

WSR 22-01-150

PROPOSED RULES

SECRETARY OF STATE

[Filed December 15, 2021, 12:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-054.

Title of Rule and Other Identifying Information: Updating and modernizing the address confidentiality program (ACP) rules.

Hearing Location(s): On January 26, 2022, at 1:15 p.m., WebEx meeting, tel [phone] 1-408-418-9388, Meeting number (access code) 2480 898 9974, Meeting password PFT2eKH22bG. Pandemic meeting is telephonic.

Date of Intended Adoption: January 26, 2022.

Submit Written Comments to: ACP, P.O. Box 40220 Olympia, WA 98504, email ACPrules@sos.wa.gov, fax 360-586-5629.

Assistance for Persons with Disabilities: Contact ACP, phone 360-902-4151, fax 360-586-5629, email ACPrules@sos.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule changes are needed to update definitions and processes for ACP.

Reasons Supporting Proposal: The existing rules are in many cases out-of-date.

Statutory Authority for Adoption: RCW 40.24.090, 40.24.030.

Statute Being Implemented: Chapter 40.24 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Office of the secretary of state, ACP, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: ACP, Olympia, 360-902-4151.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

December 15, 2021

Randy Bolerjack

Deputy Secretary of State

OTS-3210.3

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-005 Definitions. For the purposes of this chapter:

(1) "Actual residential address" for purposes of the application means ((any)) the physical location((s)) where the participant re-

sides, (~~works, or attends school,~~) for which the participant is requesting confidentiality.

(2) "Address confidentiality program (ACP)" means the agency employee designated by the secretary of state with responsibility for developing and administering the program that implements the provisions of chapter 40.24 RCW.

(3) "Agency" means every elected or appointed state or local public office, public officer, or official, department, division, bureau, board, commission, committee, council, authority, agency, institution of higher education, or other unit of the executive, legislative, or judicial branch of the state; or any city, county, city and county, town, special district, school district, local improvement district, or other statutory unit of state or local government or any functional subdivision of that agency, or any other kind of municipal, quasi-municipal, or public corporation.

(4) "Applicant" means an adult person, a parent or guardian acting on behalf of a minor, if the minor resides with the applicant, or a guardian acting on behalf of an incapacitated person as defined in RCW 11.88.010.

(5) "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides advocacy, counseling, referral, or shelter services to victims of sexual assault, domestic violence, trafficking, or stalking who has been designated by the respective agency, and has been accepted by the secretary of state to assist individuals with threat assessment, safety planning, (~~determining whether the program's services can help keep the victim safe,~~) and the completion and submission of the ACP application.

(6) "Authorization card" means the official card issued by the secretary of state to a participant, which must state the participant's name, date of birth, substitute address, certification expiration date, and signature (~~of~~) line for the program participant.

(7) (~~"Authorization card application form" means the incomplete form for an authorization card on which no identifying program participant information has been entered.~~

~~(8))~~ "Authorized personnel" means an employee of a county auditor's office, a county recording office, the Washington state department of health, or the office of the secretary of state who has been designated by the chief executive officer of the respective agency, to process and have access to voter application, voting records, marriage applications and records pertaining to program participants.

~~((9))~~ (8) "Bona fide statutory or administrative requirement" means that without possession of an individual's actual residential address the agency is incapable of fulfilling its statutory duties and obligations.

~~((10))~~ (9) "Certification" means that the secretary of state has determined that the (~~eligible person~~) application has been properly completed and meets the requirements for entering into or continuing in the program.

~~((11))~~ (10) "Change of identity" means that the program participant has changed the participant's name and Social Security number in an attempt to sever all connections to a previous name.

~~((12))~~ (11) "Criminal justice participant" means a criminal justice employee as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020 (2)(b)(iii) or (iv), and any family members residing with them.

