;

(j) An explanation of how to learn about the locations, hours, and services of voting centers and ballot deposit sites, including the availability of accessible voting equipment;

(k) For a primary election that includes a partisan office, a notice on a separate insert printed on colored paper explaining:

"Washington has a new primary. You do not have to pick a party. In each race, you may vote for any candidate listed. The two candidates who receive the most votes in the August primary will advance to the November general election.

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

(l)(i) For a general election that includes a partisan office, the following explanation:

"Washington has a new election system. In each race for partisan office, the two candidates who receive the most votes in the August primary advance to the November general election.

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

Dear Voter:

[date]

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

Please provide a copy of one of the following:

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

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

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

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

(3) If the voter provides one of the acceptable forms of identification no later than the day before certification of the

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

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

(m) Any other information the county auditor deems necessary.

(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.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-250-040, filed 1/21/09, effective 2/21/09; 08-15-052, § 434-250-040, filed 7/11/08, effective 8/11/08; 07-24-044, § 434-250-040, filed 11/30/07, effective 12/31/07; 07-09-036, § 434-250-040, filed 4/11/07, effective 5/12/07; 06-23-094, § 434-250-040, filed 11/15/06, effective 12/16/06; 05-17-145, § 434-250-040, filed 8/19/05, effective 9/19/05.]

WAC 434-250-045 Voters requiring verification of identity. (1) If the voter registration record of an absentee voter is flagged as requiring verification of identity, a notice must be sent at the time of the election explaining that a photocopy of identification must be provided in order for the ballot to be counted, and listing what forms of identification are acceptable. The county auditor may provide an inner envelope separate from the security envelope for return of the photocopy of the identification.

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

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

election, the flag on the voter registration record must be removed and the ballot must be counted.

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

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-250-045, filed 1/21/09, effective 2/21/09; 07-02-100, § 434-250-045, filed 1/3/07, effective 2/3/07.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 434-250-050 Envelopes. Absentee ballots must be accompanied by the following:

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

(2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the official election materials notice required by the United States Postal Service, 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 citizen of the United States;
- I am a legal resident of the state of Washington;
- I will be at least 18 years old on or before election day;
- I am not presently denied my voting rights as a result of being convicted of a felony;
- I have not been judicially declared mentally incompetent;
- I have not already voted in this election; and
- I understand it is illegal to cast a ballot or sign a ballot envelope on behalf of another voter.

Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature _____ Date _____

The return envelope must include space for witnesses to sign.

The return envelope must conform to postal department regulations.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-250-050, filed 1/21/09, effective 2/21/09; 08-15-052, § 434-250-050, filed 7/11/08, effective 8/11/08; 07-24-044, § 434-250-050, filed 11/30/07, effective 12/31/07; 07-09-036, § 434-250-050, filed 4/11/07, effective 5/12/07; 05-17-145, § 434-250-050, filed 8/19/05, effective 9/19/05.]

Chapter 434-253 WAC

THE POLLING PLACE—BEFORE, DURING AND AFTER THE ELECTION

(Formerly chapter 434-53 WAC)

WAC

434-253-045 Provisional ballots—Required information.

WAC 434-253-045 Provisional ballots—Required information. A provisional ballot may only be voted on a direct recording electronic voting device if the voting system has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state.

At a minimum, the following information is required to be printed on the outer ballot envelope:

- (1) Name 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) Polling place and precinct number, if applicable, at which voter voted.
- (6) Sufficient space to list disposition of the ballot after review by the county auditor.
- (7) The following affidavit with a place for the voter to sign and date:

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

- I am a citizen of the United States;
- I am a legal resident of the state of Washington;
- I will be at least 18 years old on or before election day;
- I am not presently denied my voting rights as a result of being convicted of a felony;
- I have not been judicially declared mentally incompetent;
- I have not already voted in this election; and
- I understand it is illegal to cast a ballot or sign a ballot envelope on behalf of another voter.

Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature _____ Date _____

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-253-045, filed 1/21/09, effective 2/21/09; 07-24-044, § 434-253-045, filed 11/30/07, effective 12/31/07; 06-23-094, § 434-253-045, filed 11/15/06, effective 12/16/06. Statutory Authority: RCW 29A.04.611, 29A.04.530. 06-02-028, § 434-253-045, filed 12/28/05, effective 1/28/06. Statutory Authority: RCW 29A.04.-611. 05-17-145, § 434-253-045, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29A.04.610. 05-06-035 and 05-08-065, § 434-253-045, filed 2/25/05 and 3/31/05, effective 3/28/05 and 5/1/05. Statutory Authority: RCW 29.04.210, 29.36.150. 02-07-029, § 434-253-045, filed 3/12/02, effective 4/12/02.]

Chapter 434-260 WAC
ELECTION REVIEW PROCESS AND
CERTIFICATION OF ELECTION
ADMINISTRATORS
 (Formerly chapter 434-60 WAC)

Statutory Authority: RCW 29.60.020, 93-18-053, § 434-60-010, filed 8/30/93, effective 9/30/93.]

WAC

434-260-010	Intent.
434-260-020	Definitions.
434-260-040	Election reviews—Secretary of state to designate.
434-260-110	Election review checklist.
434-260-145	Response to draft election review report.
434-260-150	Final election review report.
434-260-155	County review follow-up.
434-260-160	Special review recommendations.
434-260-305	Maintaining certification as an assistant election administrator.
434-260-310	Maintenance of certification.

DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

434-260-120	Adoption of election review checklist. [Statutory Authority: RCW 29.60.020, 99-12-004, § 434-260-120, filed 5/19/99, effective 6/19/99, 98-08-010, recodified as § 434-260-120, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020, 93-18-053, § 434-60-120, filed 8/30/93, effective 9/30/93.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-260-165	Response to draft special review recommendations. [Statutory Authority: RCW 29A.04.611, 07-12-032, § 434-260-165, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-260-170	Distribution of special review recommendations and response. [Statutory Authority: RCW 29A.04.611, 07-12-032, § 434-260-170, filed 5/30/07, effective 6/30/07; 06-14-050, § 434-260-170, filed 6/28/06, effective 7/29/06. Statutory Authority: RCW 29.60.020, 99-12-004, § 434-260-170, filed 5/19/99, effective 6/19/99, 98-08-010, recodified as § 434-260-170, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020, 93-18-053, § 434-60-170, filed 8/30/93, effective 9/30/93.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-260-330	Training program for election observers. [Statutory Authority: RCW 29A.04.610, 04-15-089, § 434-260-330, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.60.020, 99-12-004, § 434-260-330, filed 5/19/99, effective 6/19/99, 98-08-010, recodified as § 434-260-330, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020, 94-07-018, § 434-60-330, filed 3/8/94, effective 4/8/94.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-260-340	Training video tapes available. [Statutory Authority: RCW 29.60.020, 99-12-004, § 434-260-340, filed 5/19/99, effective 6/19/99, 98-08-010, recodified as § 434-260-340, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020, 94-07-018, § 434-60-340, filed 3/8/94, effective 4/8/94.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.

WAC 434-260-010 Intent. It is the intent of this chapter to provide procedures to be followed in the conduct of election reviews and procedures to be followed for the certification and training of election administrators, assistant election administrators, and county canvassing board members as required by chapter 29A.04 RCW.

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-260-010, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.610, 04-15-089, § 434-260-010, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.60.020, 99-12-004, § 434-260-010, filed 5/19/99, effective 6/19/99, 98-08-010, recodified as § 434-260-010, filed 3/18/98, effective 3/18/98.

