

NEW SECTION

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.

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

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 overvote 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;

~~((County auditors may use existing stock of instructions appearing on absentee ballot envelopes until December 1, 2008;))~~

(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."

(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.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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

(1) If the voter registration record of an absentee voter is flagged as requiring verification of identity, a notice must be

sent at the time of the election explaining that a photocopy of identification must be provided in order for the ballot to be counted, and listing what forms of identification are acceptable. The county auditor may provide an inner envelope separate from the security envelope for return of the photocopy of the identification.

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

Dear Voter:

[date]

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

Please provide 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 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 (~~may~~) 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 (~~may~~) shall not be counted but the flag on the voter registration record must be removed.

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

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.

~~((County auditors may use existing stock of absentee envelopes
until December 1, 2008.))~~

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

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 _____

~~((County auditors may use existing stock of absentee envelopes until December 1, 2008.))~~

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

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 vote 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) ~~((On an absentee ballot envelope,))~~ A mark ((with)) witnessed by two ((witnesses)) people.

AMENDATORY SECTION (Amending WSR 06-11-042, filed 5/10/06, effective 6/10/06)

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-261-107 Daily canvassing.

NEW SECTION

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-262-140 Microfilm copies of election returns.

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

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 of the original ballots.

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.60.021~~) 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.

NEW SECTION

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. Location information (including, but not limited to, residential address, county, precinct, taxing district, legislative or congressional district) 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.

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

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 the county auditor is still unable to verify the applicant's identity, the county auditor must send the applicant an identity verification notice that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identity verification notice must be in substantially the following form:

Dear Voter:

[date]

Thank you for submitting a voter registration application. Because we were unable to verify your identity based on the information you provided, you are now provisionally registered to vote.

Federal law requires that you provide identification either before or when you vote. **If you fail to provide identification, your ballot will not be counted.**

Please provide one of the following:

- The number on your Washington driver's license or state ID card: _____

Your name and date of birth as it appears on your driver's license or state ID card:

First M.I. Last date of birth
 ■ The last four digits of your Social Security number: _____
 Your name and date of birth as maintained by the Social Security Administration:

 First M.I. Last date of birth

- 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.

Please provide this documentation as soon possible. **If it is not provided, 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 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 absentee, 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 (~~may~~) shall be canceled.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

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 includes 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 (~~(to a two-year term by the secretary of state)~~) by the secretary of state to staggered two or four 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(~~(, but are not limited to,)~~) 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.

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

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 monetary deposit as described in WAC 434-335-080-~~

~~(e)))~~ A copy of a letter from the applicant to each ~~((independent testing authority (ITA)))~~ voting system test laboratory which:

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

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

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

~~((f))~~ (e) A technical data package ~~((TDP))~~ conforming to the 2002 ~~((FEC Federal))~~ *Voting Systems Standards* ~~((FVSS))~~ 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. ~~((FVSS))~~ VSS, 2.2.1.e);

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

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

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

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

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

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

(viii) System change notes (if applicable, ref. ~~((FVSS))~~ 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.

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 (~~independent testing authority~~) 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) (~~Transfer of information from a remote tabulating system may be made by telephonic transmission only after the creation of a disk, paper tape, or other physical means of recording ballot results.~~

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

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

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 (~~independent testing authority~~) 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 applicant shall provide ballot materials after the secretary of state has set up the programming to create these elections.~~) The (~~independent testing authority will~~) voting system test laboratory shall provide to the secretary of state the voting system software they tested (directly to the secretary of state) 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 (~~an odd year~~) a primary, and include the use of split precincts and precinct (~~election~~) 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.

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

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 (~~independent testing authority~~) 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.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

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 (~~must~~) 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.

AMENDATORY SECTION (Amending WSR 05-18-022, 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 (~~((must issue a report to the secretary of state. 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.

AMENDATORY SECTION (Amending WSR 05-18-022, 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 (~~((of the new voting system must be conducted as if never before performed by the office of the secretary of state))~~).

AMENDATORY SECTION (Amending WSR 05-18-022, 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 (~~((application))~~) 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.

(~~((An application))~~) A modification approved administratively does not require examination or review by the voting systems review board.

AMENDATORY SECTION (Amending WSR 05-18-022, 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 ~~((an independent testing authority))~~ a voting system test laboratory. The ~~((independent authority))~~ 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.
- ~~((8) A monetary deposit as described in WAC 434-335-080.)~~

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

WAC 434-335-210 Application information for emergency approval. ~~((During the restricted period,))~~ 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.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

WAC 434-335-212 (~~(Temporary approval of)~~) **Emergency ((modification)) 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 (~~(an independent testing authority)~~) a voting system test laboratory is waived for an emergency approval. An emergency approval of a modification must state the time period it is (~~(effective)~~) in effect.

AMENDATORY SECTION (Amending WSR 05-18-022, 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 (~~(approval)~~) approving the application. Such notice shall also be posted to a public forum such as the secretary of state's web site.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

WAC 434-335-250 **Inclusion of the Federal Election Commission standards for voting equipment.** The 2002 Federal 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*. After January 1, 2006, in order for a modification of a system that was previously certified according to the 1990 Federal Election Commission voting system standards to be administratively approved, the entire voting system must be tested and approved according to the 2002 standards.

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

WAC 434-335-605 Initial application for approval. Any vendor requesting approval of an (~~automatic~~) 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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-335-200 Emergency approval.

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

WAC 434-379-005 Filing of an initiative or referendum--Fee--
Required documents. A person desiring to file with the secretary of state a ~~((petition to enact a proposed measure to the legislature or submit a proposed initiative measure to the people, or order that a referendum of all or part of any act, bill, or law, passed by the legislature be submitted to the people,))~~ 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) ~~((A notarized))~~ An affidavit ~~((that the sponsor is a legal voter and is submitting the proposed measure for filing))~~ 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.

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

WAC 434-381-120 Deadlines. (1) Candidate statements and photographs shall be submitted to the secretary of state (~~within seven calendar days after filing their declaration of candidacy~~) 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.