~~((13))~~ (12) "Domestic violence" means an act as defined in RCW 10.99.020, including a threat of such acts, committed against an indi-

vidual in a domestic situation, regardless of whether these acts of threats have been reported to law enforcement officers.

~~((14))~~ (13) "Mail" means first class letters and flats delivered via the United States Postal Service, including priority, express, certified, and registered mail, and excluding packages, parcels, periodicals, and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate they are sent by a government agency.

~~((15))~~ (14) "Mailing address" means the residential street address to which the secretary of state ~~((must))~~ will forward a participant's mail ~~((, except in those cases where the United States Postal Service provides no delivery service to the residential address.~~

~~(16))~~ or the alternative mailing address provided by the participant.

(15) "Minor child" means an individual who has not attained the age of ~~((eighteen))~~ 18, residing with or under the guardianship of an adult applicant or program participant.

~~((17))~~ (16) "Participant mail box (PMB)" means the specific identifier assigned by the secretary of state to a program participant for use in sorting mail and confirming program participation in accordance with subsection (10) of this section.

~~((18))~~ (17) "Program participant" means an individual accepted as certified for the program under RCW 40.24.030.

~~((19))~~ (18) "Protected records marriage" means a program participant who has applied for and qualified for protected marriage records, as provided under WAC 434-840-200 and 434-840-310.

~~((20))~~ (19) "Protected records voter" means a program participant who has applied and qualified for confidential voter registration, as provided under RCW 40.24.060, WAC 434-840-100, and 434-840-310.

~~((21))~~ (20) "Public record" means any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any state or local governmental agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100.

~~((22))~~ (21) "Sexual assault" means an act as defined in RCW 70.125.030 and includes an attempt to commit such acts against an individual, regardless of whether these acts, attempts, or threats have been reported to law enforcement officers.

~~((23))~~ (22) "Stalking" means an act as defined in RCW 9A.46.110 and includes threats of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

~~((24))~~ (23) "Substitute address" means an address designated by the secretary, including the identification number that is used by a participant to receive mail, instead of providing their actual residence address.

~~((25))~~ (24) "Trafficking" means an act as defined in RCW 9A.40.100 or an act recognized as a severe form of trafficking under 22 U.S.C. Sec. 7102(8) as it existed on June 12, 2008, or such subsequent date as may be provided by the secretary of state by rule, consistent with the purposes of this subsection, regardless of whether the act has been reported to law enforcement.

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-005, filed 5/22/19, effective 6/22/19. Statutory Authority: RCW 29A.04.611. WSR 14-06-040, § 434-840-005, filed 2/26/14, effective 3/29/14. Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-005, filed 11/19/08, effective 12/20/08; WSR 05-13-059, § 434-840-005, filed 6/9/05, effective 7/10/05. Statutory Authority: RCW 29A.04.610. WSR 04-15-089, § 434-840-005, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-005, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-005, filed 9/26/91, effective 10/27/91.]

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-010 Application process. (1) The secretary of state shall certify an (~~eligible person~~) applicant as a program participant when the secretary of state receives an application that contains:

- (a) The full legal name and date of birth of the applicant(s);
- (b) A listing of all minor children residing at the residential address, each minor child's full legal name, and each minor child's date of birth, and each minor child's relationship to the applicant;
- (c) A listing of all adults residing at the residential address requesting participation, each adult's full legal name, date of birth, and relationship to the applicant;
- (d) The applicant's actual Washington state residential (~~addresses, work, and school addresses, if any, for which confidentiality is requested~~) address;
- (e) The telephone number of the applicant(s);
- (f) The address to which mail should be sent, this may be the same as the residential address;
- (g) A sworn statement, under penalty of perjury, by the applicant, that the applicant has good reason to believe either:
 - (i) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking, or stalking, and that the applicant fears for their safety or the safety of their children, or the safety of any minor children or incapacitated person on whose behalf the application is made; or
 - (ii) That the applicant, as a criminal justice participant as defined in RCW 9A.46.020, is a target for threats or harassment prohibited under RCW 9A.46.020.
- (h) The state of Washington personnel number, if the applicant or any of the persons covered by the application is a Washington state employee;
- (i) The applicant's signature;
- (j) The date on which the applicant signed the application;
- (k) The signature, printed name, and phone number of the application assistant designated by the secretary of state under RCW 40.24.080 who assisted in preparation of the application;
- (l) A (~~completed checklist of understanding, signed and dated by the applicant designating~~) designation of the secretary of state to