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) "Creditable training hours" means each creditable training hour contemplated in WAC 434-260-230 and shall

consist of a minimum of fifty minutes of instructional activity programmed for the purpose of mastering information beneficial to the performance of the duties of administering elections.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-020, filed 9/1/09, effective 10/2/09; 05-17-145, § 434-260-020, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29A.04.610. 04-15-089, § 434-260-020, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.60.020. 99-12-004, § 434-260-020, filed 5/19/99, effective 6/19/99. 98-08-010, recodified as § 434-260-020, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020. 93-18-053, § 434-60-020, filed 8/30/93, effective 9/30/93.]

WAC 434-260-040 Election reviews—Secretary of state to designate. Not later than May 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. 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).

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-040, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611, 2006 c 344. 07-09-035, § 434-260-040, filed 4/11/07, effective 5/12/07. Statutory Authority: RCW 29A.04.611. 05-17-145, § 434-260-040, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29A.04.610. 04-15-089, § 434-260-040, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.60.020. 99-12-004, § 434-260-040, filed 5/19/99, effective 6/19/99. 98-08-010, recodified as § 434-260-040, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020. 93-18-053, § 434-60-040, filed 8/30/93, effective 9/30/93.]

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-110, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29.60.020. 99-12-004, § 434-260-110, filed 5/19/99, effective 6/19/99. 98-08-010, recodified as § 434-260-110, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020. 93-18-053, § 434-60-110, filed 8/30/93, effective 9/30/93.]

WAC 434-260-145 Response to draft election review report. The county auditor and/or county canvassing board 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 fifteen business 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.

Any county auditor or other member of the county canvassing board may appeal the recommendations or the con-

clusion 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.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-145, filed 9/1/09, effective 10/2/09; 05-17-145, § 434-260-145, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29.60.020. 99-12-004, § 434-260-145, 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 thirty days after the issuance of the draft election review report, the review staff shall issue a final election review report. The report shall be made to the county canvassing board, and shall include, but not be limited to, the following:

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

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-150, filed 9/1/09, effective 10/2/09; 05-17-145, § 434-260-150, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29.60.020. 99-12-004, § 434-260-150, filed 5/19/99, effective 6/19/99. 98-08-010, recodified as § 434-260-150, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020. 93-18-053, § 434-60-150, filed 8/30/93, effective 9/30/93.]

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-155, filed 9/1/09, effective 10/2/09; 05-17-145, § 434-260-155, filed 8/19/05, effective 9/19/05.]

WAC 434-260-160 Special review recommendations. After conducting a special review, the review staff shall make any recommendations to the county auditor and the county canvassing board that they deem necessary to minimize the possibilities of any administrative errors being made either prior to or during the conduct of a mandatory recount. Such recommendations shall be made orally to the county auditor not later than twenty-four hours in advance of the conduct of a mandatory recount. A draft report of findings and recommendations shall be issued to the county auditor and the other members of the canvassing board not later than ten business days after the completion of the mandatory recount.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-160, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29.60.020. 99-12-004, § 434-260-160, filed 5/19/99, effective 6/19/99. 98-08-010, recodified as §

434-260-160, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020. 93-18-053, § 434-60-160, filed 8/30/93, effective 9/30/93.]

WAC 434-260-305 Maintaining certification as an assistant election administrator. After attaining initial certification the assistant election administrator is responsible for maintaining his or her certification. Maintenance of certification shall consist of:

(1) Continuous service as an assistant election administrator during the year for which maintenance is required;

(2) Participation in an annual minimum of six hours of continuing education, at least two hours of which shall be on election-specific training. This training may be received at an election oriented workshop or conference sponsored by any of the organizations listed in WAC 434-260-220. In addition to receiving credit for participation in workshops and conferences, assistant election administrators may also receive a maximum of two hours for visiting other county election departments for training purposes and for any other training approved by the elections administration and certification board.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-305, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29.60.020. 01-11-111, § 434-260-305, filed 5/21/01, effective 6/21/01; 99-12-004, § 434-260-305, filed 5/19/99, effective 6/19/99.]

WAC 434-260-310 Maintenance of certification. The secretary of state shall make available certification application and maintenance forms to the county auditors. Applications to maintain certification must be submitted to the secretary of state by the county auditor by January 31 each year.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-260-310, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611, 29A.04.-530. 06-02-028, § 434-260-310, filed 12/28/05, effective 1/28/06. Statutory Authority: RCW 29A.04.611. 05-17-145, § 434-260-310, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29.60.020. 99-12-004, § 434-260-310, filed 5/19/99, effective 6/19/99. 98-08-010, recodified as § 434-260-310, filed 3/18/98, effective 3/18/98. Statutory Authority: RCW 29.60.020. 94-07-018, § 434-60-310, filed 3/8/94, effective 4/8/94.]

Chapter 434-261 WAC

COUNTING CENTER PROCEDURES

(Formerly chapter 434-61 WAC)

WAC

434-261-005	Definitions.
434-261-045	Secure storage.
434-261-086	Statewide standards on what is a vote.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-261-107	Daily canvassing. [Statutory Authority: RCW 29A.04.-611. 05-17-145, § 434-261-107, filed 8/19/05, effective 9/19/05.] Repealed by 09-03-110, filed 1/21/09, effective 2/21/09. Statutory Authority: RCW 29A.04.611.
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WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

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

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

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

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

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

(b) A mark witnessed by two people.

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

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

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-261-005, filed 9/1/09, effective 10/2/09; 09-12-078, § 434-261-005, filed 5/29/09, effective 6/29/09; 09-03-110, § 434-261-005, filed 1/21/09, effective 2/21/09; 07-24-044, § 434-261-005, filed 11/30/07, effective 12/31/07; 07-09-036, § 434-261-005, filed 4/11/07, effective 5/12/07; 06-23-094, § 434-261-005, filed 11/15/06, effective 12/16/06; 06-11-042, § 434-261-005, filed 5/10/06, effective 6/10/06; 05-17-145, § 434-261-005, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29.04.210, 29.36.150. 02-07-029, § 434-261-005, filed 3/12/02, effective 4/12/02. Statutory Authority: RCW 29.04.080 and 29.04.210. 99-08-089, § 434-261-005, filed 4/6/99, effective 5/7/99. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200. 97-21-045, § 434-261-005, filed 10/13/97, effective 11/13/97.]

WAC 434-261-045 Secure storage. Received ballots and ballot images must be maintained in secure storage except during processing, duplication, inspection by the canvassing board, or tabulation. Secure storage must employ the use of numbered seals and logs, or other security measures that will detect any inappropriate access to the secured materials. Ballots and ballot images may only be accessed in accordance with RCW 29A.60.110 and 29A.60.125.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-261-045, filed 1/21/09, effective 2/21/09; 06-11-042, § 434-261-045, filed 5/10/06, effective 6/10/06. Statutory Authority: RCW 29A.04.611, 29A.04.530. 06-02-028, § 434-261-045, filed 12/28/05, effective 1/28/06.]

WAC 434-261-086 Statewide standards on what is a vote. (1) Pursuant to 42 U.S.C. § 15481(a)(6) and *Bush v.*

Gore, 531 U.S. 98 (2000), the following standards determine whether irregular marks on a ballot constitute a valid vote that may be counted.

(a) Target area. Any marks made in the target area shall be counted as valid votes, with the exceptions below. Any marks made outside of the target area shall be valid only if they fulfill the consistent pattern requirements in (b) of this subsection. Marks that trace or outline the target area are not valid votes unless they fulfill the consistent pattern requirements in (b) of this subsection. Exceptions:

- (i) Obvious stray marks.
- (ii) Hesitation marks.
- (iii) Parts of written notes.
- (iv) Corrected votes, as described in (c) and (e) of this subsection.

(b) Consistent pattern. Marks made outside of the target area shall only be counted as valid votes if a consistent pattern of marks is used throughout the whole ballot. This means that all races and issues for which the voter has indicated a choice must have the same mark. If some marks are in the target area and some are not, but the same *type* of mark is used in a consistent pattern throughout the whole ballot, all such marks shall be counted as valid votes. If the marks strike through candidate names or ballot measure responses in a consistent pattern throughout the whole ballot, all such marks shall be counted as valid votes.

(c) Corrected votes.

(i) If the voter has followed the instructions for correcting a vote, the stricken vote shall not be counted.

(ii) If a second choice is marked, it shall be counted as a valid vote. If a second choice is not marked, the race shall be considered undervoted.

(iii) If the voter has marked two target areas and placed an 'X' over one of the marked areas, the choice without the 'X' shall be counted as a valid vote.

(d) Not a correction. If the voter has both marked a choice correctly and placed an 'X' in the same target area, but has not marked a second target, it shall be counted as a valid vote. Changes made by the voter to wording printed on the ballot will not invalidate votes cast for that race or measure.

(e) Written instructions. If the voter has attempted to correct a vote and provides written instruction regarding his or her intent, it shall be counted as the voter instructed. Written instruction includes words, circles, or arrows.

(f) Identifying marks. Marks identifying the voter, such as initials, signatures, or addresses do not disqualify a ballot.

(g) Overvotes. Races or issues that have more target areas marked than are allowed are overvotes. No votes for that race or issue shall be counted. An exception is write-in votes for a candidate already printed on the ballot, as provided in (i) of this subsection.

(h) Write-in: Blank target area. If a name is written on a write-in line, it shall be counted as a valid write-in vote regardless of whether the corresponding target area is marked.

(i) Write-in: Already on the ballot. If the name of a candidate who is already printed on the ballot is written in, that vote shall not be tallied as an overvote, but shall be counted as a valid vote for the printed candidate. This applies even if both target areas are marked or no target areas are marked.

(j) Write-in: Name variations. If a write-in vote is cast for a *declared* write-in candidate using a commonly recognizable nickname or spelling variation, it shall be counted as a valid vote for that candidate.

(k) Write-in: Blank line. If the write-in target area is marked, but no name is written on the line, it shall not be counted as a valid vote, even though it may be tallied as a write-in vote by the tabulation system.

(l) Write-in: Blank line and candidate. If a candidate's target area is marked, *and* the write-in target area is marked but no name is written on the line, it shall not be tallied as an overvote, but shall be counted as a valid vote for the printed candidate.

(m) Write-in: Name combinations. If a write-in vote is cast for a candidate with a combination of names already on the ballot, it shall NOT be counted as a vote for either printed candidate, but rather shall be counted as a valid vote for the name as written.

(n) Write-in: Overvotes. If a candidate's target area is marked and something other than that candidate's name is written in the write-in response area, it shall be counted as an overvote and not a valid vote for any candidate. This applies whether or not the target area for the write-in is marked.

(o) Write-in: Not eligible. A write-in vote for a race not appearing on the voter's ballot shall not be counted.

Exception: If a provisional ballot has been cast and the voter has written in an office or measure that is not on the ballot, that vote shall be counted if it is determined, based on the voter's registration, that he or she is eligible to vote for that office or measure.

(p) Write-in: Vote in the wrong place. A write-in vote for a race appearing elsewhere on the ballot shall be counted as a valid vote, as long as all other requirements are fulfilled and the office, position number and political party, if applicable, are clearly indicated.

(q) Messy marks. When otherwise valid votes marked for a candidate partially extend into the response area of another candidate, it shall be counted as a vote if most of the mark is in the proper area and intent can easily be discerned.

(r) Pattern of partisan voting. Voter intent in any single contest shall not be determined based on a pattern of partisan voting on the ballot.

(s) Anything else. Voter intent on questionable marks not covered by the rules in this manual must be determined by county canvassing boards according to all applicable laws of the state of Washington and the canvassing board manual. Where more than one rule may apply, the county canvassing board has authority to determine which rule is most appropriate.

(2) The secretary of state shall publish an illustrated version of these standards in each optical scan and digital scan voting system used in the state. The secretary of state shall distribute the illustrated version to each county canvassing board and post it on the web site.

(3) The secretary of state shall periodically review and update the manual as necessary, and seek input from county canvassing boards and other interested parties to ensure that the standards remain current and comprehensive.

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-261-086, filed 9/1/09, effective 10/2/09; 08-15-052, § 434-261-086, filed 7/11/08, effective 8/11/08; 07-12-032, § 434-261-086, filed 5/30/07, effective 6/30/07.]

Chapter 434-262 WAC
CANVASSING AND CERTIFICATION
 (Formerly chapter 434-62 WAC)

WAC

434-262-030	County auditor's abstract of votes.
434-262-031	Rejection of ballots or parts of ballots.
434-262-036	Canvassing procedure for ballot of a protected records voter.

**DISPOSITION OF SECTIONS FORMERLY
 CODIFIED IN THIS CHAPTER**

434-262-140	Microfilm copies of election returns. [Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200. 97-21-045, recodified as § 434-262-140, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080, 80-15-008 (Order 80-3), § 434-62-140, filed 10/3/80.] Repealed by 09-03-110, filed 1/21/09, effective 2/21/09. Statutory Authority: RCW 29A.04.611.
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WAC 434-262-030 County auditor's abstract of votes. No later than the fifteenth day following any primary or special election and the twenty-first day following any general election the county canvassing board shall meet and canvass all ballots. Upon completion of this canvass, the board shall direct the county auditor to prepare the auditor's abstract of votes as defined by WAC 434-262-010. The reconciliation of absentee and vote by mail ballots must include documentation that the number of ballots counted plus the number of ballots rejected is equal to the number of ballots received. In addition, county auditors must provide any additional information necessary to explain variances between the number of ballots counted compared to the number of ballots received and credited. The certification reports established in RCW 29A.60.235(1) must be included with the abstract of votes and must be submitted at the time of the county certification.

[Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-262-030, filed 5/29/09, effective 6/29/09; 07-12-032, § 434-262-030, filed 5/30/07, effective 6/30/07; 06-14-046, § 434-262-030, filed 6/28/06, effective 7/29/06; 05-17-145, § 434-262-030, filed 8/19/05, effective 9/19/05. Statutory Authority: RCW 29A.04.610. 04-15-089, § 434-262-030, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200. 97-21-045, recodified as § 434-262-030, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080, 80-15-008 (Order 80-3), § 434-62-030, filed 10/3/80.]

WAC 434-262-031 Rejection of ballots or parts of ballots. (1) The disposition of provisional ballots is governed by WAC 434-253-047. The county canvassing board must reject any ballot cast by a voter who was not qualified to vote, or for other reasons required by law or administrative rule. A log must be kept of all voted ballots rejected, and must be included in the minutes of each county canvassing board meeting.