act as legal agent for purposes of service of process and for the purpose of receipt of mail.

~~((m) Signed authorization card form for each member of household.))~~

~~(2) ((The application must be completed and signed in the presence of an application assistant;~~

~~(3)) The completed application ((assistant shall submit completed applications)) and any additional materials shall be submitted to the secretary of state ((using first class mail)); and~~

~~((4)) (3) If the completed application does not meet the requirements of this part, the secretary of state ((shall)) will contact the applicant to obtain missing information. The applicant shall be certified only if the missing information is provided.~~

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-010, filed 5/22/19, effective 6/22/19. Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-010, filed 11/19/08, effective 12/20/08; WSR 98-19-063, § 434-840-010, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-010, filed 9/26/91, effective 10/27/91.]

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-015 Certification of participants. (1) The secretary of state shall certify an ~~((eligible person))~~ applicant, minor children, and adults residing at the residential address for whom a properly completed application or renewal is filed as a program participant.

(2) Upon certification of the applicant, the secretary of state ~~((shall))~~ will issue, and mail, an address confidentiality program participant authorization card to the applicant's mailing address with instructions on how to use the address confidentiality program card. For participants under age ~~((eighteen))~~ 18, the card must be signed by the adult responsible for the participant. The authorization card ~~((shall))~~ will include the program participant's name, authorization code, substitute mailing address, certification expiration date, and ~~((applicant's signature))~~ a signature line for the applicant.

(3) A properly completed application ~~((shall))~~ will be effective ~~((on the day it is received))~~ within two business days of receipt by the address confidentiality program.

(4) The term of a program participant's certification shall be four years following the effective date of her or his application unless the certification is withdrawn or invalidated before that date.

(5) At the time of certification, the secretary of state will send a voter registration application to the applicant accompanied by information related to participating in voting as a protected records voter.

(6) Secretary of state staff members must first verify the identity of an application assistant, program applicant, or program participant prior to any discussion of any data related to any applicant or participant or their certification.

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-015, filed 5/22/19, effective 6/22/19.]

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-017 Substitute address. (1) Program participants may use the substitute address provided by the secretary of state when interacting with any state or local agency on all forms or applications that require an address. (~~This is done by providing the substitute address and presenting the authorization card and PMB authorization number to the agency.~~)

(2) Every state or local government agency, or office, shall accept the substitute address issued by the secretary of state as the only address for all program participants when the participant provides the address and authorization card and authorization number unless the agency has an exemption pursuant to RCW 40.24.050 and WAC 434-840-070. Program participants are not required to respond to any question regarding the details or circumstances of the person's inclusion in the program. The public agency may contact the secretary of state to verify program participation and for additional program information.

(3) (~~Program participants are solely responsible for requesting the use of a substitute address by any agency as the participant's address for use in interaction with each agency or office.~~)

~~(4))~~ The agency official creating a new record may make a file photocopy of the authorization card and will immediately return the authorization card to the program participant.

(4) The agency official may call the program to verify an individual's participation status in the program and to confirm the participant's authorization number (PMB).

(5) The secretary of state is the agent for receipt of all mail sent to program participants at the substitute address.

~~((5))~~ (6) All first class mail specifically addressed to the program participant at the substitute address (~~must~~) will be forwarded at least every second business day to each participant's mailing address, using "return service requested" designation on the envelope. The secretary of state is not required to forward mail that is not specifically addressed to the participant.