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

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

(b) Where two voted ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, 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;

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

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

(e) Where the voter has overvoted;

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

[Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-262-031, filed 5/29/09, effective 6/29/09; 08-15-052, § 434-262-031, filed 7/11/08, effective 8/11/08; 07-20-074, § 434-262-031, filed 10/1/07, effective 11/1/07; 07-02-100, § 434-262-031, filed 1/3/07, effective 2/3/07; 06-14-049, § 434-262-031, filed 6/28/06, effective 7/29/06; 05-17-145, § 434-262-031, filed 8/19/05, effective 9/19/05.]

WAC 434-262-036 Canvassing procedure for ballot of a protected records voter. If the ballot of a protected records voter must be presented to the county canvassing board, the canvassing board must review the ballot in private executive session or take other necessary steps to ensure the privacy of the protected records voter.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-262-036, filed 1/21/09, effective 2/21/09.]

Chapter 434-264 WAC

RECOUNTS

(Formerly chapter 434-62 WAC)

WAC

434-264-020	Recount—Restrictions.
434-264-110	Manual recount—Process.

WAC 434-264-020 Recount—Restrictions. All questions of voter registration, voter qualification, and voter intent previously considered during the original count shall not be reconsidered during a recount.

However, if any ballots or votes are discovered during the recount process that were not originally counted, the ballots shall be presented to the county canvassing board in accordance with RCW 29A.60.050, and the county canvassing board shall determine whether such ballots are to be included in the recount.

Nothing in this section shall preclude the county canvassing board from canvassing a ballot or a vote not canvassed during the original or previous count.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-264-020, filed 9/1/09, effective 10/2/09; 09-03-110, § 434-264-020, filed 1/21/09, effective 2/21/09; 07-12-032, § 434-264-020, filed 5/30/07, effective 6/30/07.]

WAC 434-264-110 Manual recount—Process. The counting board may only count the responses for one race or measure at a time. The following process to count the ballots shall be used during a recount.

(1) Each counting board shall be given the ballots one precinct or batch at a time. The results from the original count shall not be given with the ballots. The precinct or batch number must be made available to any observers.

(2) The ballots shall be sorted into separate stacks for each of the candidates or side of a ballot measure. Additional stacks may be created for overvotes, undervotes, and write-ins.

(3) Each stack of ballots must be manually counted at least twice to confirm the number of votes in each stack. The results of the manual count shall not be shared until both persons have counted the ballots.

(4) Individual tallies for each stack shall be compared. If the manual counts match, the results shall be reported to the designated staff person and the results shall be compared to the results previously certified.

(5) If the two manual counts do not match, the ballots shall be counted by the same counting board one more time. If the manual counts still do not match, the discrepancy must be reported to the designated staff person and the ballots referred to another counting board.

[Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-264-110, filed 5/29/09, effective 6/29/09; 07-12-032, § 434-264-110, filed 5/30/07, effective 6/30/07.]

Chapter 434-324 WAC

STATEWIDE VOTER REGISTRATION DATA BASE (Formerly chapter 434-24 WAC)

WAC

434-324-005	Definitions.
434-324-008	Review of county election management systems.
434-324-010	County election management system—Applications for voter registration.
434-324-034	Confidentiality of protected records voter information.
434-324-040	Data transfer to secretary and registration status.
434-324-045	Verification of applicant's identity.
434-324-085	Acknowledgment notice.
434-324-090	Cancellation due to death—Process.
434-324-095	Cancellation due to death—Forms.
434-324-106	Felony conviction—Secretary's quarterly comparisons.
434-324-113	Lacking the qualifications necessary to vote.
434-324-130	Lists of registered voters for the public.
434-324-165	Disaster recovery and security plans.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-324-075	Timelines for new and transfer registrations. [Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-324-075, filed 5/29/09, effective 6/29/09; 06-14-050, § 434-324-075, filed 6/28/06, effective 7/29/06; 05-24-039, § 434-324-075, filed 11/30/05, effective 12/31/05.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-100	Felony conviction—Notice from county clerk. [Statutory Authority: RCW 29A.04.611. 06-11-041, § 434-324-100, filed 5/10/06, effective 6/10/06; 05-24-039, § 434-324-100, filed 11/30/05, effective 12/31/05.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-190	Voter registration at driver's license facilities. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-190, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-200	Registration procedure. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-200, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-210	Oaths and warnings. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-210, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-220	Transfer of information from the department of licensing to the secretary of state. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-220, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.

434-324-230	Weekly transmittal of data from the department of licensing to the secretary of state. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-230, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-240	Transfer of data, and reports from the secretary of state to the county auditors. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-240, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-250	Transfer of voter registration forms to counties. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-250, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.
434-324-260	Processing records received from the secretary of state. [Statutory Authority: RCW 29A.04.611. 07-12-032, § 434-324-260, filed 5/30/07, effective 6/30/07.] Repealed by 09-18-098, filed 9/1/09, effective 10/2/09. Statutory Authority: RCW 29A.04.611.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-324-005, filed 9/1/09, effective 10/2/09; 07-24-044, § 434-324-005, filed 11/30/07, effective 12/31/07; 07-12-032, § 434-324-005, filed 5/30/07, effective 6/30/07; 05-24-039, § 434-324-005, filed 11/30/05, effective 12/31/05.]

WAC 434-324-008 Review of county election management systems. (1) Each auditor must notify the secretary of the intent to purchase or install a new county election management system. The county election management system must be approved by the secretary to ensure it meets the technical specifications promulgated by the secretary to interface with the official statewide voter registration data base. This approval must be obtained prior to the purchase or installation of the system.

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

- (a) Store information required in WAC 434-324-010;
- (b) Generate a list of registered voters in a county and their registration statuses;
- (c) Track information specific to single elections, including the issuance and return of vote by mail and absentee ballots;
- (d) Scan voter registration forms; and
- (e) Store and provide access to images of signatures of registered voters.

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-324-008, filed 9/1/09, effective 10/2/09; 05-24-039, § 434-324-008, filed 11/30/05, effective 12/31/05.]

WAC 434-324-010 County election management system—Applications for voter registration. (1) Each auditor must enter and maintain voter registration records in the official statewide voter registration data base by using a county election management system. Each record must contain at least the following information from the voter registration application in a format compatible with the official statewide voter registration data base:

- (a) Name;
- (b) Complete residential address;
- (c) Complete mailing address;
- (d) County registration number;
- (e) State registration number;
- (f) Gender;
- (g) Date of birth;
- (h) Date of registration;
- (i) Applicable district and precinct codes;
- (j) Elections in which the individual has voted, if available;
- (k) Washington state driver license number, Washington state identification card number, and/or the last four digits of the applicant's Social Security number; and
- (l) A scanned image file (format .tiff) of the applicant's signature.

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

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

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-324-010, filed 9/1/09, effective 10/2/09; 07-24-044, § 434-324-010, filed 11/30/07, effective 12/31/07; 07-02-100, § 434-324-010, filed 1/3/07, effective 2/3/07; 06-11-041, § 434-324-010, filed 5/10/06, effective 6/10/06; 05-24-039, § 434-324-010, filed 11/30/05, effective 12/31/05. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200. 97-21-045, recodified as § 434-324-010, filed 10/13/97, effective 11/13/97; Order 74-4, § 434-24-010, filed 6/3/74; Order 6, § 434-24-010, filed 3/3/72.]

WAC 434-324-034 Confidentiality of protected records voter information. All records pertaining to a protected records voter shall be maintained in a manner that ensures that the records are accessible only to authorized personnel. Information for a protected records voter shall not be maintained on any voter registration data base and shall not be publicly accessible, except as provided by chapter 40.24 RCW.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-324-034, filed 1/21/09, effective 2/21/09.]

WAC 434-324-040 Data transfer to secretary and registration status. (1) Following entry into the county election management system, all information in the application for voter registration must be transferred electronically to the secretary for identity verification. The secretary must assign the application a state identification number.

(2) If the applicant provided a Washington driver's license number or state identification card number, the applicant's identity is verified with the department of licensing. If the applicant provided the last four digits of his or her Social Security number, the applicant's identity is verified with the Social Security Administration through the department of licensing.

(3) If the applicant's identity is not verified in the computerized verification process, the secretary must notify the county election management system accordingly. The county auditor must first confirm the accuracy of the information entered in the county election management system from the voter registration application. The county auditor must correct any errors and again attempt to verify the applicant's identity automatically.

(4) If the applicant provided a Washington driver's license number or state identification number and the identity is not verified in the computerized verification process, the information on the application may be considered a "match" if the number on the application exactly matches a number issued by the department of licensing, and it is clear to the county auditor that the information on the application describes the person on the department of licensing record.

Reasons that the county auditor may conclude that the information on the application describes the person on the department of licensing record include, but are not limited to, the following:

(a) The first, middle, or last name on the application is a variation of the first, middle, or last name in the department of licensing record;

(b) The first, middle, or last name has transposed letters or another typographical error on the application or in the department of licensing record;

(c) The first and last names are transposed on the application or in the department of licensing record;

(d) The first and middle names are transposed on the application or in the department of licensing record;

(e) The applicant has a compound or hyphenated name which is not accurately or completely set forth on the application or in the department of licensing record;

(f) The first or middle name is abbreviated with initials on the application or in the department of licensing record;

(g) The last name on the application and the last name in the department of licensing record are not the same but, based on other information, the county auditor concludes that one of the names is a maiden name or a former name of the same person; or

(h) The month and day of the applicant's date of birth are transposed on the application or in the department of licensing record.

If the county auditor concludes that the information on the application describes the person on the department of licensing record, the county auditor must override the computerized failure to verify and must note the reason it is considered a match. The county auditor must place the applicant on the official list of registered voters in active status.

(5) If the applicant's identity is not verified in the computerized verification process, either because the information did not match or because the applicant claimed he or she did not have a driver's license or Social Security number, the applicant must be provisionally registered pursuant to RCW 29A.08.107. The registration record must be flagged as still requiring verification of the applicant's identity before the applicant's ballot may be counted.

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-324-040, filed 9/1/09, effective 10/2/09; 07-24-044, § 434-324-040, filed 11/30/07, effective 12/31/07; 07-02-100, § 434-324-040, filed 1/3/07, effective 2/3/07; 06-14-050, § 434-324-040, filed 6/28/06, effective 7/29/06; 05-24-039, § 434-324-040, filed 11/30/05, effective 12/31/05.]

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

(2) If, after these attempts, the county auditor is still unable to verify the applicant's identity, the county auditor must send the applicant an identification notice that includes a postage prepaid, preaddressed form by which the applicant

may verify or send information. The identification notice must include:

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

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

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

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

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

(iii) Valid photo identification;

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

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

(vi) A current government check;

(vii) A current paycheck; or

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

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

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

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

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-324-045, filed 9/1/09, effective 10/2/09; 09-12-078, § 434-324-045, filed 5/29/09, effective 6/29/09; 09-03-110, § 434-324-045, filed 1/21/09, effective 2/21/09; 07-24-044, § 434-324-045, filed 11/30/07, effective 12/31/07; 07-02-100, § 434-324-045, filed 1/3/07, effective 2/3/07.]

WAC 434-324-085 Acknowledgment notice. (1) The auditor must send an acknowledgment notice to an individual by nonforwardable, address correction requested mail if an individual:

(a) Registers to vote;

(b) Transfers his or her registration record within the county;

(c) Transfers his or her registration record from another county within Washington state; or

(d) Changes from one precinct to another because of a change in precinct boundaries.

(2) The acknowledgment notice must include:

(a) Voter's full name;

(b) Mailing address;

(c) County name;

- (d) Precinct name and/or number; and
- (e) The date the voter registered.

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-324-085, filed 9/1/09, effective 10/2/09; 07-02-100, § 434-324-085, filed 1/3/07, effective 2/3/07; 06-11-041, § 434-324-085, filed 5/10/06, effective 6/10/06; 05-24-039, § 434-324-085, filed 11/30/05, effective 12/31/05. Statutory Authority: RCW 29A.04.610, 04-15-089, § 434-324-085, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200, 98-03-033, § 434-324-085, filed 1/13/98, effective 2/13/98; 97-21-045, recodified as § 434-324-085, filed 10/13/97, effective 11/13/97; Order 74-4, § 434-24-085, filed 6/3/74.]

WAC 434-324-090 Cancellation due to death—Process. (1) An auditor must cancel the voter registration records of a deceased voter as authorized by RCW 29A.08.510.

(2) In addition to comparing a list of deceased persons prepared by the registrar of vital statistics with voter registration records pursuant to RCW 29A.08.510, the secretary may also compare voter registration records with deceased persons information from the Social Security Administration. Comparisons must be conducted on a monthly basis. For any potential matches identified through the registrar of vital statistics or Social Security Administration, the secretary must confirm that the dates of birth are identical. The secretary must generate a county list of matching names, identified as potentially deceased voters, and provide the names to each auditor electronically. The auditor must review the list within five days and approve or reject the proposed cancellations. The secretary may assist the auditor with this review.

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-324-090, filed 9/1/09, effective 10/2/09; 06-11-041, § 434-324-090, filed 5/10/06, effective 6/10/06; 05-24-039, § 434-324-090, filed 11/30/05, effective 12/31/05.]

WAC 434-324-095 Cancellation due to death—Forms. Pursuant to RCW 29A.08.510, the auditor must furnish to the public upon request forms for the purpose of permitting registered voters to request that the voter registration record of any person, whom they personally know to be deceased, be canceled.

[Statutory Authority: RCW 29A.04.611, 09-18-098, § 434-324-095, filed 9/1/09, effective 10/2/09; 05-24-039, § 434-324-095, filed 11/30/05, effective 12/31/05. Statutory Authority: RCW 29A.04.610, 04-15-089, § 434-324-095, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200, 98-03-033, § 434-324-095, filed 1/13/98, effective 2/13/98; 97-21-045, recodified as § 434-324-095, filed 10/13/97, effective 11/13/97; Order 74-4, § 434-24-095, filed 6/3/74.]

WAC 434-324-106 Felony conviction—Secretary's quarterly comparisons. (1) Once a quarter, the secretary must perform comparisons with the department of corrections, as authorized in RCW 29A.08.520, to search for registration records of felons who are under the authority of the department of corrections due to an adult felony conviction. The secretary must create a list of felon voters by matching the first name, last name, date of birth, and other identifying information.

(2) For each felon voter, the secretary must change the voter's registration status to "pending cancellation." This change of status must be entered prior to the first extraction or pull of absentee or mail ballots. The official statewide voter registration data base must automatically notify the county election management system of the change. Voters

with pending cancellation status must not be included in a poll book or be mailed an absentee or mail ballot.