~~((6))~~ (7) The secretary of state may hold a participant's mail for up to (~~three~~) five business days upon verbal request of the participant. The hold may be up to three weeks if the participant's request is written and signed and provides a contact telephone number for the hold period. The secretary of state must compare the signature on the hold request with that on file for the participant prior to holding the mail. In the absence of a specific hold date from the participant, the hold date is the date of receipt by the secretary of state.

~~((7) For services delivered to an actual physical address or tied to residency in a particular jurisdiction, the state or local agency must request only the smallest portion of the actual address needed to provide service, in addition to the substitute address.~~

~~(a) In cases in which all or part of the actual address has been disclosed pursuant to this section, the substitute address must be used by the agency as the address of the program participant for all public data or purposes that the actual address is not required.~~

~~(b) The secretary of state, upon request of the agency, shall suggest measures that assist in protecting the actual address and the participant's name against disclosure in any way. Measures may include, but are not limited to, assigning a pseudonym to the partici-~~

pant, keeping the actual address in the participant's paper file at an agency (not in an electronic system), and making the records password protected and limiting record access to a small pool of staff.))

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-017, filed 5/22/19, effective 6/22/19.]

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-020 Exercise of program participant's privileges.

(1) At the time any state or local government agency creates a new record or updates an existing record, a program participant may request that the agency use the substitute mailing address as the participant's residence, work and/or school address.

(2) Program participants are solely responsible for requesting the use of a substitute address.

(3) A program participant shall show their authorization card to the agency official creating a new record and request address confidentiality through the use of the substitute mailing address as it appears on the authorization card, in lieu of their actual location.

~~((4) The agency official creating a new record may make a file photocopy of the authorization card and shall immediately return the authorization card to the program participant. The agency official may call the program to verify an individual's current participation status in the program.~~

~~(5) An agency shall accept the substitute address unless the agency has received a written exemption from the secretary of state pursuant to RCW 40.24.050 and WAC 434-840-070.~~

~~(6) For services delivered to an actual address or tied to residency in a particular jurisdiction, the state or local agency must request only the smallest portion of the actual address needed to provide services, in addition to the substitute address.~~

~~(7) In cases in which all or part of the actual address has been disclosed pursuant to this section, the substitute address must be used by the agency as the address of the program participant for all public data or purposes that the actual address is not required.~~

~~(8) The secretary of state, upon request of the agency, shall suggest measures that assist in protecting the actual address and the participant's name against disclosure in any way.))~~

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-020, filed 5/22/19, effective 6/22/19. Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-020, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-020, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-020, filed 9/26/91, effective 10/27/91.]

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-025 Attaining age of majority. When ((a participant reaches)) the secretary of state becomes aware that a minor child has

reached the age of ~~((eighteen))~~ 18, the secretary of state ~~((shall))~~ will inform the minor child participant of options related to continued participation in the address confidentiality program. These options include leaving the program, applying for continuation in the program, and reapplying on their own behalf.

(1) In anticipation of the minor child participant's ~~((eighteenth))~~ 18th birthday, the secretary of state ~~((shall))~~ will send an application packet via first class mail to the participant's substitute address. The packet ~~((must))~~ will include instructions on actions to be taken by age ~~((eighteen))~~ 18. The packet ~~((must))~~ will include notice that if the participant does not respond within ~~((thirty))~~ 30 days they will be removed from the program, ~~((they must return their authorization card,))~~ and mail forwarding will stop. If ~~((thirty))~~ 30 days passes without contact from the participant, the secretary of state ~~((shall))~~ will mail a final notice that the participant's certification will be canceled if the participant fails to submit the certification of continuance within ~~((ten))~~ 10 days.

(2) The packet ~~((shall))~~ will include the application form ~~((, checklist of understanding, authorization card form,))~~ and information about voter registration ~~((, The secretary of state must offer the participant the opportunity)),~~ including information about how to register to vote as a protected records voter.