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

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

(b) For a conviction in a Washington state court, the right to vote is restored as long as the felon is not serving a sentence of confinement or subject to community custody with the department of corrections;

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

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

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

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

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

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

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

(8) If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility in time to hold a hearing prior to certification of an election in

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

(9) A hearing to determine voting eligibility is an open public hearing pursuant to chapter 42.30 RCW. If the hearing occurs within thirty days before, or during the certification period of, an election in which the felon would otherwise be eligible to vote, the hearing must be conducted by the county canvassing board. If the hearing occurs at any other time, the county auditor conducts the hearing. Before a final determination is made that the felon is ineligible to vote, the prosecuting attorney must show by clear and convincing evidence that the voter is ineligible to vote due to a felony conviction. The felon must be provided a reasonable opportunity to respond. The hearing may be continued to a later date if continuance is likely to result in additional information regarding the felon's voting eligibility. If the felon is determined to be ineligible to vote due to felony conviction and lack of rights restoration, the voter registration must be canceled. If the voter is determined to be eligible to vote, the voter's pending cancellation status must be reversed and the secretary must flag the voter registration record to prevent future cancellation on the same basis. The felon must be notified of the outcome of the hearing and the final determination is subject to judicial review pursuant to chapter 34.05 RCW.

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

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-324-106, filed 9/1/09, effective 10/2/09; 06-23-094, § 434-324-106, filed 11/15/06, effective 12/16/06; 05-24-039, § 434-324-106, filed 11/30/05, effective 12/31/05.]

WAC 434-324-113 Lacking the qualifications necessary to vote. (1) If, at any time, the secretary finds that a registered voter does not possess the qualifications required by state law to exercise his or her right to vote for reasons not listed in this chapter, the secretary must refer such information to the appropriate county auditor and county prosecutor.

(2) If, at any time, the auditor finds that a registered voter does not possess the qualifications required by state law to exercise his or her right to vote for reasons not listed in this chapter, the auditor must notify the county prosecutor.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-324-113, filed 9/1/09, effective 10/2/09; 08-15-052, § 434-324-113, filed 7/11/08, effective 8/11/08; 06-11-041, § 434-324-113, filed 5/10/06, effective 6/10/06; 05-24-039, § 434-324-113, filed 11/30/05, effective 12/31/05.]

WAC 434-324-130 Lists of registered voters for the public. (1) Pursuant to the provisions of RCW 29A.08.710, 29A.08.720 and 29A.08.740, the auditor or secretary must furnish to any person, upon request, the current list of registered voters at actual reproduction cost. The auditor or secretary may also provide a list of canceled voters. Auditors may combine these lists. The auditor or secretary may, upon request, select names and addresses from the voter registration records on the basis of the precinct code, the district code, date of registration, or voting history of each individual voter in that portion of the voter registration file. Such lists must contain the information prescribed in RCW 29A.08.710 for each registered voter and may be in printed or electronic form.

(2) Such voter registration lists may not be used for commercial purposes. The person making the request must be provided a copy of RCW 29A.08.740.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-324-130, filed 9/1/09, effective 10/2/09; 06-23-094, § 434-324-130, filed 11/15/06, effective 12/16/06; 06-11-041, § 434-324-130, filed 5/10/06, effective 6/10/06; 05-24-039, § 434-324-130, filed 11/30/05, effective 12/31/05. Statutory Authority: RCW 29A.04.610. 04-15-089, § 434-324-130, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36-150 and 29.79.200. 98-03-033, § 434-324-130, filed 1/13/98, effective 2/13/98; 97-21-045, recodified as § 434-324-130, filed 10/13/97, effective 11/13/97; Order 74-4, § 434-24-130, filed 6/3/74; Order 6, filed 3/3/72.]

WAC 434-324-165 Disaster recovery and security plans. The secretary must maintain disaster recovery and security plans for the voter registration data base. A copy of the plans must be stored offsite. Both plans are exempt from public disclosure pursuant to RCW 42.56.420.

[Statutory Authority: RCW 29A.04.611. 09-18-098, § 434-324-165, filed 9/1/09, effective 10/2/09; 06-11-041, § 434-324-165, filed 5/10/06, effective 6/10/06.]

Chapter 434-335 WAC

VOTING SYSTEMS

(Formerly chapter 434-333 WAC)

WAC

434-335-020	Voting systems review board.
434-335-030	Initial application for certification.
434-335-040	Voting system requirements.
434-335-060	Examination of equipment.
434-335-090	Voting systems review board evaluation.
434-335-100	Public hearing.
434-335-110	Voting systems review board report.
434-335-140	Failure to meet certification requirements.
434-335-160	Modification of certified equipment, guidelines for administrative approval.
434-335-170	Application for administrative approval of modified voting systems or devices.
434-335-210	Application information for emergency approval.
434-335-212	Emergency approval.
434-335-214	Public notice of emergency approval.
434-335-240	Acceptance testing of voting systems and equipment.
434-335-250	Inclusion of the Election Assistance Commission standards for voting equipment.
434-335-605	Initial application for approval.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-335-200	Emergency approval. [Statutory Authority: RCW 29A.04.611. 05-18-022, § 434-335-200, filed 8/29/05, effective 9/29/05.] Repealed by 09-03-110, filed 1/21/09, effective 2/21/09. Statutory Authority: RCW 29A.04.611.
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WAC 434-335-020 Voting systems review board. The voting systems review board may review voting systems for certification and make recommendations to the secretary of state based upon those reviews. The voting systems review board consists of five members, and may include independent experts in computer science or information technology, recognized experts in election administration, and representatives of the public at large. Members of the voting systems review board are appointed by the secretary of state to staggered two year terms. Appointees may be reappointed to serve more than one term. The secretary of state may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term. The duties of the voting systems review board include reviewing an application for certification, as provided in WAC 434-335-090, conducting a public hearing on the application, as provided in WAC 434-335-100, and making recommendations on the application to the secretary of state, as provided in WAC 434-335-110.

[Statutory Authority: RCW 29A.04.611, 09-03-110, § 434-335-020, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-020, filed 8/29/05, effective 9/29/05.]

WAC 434-335-030 Initial application for certification. Any person or corporation (applicant) owning or representing a voting system or a vote tabulating system, part of a system, equipment, materials or procedure may apply in writing to the secretary of state for certification December 1st and ending June 30th the following year. Certification examinations and hearings are only conducted between December 1st and September 15th of each year.

(1) The application must include, but is not limited to, the following information:

(a) Description of the applicant, business address, customer references, and list of election products.

(b) Description of the equipment under review, version numbers, release numbers, operating and maintenance manuals, training materials, and technical and operational specifications.

(c) Documentation of all other states that have tested, certified and used the equipment in a binding election, and the length of time used in that state. The information for each state must include the version numbers of the operating system, software, and firmware, the dates and jurisdictions, and any reports compiled by state or local governments concerning the performance of the system.

(d) A copy of a letter from the applicant to each voting system test laboratory which:

(i) Directs the voting system test laboratory to send a copy of the completed voting system test laboratory qualification report to the secretary of state;

(ii) Authorizes the voting system test laboratory to discuss testing procedures and findings with the secretary of state; and

(iii) Authorizes the voting system test laboratory to allow the secretary of state to review all records of any qualification testing conducted on the equipment.