(3) The secretary of state shall renew the certification of a participant upon receipt of a properly completed application form ~~((and checklist of understanding. If the form is for continuance of participation, it does not require the signature of an application assistant. Responsibility for changes in information and renewal belong to the participant once the participant reaches age eighteen)).~~

(4) A participant who reaches age ~~((eighteen))~~ 18 and changes residence may reapply through an application assistant, or withdraw.

(5) Program participants that have reached age ~~((eighteen))~~ 18 who have withdrawn, or allowed certification to expire, may reapply on their own behalf by contacting an application assistant.

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-025, filed 5/22/19, effective 6/22/19.]

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-030 Certification renewal. (1) At least ~~((thirty))~~ 30 days prior to the expiration of a certification, the secretary of state ~~((shall))~~ will inform a program participant, of the option of renewing certification in the program by sending a renewal form to the participant's mailing address. The notice ~~((must))~~ will provide instructions on actions the participant must take upon expiration of certification, if the participant chooses to leave the program. These include ~~((return of the authorization card,))~~ notifying senders of the former participant's actual address and notifying that the substitute address is no longer valid for the former participant. Ten days prior to expiration of certification, the secretary of state ~~((must))~~ will mail a second notice to the participant unless the participant has responded with a renewal or communication indicating intent to withdraw from the program.

(2) Information about voter registration should be provided to the participant as part of the notification process.

(3) A program participant may renew her or his program certification by (~~first class mail~~) filing with the address confidentiality program (~~(a) The participant's current authorization card; (b)~~) by first class mail, a properly completed renewal application (~~and checklist of understanding forms; and (c) a new authorization card form with signature~~).

(4) If the completed renewal does not meet the requirements of this part, the secretary of state (~~shall~~) will contact the participant (~~or applicant~~) to obtain the missing information.

(5) For a program participant who has properly filed a completed renewal application, the address confidentiality program shall: (a) Certify a program participant (~~(, who has filed a properly completed renewal application form,)~~) to participate in the program for an additional four year term unless the certification is withdrawn or invalidated before that date; (b) issue to the program participant a new authorization card which includes the (~~program~~) participant's name, authorization code, substitute mailing address, certification expiration date, and signature line.

(6) A properly completed renewal application, postmarked on or before the expiration date, is effective on the day it is reviewed and certified by the secretary of state.

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-030, filed 5/22/19, effective 6/22/19. Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-030, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-030, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-030, filed 9/26/91, effective 10/27/91.]

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

WAC 434-840-035 Certification cancellation. (1) The address confidentiality program shall terminate a participant's certification and invalidate that participant's authorization card if:

(a) The participant's certification term has expired and renewal of certification is not completed;

(b) The address confidentiality program has determined that false information was used in the application process; or

(c) The participant (~~(fails to respond to the program's request for verification of the participant's residential address)~~) obtains a legal change of identity.

(2) The address confidentiality program may terminate a participant's certification and invalidate that participant's authorization card if:

(a) The participant no longer resides at the residential address on file, and has not provided at least two days prior notice in writing of a change of address;

(b) Any first class or certified mailing, or service of process document forwarded by the program is returned as nondeliverable, refused, or unclaimed; or

(c) The participant (~~(obtains a legal change of identity)~~) fails to respond to the program's request for verification of the participant's residential address.

(3) The address confidentiality program (~~(shall)~~) will send written notification of the pending termination to the participant's last known mailing or residential address. The participant shall have (~~(ten)~~) 10 business days in which to appeal the termination under procedures developed by the secretary of state.

(4) After the secretary of state has provided notice as required in subsection (3) of this section the participant's certification is considered to be in pending status. While in this status, the secretary of state (~~(must)~~) will hold the participant's mail without forwarding to the participant. Pending status ends after (~~(ten)~~) 10 business days, or upon the participant's compliance with this section, whichever occurs first. This does not prevent the secretary of state from forwarding correspondence marked "service of process."

(5) If the participant's pending cancellation status expires, the secretary of state (~~(must)~~) will cancel the certification of the program participant.

(6) The address confidentiality program (~~(shall)~~) will notify authorized election officials and authorized Washington state department of health personnel if the participant is registered to vote or has a protected records marriage license when a participant's authorization has been terminated from the program. The authorized elections (~~(and health)~~) department personnel (~~(shall)~~) will transmit to the address confidentiality program all appropriate administrative records pertaining to the participant.

(7) If the certification of a participant is canceled, mail addressed to the program participant (~~(must)~~) will be returned to sender.

[Statutory Authority: RCW 40.24.090 and 40.24.030. WSR 19-12-002, § 434-840-035, filed 5/22/19, effective 6/22/19.]

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-070 Agency exemption request. (1) An agency requesting an exemption under RCW 40.24.050, must provide in writing to the secretary of state:

(a) Identification of the statute or administrative rule which demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual;

(b) Identification and description of the specific record or record series for which the exemption is requested;

(c) Identification of the individuals who will have access to the record;

(d) Explanation of how the agency's acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified above; and

(e) (i) Explanation of why the agency cannot meet its statutory or administrative obligations by a change in its internal procedures; and, where appropriate (~~(7)~~);

(ii) Description of any agency procedural change(s) that could be made that would allow it to accept the substitute address and meet its

statutory or administrative obligations and an estimate of implementation time needed.

(2) The secretary of state shall file and review an agency's request for an exemption.

(3) During the review, evaluation and appeal of an agency's exemption request, the agency shall accept the use of a program participant's substitute address.

(4) The secretary of state's determination to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided under subsection (1) of this section in conformance with the statutory standard of a bona fide statutory or administrative requirement for the use of a program participant's actual address.

(5) If the secretary of state determines that an agency has a bona fide statutory or administrative requirement for the use of a program participant's actual address information and that the actual address information will be used only for those statutory and administrative purposes, the secretary may issue a written exemption for the agency. When granting an exemption, the secretary may include:

(a) An agency's obligation to maintain the confidentiality of a program participant's address information;

(b) Limitations on use and access to that address information;

(c) Term during which the exemption is authorized for the agency;

(d) Designation of the record format on which the address information may be maintained;

(e) Designation of an address information disposition date after which the agency may no longer maintain a record of the address information; and

(f) Any other provisions and qualifications determined appropriate by the secretary of state.

(6) When a program participant requests use of the substitute address in a record, and the agency has received an exemption for that record, the agency shall immediately provide a copy of the written exemption to the requesting program participant. The agency shall notify the address confidentiality program of the occurrence and denial of the program participant's request.

(7) The secretary of state's denial of an agency exemption request shall be made in writing and include a statement of the specific reasons therefore.

(8) An agency may appeal the denial of its request by resubmitting its written request together with additional data, information, and an explanation of corrective action taken to alleviate concerns and considerations included in the secretary of state's denial determination.

[Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-070, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-070, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-070, filed 9/26/91, effective 10/27/91.]

AMENDATORY SECTION (Amending WSR 98-19-063, filed 9/16/98, effective 10/17/98)

WAC 434-840-240 Certified copy of marriage certificates. (1)
Upon the request of a program participant, accompanied by the appro-

priate fee, the address confidentiality program may request in writing a certified copy of a program participant's marriage certificate from the agency maintaining that record and release it to the program participant. A certified copy of a marriage certificate containing the name of the program participant is only available through the address confidentiality program.

(2) Upon cancellation from the program, the former program participant must work directly with the department of health personnel to request a copy of their marriage certificate.

[Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-240, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-240, filed 9/26/91, effective 10/27/91.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-840-065	Information release to nonlaw enforcement agency.
WAC 434-840-110	Proof of program participant's authority.