(e) A technical data package conforming to the *2002 Voting Systems Standards (VSS)*, Vol. II, Sec. 2 standards that includes:

(i) Identification of all COTS hardware and software products and communications services used in the operation of the voting system (ref. VSS, 2.2.1.e);

(ii) A system functionality description (ref. VSS, 2.3);

(iii) A system security specification (ref. VSS, 2.6);

(iv) System operations procedures (ref. VSS, 2.8);

(v) System maintenance procedures (ref. VSS, 2.9);

(vi) Personnel deployment and training requirements (ref. VSS, 2.10);

(vii) Configuration management plan (ref. VSS, 2.11);

(viii) System change notes (if applicable, ref. VSS, 2.13);

(ix) A system change list, if any, of modifications currently in development;

(x) A system usability testing report; and

(xi) A set of procedures for county personnel on how the operating system, equipment, and application software should be optimally configured and used in a secure environment.

(2) The vendor must either file the system executables for the certified system with the National Software Reference Library (NSRL) or place the source code of an electronic voting system in escrow, which must be accessible by the secretary of state under prescribed conditions.

(3) All documents, or portions of documents, containing proprietary information are not subject to public disclosure. The secretary of state must agree to use proprietary information solely for the purpose of analyzing and testing the system, and to the extent permitted by law, may not use the proprietary information or disclose it to any other person or agency without the prior written consent of the applicant.

[Statutory Authority: RCW 29A.04.611, 09-03-110, § 434-335-030, filed 1/21/09, effective 2/21/09; 07-24-044, § 434-335-030, filed 11/30/07, effective 12/31/07; 07-20-074, § 434-335-030, filed 10/1/07, effective 11/1/07. Statutory Authority: RCW 29A.04.611, 2006 c 344, 07-09-035, § 434-335-030, filed 4/11/07, effective 5/12/07. Statutory Authority: RCW 29A.04.-611, 05-18-022, § 434-335-030, filed 8/29/05, effective 9/29/05.]

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

(a) Secures to the voter secrecy in the act of voting;

(b) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;

(c) Correctly registers all votes cast for any and all persons and for or against any and all measures;

(d) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for President and Vice-President of the United States;

(e) Produces a machine countable and human readable paper record for each vote that may be accepted or rejected by the voter before finalizing his or her vote. The paper record of an electronic vote may not be removed from the device by the voter. If the voting device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by the voter; and

(f) Has been tested and approved by the appropriate voting system test laboratory approved by the United States election assistance commission.

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

(a) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;

(b) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;

(c) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each ballot measure on the ballot in that precinct;

(d) Produces precinct and cumulative totals in printed form; and

(e) Produces legislative and congressional district totals for statewide races and issues in electronic and printed form.

(3) A vote tabulating system must:

(a) Be capable of being secured with lock and seal when not in use;

(b) Be secured physically and electronically against unauthorized access;

(c) Not be connected to, or operated on, any electronic network including, but not limited to, internal office networks, the internet, or the world wide web. A network may be used as an internal, integral part of the vote tabulating system but that network must not be connected to any other network, the internet, or the world wide web; and

(d) Not use wireless communications in any way.

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

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-040, filed 1/21/09, effective 2/21/09; 08-15-052, § 434-335-040, filed 7/11/08, effective 8/11/08; 06-11-042, § 434-335-040, filed 5/10/06, effective 6/10/06; 05-18-022, § 434-335-040, filed 8/29/05, effective 9/29/05.]

WAC 434-335-060 Examination of equipment. Secretary of state staff will initiate an examination of the applicant's equipment after receiving a completed application and a working model of the equipment, documentation, and software to be reviewed. The examination consists of a series of functional application tests designed to insure that the system or equipment meets all applicable federal guidelines, and state law and rules. The examination may include an additional voting system test laboratory test at the discretion of the secretary of state. The examination shall include the set-up and conduct of two mock elections and a machine recount. The voting system test laboratory shall provide to the secretary of state the voting system software they tested and, if requested, the hash codes of the software they tested.

(1) The first election must replicate an even year general election.

(2) The second election must replicate a primary, and include the use of split precincts and precinct committee officer contests.

Both elections must feature at least ten precincts, with at least ten ballots in each precinct. The tests must include ballots of various ballot codes, including multiple candidates, cumulative reports, precinct reports, and canvass reports, as detailed in the test plan provided by the secretary of state.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-060, filed 1/21/09, effective 2/21/09; 07-24-044, § 434-335-060, filed 11/30/07, effective 12/31/07; 05-18-022, § 434-335-060, filed 8/29/05, effective 9/29/05.]

WAC 434-335-090 Voting systems review board evaluation. The voting systems review board evaluation must include, but is not limited to:

(1) A review of statutory requirements;

(2) A review of applicable federal standards;

(3) A review of the approved qualification test results released directly to the secretary of state by the federally approved voting system test laboratory;

(4) If applicable, a review of reports or other materials from prior hearings on the proposed system, procedure, or modification, either in whole or in part;

(5) A review of the report produced by the secretary of state upon completion of the examination of the voting system;

(6) If applicable, a review of any procedures manuals, guidelines, or other materials issued for use with the system;

(7) A review of any effect the application will have on the security of the voting system;

(8) A review of any effect the application will have on the accuracy of the voting system;

(9) A review of any effect the application will have on the ease and convenience with which voters use the system;

(10) A review of any effect the application will have on the timeliness of vote reporting; and

(11) A review of any effect the application will have on the overall efficiency of the voting system.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-090, filed 1/21/09, effective 2/21/09; 08-05-120, § 434-335-090, filed 2/19/08, effective 3/21/08.]

WAC 434-335-100 Public hearing. The voting systems review board must conduct a public hearing, scheduled at the convenience of the secretary of state and voting systems review board. At the public hearing, the applicant may demonstrate the equipment and explain its function. The applicant must be available to answer questions from the voting systems review board and the public. The applicant may be asked to submit answers in writing if the voting systems review board is not satisfied with the completeness of answers given at the hearing.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-100, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-100, filed 8/29/05, effective 9/29/05.]

WAC 434-335-110 Voting systems review board report. Following the review and public hearing, the voting systems review board may recommend for or against certification of the voting system under review. The board may also recommend that certification be contingent upon fulfillment

of specific conditions or procedures with the purchase or use of the voting system in this state.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-110, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-110, filed 8/29/05, effective 9/29/05.]

WAC 434-335-140 Failure to meet certification requirements. If the secretary of state determines that the voting system fails to meet any of the requirements for certification, the applicant must be notified and allowed thirty days to submit another version of the voting system for examination and testing.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-140, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-140, filed 8/29/05, effective 9/29/05.]

WAC 434-335-160 Modification of certified equipment, guidelines for administrative approval. The secretary of state may approve an application for modification of certified equipment administratively if the modification does not:

- (1) Materially affect the lawful conduct, accuracy, efficiency, capacity or security of elections;
- (2) Materially and adversely affect the convenience to the voter of the elections process; or
- (3) Otherwise result in significant modification to existing procedures used in Washington by extending the equipment's functionality.

A modification approved administratively does not require examination or review by the voting systems review board.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-160, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-160, filed 8/29/05, effective 9/29/05.]

WAC 434-335-170 Application for administrative approval of modified voting systems or devices. The application for review of a modification of an existing certified system must include, but is not limited to, the following information:

- (1) Description of the applicant.
- (2) Description of the equipment under review, the modification, and all version numbers and release numbers.
- (3) All changes to the operating and maintenance manuals, training materials, and technical and operational specifications required by the modification.
- (4) All certification documents from all other states that have certified the equipment with the modification.
- (5) Reports for all tests conducted on the modification by a voting system test laboratory. The voting system test laboratory must meet the criteria established by the election assistance commission for such agents.
- (6) Documentation that the modification meets all applicable federal voting equipment guidelines.
- (7) A complete description, in operational and technical detail, of all differences between the previously certified equipment or system and the modified equipment or system, prepared by the applicant.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-170, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-170, filed 8/29/05, effective 9/29/05.]

[2010 WAC Supp—page 32]

WAC 434-335-210 Application information for emergency approval. A county auditor may apply in writing to the secretary of state for emergency approval of a modification of an existing certified system. The application must include a complete description of the modification that is required and an explanation of why failure to modify the system materially affects the lawful conduct, efficiency, accuracy, or security of the upcoming election. The application must also explain why the emergency cannot be adequately remedied with procedural processes.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-210, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-210, filed 8/29/05, effective 9/29/05.]

WAC 434-335-212 Emergency approval. Emergency approval for a modification of an existing voting or vote tabulating system or equipment may be obtained from the secretary of state if failure to modify the system could materially affect the lawful conduct, efficiency, accuracy, or security of an upcoming election.

If, after reviewing the application, the secretary of state determines that an emergency exists, the examination and testing of the proposed modification is expedited to meet the needs of the upcoming election. The secretary of state develops a test plan and audit procedures to ensure the modified system does not adversely affect the lawful conduct, efficiency, accuracy, or security of the upcoming elections. The secretary of state may consult with the voting systems review board. The requirement that the modification be certified by a voting system test laboratory is waived for an emergency approval. An emergency approval of a modification must state the time period it is in effect.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-212, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-212, filed 8/29/05, effective 9/29/05.]

WAC 434-335-214 Public notice of emergency approval. The secretary of state must notify all county auditors of the emergency approval within five days of approving the application. Such notice shall also be posted to a public forum such as the secretary of state's web site.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-214, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-214, filed 8/29/05, effective 9/29/05.]

WAC 434-335-240 Acceptance testing of voting systems and equipment. Whenever a county auditor acquires a new system or an upgrade to an existing system that has been certified by the secretary of state, the county must perform acceptance tests of the equipment before it may be used to count votes at any election. The equipment must operate correctly, pass all tests, and be substantially the same as the equipment certified by the secretary of state. The minimum testing standards are described as follows:

- (1) The model number, version number, release number, and any other number, name or description that identifies the product must be the same as the identifying numbers for the product already certified by the secretary of state.
- (2) The county must receive all manuals and training necessary for the proper operation of the system.

(3) For new hardware or hardware upgrades, the county must test the functionality of the hardware to verify the hardware works as designed. The test must include operating the hardware and submitting it to a series of assessments that determine the hardware works, performs, and functions as intended.

[Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-335-240, filed 5/29/09, effective 6/29/09; 05-18-022, § 434-335-240, filed 8/29/05, effective 9/29/05.]

WAC 434-335-250 Inclusion of the Election Assistance Commission standards for voting equipment. The Election Assistance Commission standards concerning voting systems and software escrow are hereby included by reference, except where otherwise modified by these rules and the *Revised Code of Washington*.

[Statutory Authority: RCW 29A.04.611. 09-12-078, § 434-335-250, filed 5/29/09, effective 6/29/09; 09-03-110, § 434-335-250, filed 1/21/09, effective 2/21/09; 05-18-022, § 434-335-250, filed 8/29/05, effective 9/29/05.]

WAC 434-335-605 Initial application for approval. Any vendor requesting approval of an automated signature verification system for use with a specific election management system must complete and submit an application to the secretary of state. The secretary of state shall coordinate its review of the system with the vendor and the participating county.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-335-605, filed 1/21/09, effective 2/21/09; 07-12-032, § 434-335-605, filed 5/30/07, effective 6/30/07.]

Chapter 434-379 WAC INITIATIVES AND REFERENDA (Formerly chapter 434-79 WAC)

WAC

434-379-005 Filing of an initiative or referendum—Fee—Required documents.

WAC 434-379-005 Filing of an initiative or referendum—Fee—Required documents. A person desiring to file with the secretary of state a proposed initiative to the people, initiative to the legislature, or referendum measure may do so by filing the following documents:

- (1) A legible copy of the measure proposed, or the act or part of such act on which a referendum is desired;
- (2) An affidavit declaring under penalty of perjury:
 - (a) That the person submitting the proposed measure is over eighteen years of age and competent to testify;
 - (b) That the person submitting the proposed measure is a registered voter in the state of Washington;
 - (c) Whether the proposed measure is an initiative to the people, initiative to the legislature, or referendum; and
 - (d) The subject of the initiative, or the bill number of the legislation being referred; and
- (3) A filing fee of five dollars for each measure submitted.

The proposed measure is not considered filed with the secretary of state until all documents and fees are filed, including any original versions required.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-379-005, filed 1/21/09, effective 2/21/09; 06-23-094, § 434-379-005, filed 11/15/06, effective 12/16/06. Statutory Authority: RCW 29A.04.611 and 43.07.120. 05-12-116, § 434-379-005, filed 5/31/05, effective 7/1/05.]

Chapter 434-381 WAC STATE VOTERS' PAMPHLET (Formerly chapter 434-81 WAC)

WAC

434-381-120 Deadlines.

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

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

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

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

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

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

(c) Arguments for or against a ballot measure, no later than twenty calendar days following appointment of the initial committee members;

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

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

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters pamphlet. Nothing in this rule shall preclude the secretary of state from accepting a late filing when, in the secretary's judgment, it is reasonable to do so.

[Statutory Authority: RCW 29A.04.611. 09-03-110, § 434-381-120, filed 1/21/09, effective 2/21/09; 08-15-052, § 434-381-120, filed 7/11/08, effective 8/11/08; 08-05-120, § 434-381-120, filed 2/19/08, effective 3/21/08. Statutory Authority: RCW 29A.04.610. 04-15-089, § 434-381-120, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.81.320. 02-02-067, § 434-381-120, filed 12/28/01, effective 1/28/02.]

Chapter 434-840 WAC
ADDRESS CONFIDENTIALITY PROGRAM

WAC

434-840-080 Service of process.

WAC 434-840-080 Service of process. (1) The secretary of state shall be an agent of the program participant upon whom any summons, writ, notice, demand, or process may be served.

(2) Service on the secretary of state of any such summons, writ, demand, notice, or process shall be made by mailing to the substitute address or by delivering to the secretary of state at his/her office in Olympia, WA: (a) Two copies of the summons, writ, notice, demand, or process; and (b) twenty-five dollars service-of-process fee for each action or document filed.

(3) If a summons, writ, notice, demand, or process is served on the secretary of state, the secretary of state shall immediately forward a copy to the program participant at the participant's current mailing address shown on the records.

(4) The secretary of state shall maintain in the program participant's file, a record of all summonses, writs, notices, demands, and processes served upon the secretary of state for that participant under RCW 40.24.030, which shall include the date of such service and the secretary of state's action.

[Statutory Authority: RCW 40.24.090, 09-18-018, § 434-840-080, filed 8/21/09, effective 9/21/09; 05-13-059, § 434-840-080, filed 6/9/05, effective 7/10/05; 98-19-063, § 434-840-080, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23, 91-20-074, § 434-840-080, filed 9/26/91, effective 10/27/91.]