



Emergency Rulemaking April 25, 2012

The emergency rules are necessary in order to conduct:

1. The special election to fill the vacancy in the 1st Congressional District; and
2. Precinct Committee Officer (PCO) elections in accordance with recently passed legislation, [E3SHB 1860](#).

Special Election:

- The primary will be August 7, 2012.
- The election will be November 6, 2012.
- The boundaries will be those established in 2002.
- Candidates are not required to reside within the boundaries of the district, only within the boundaries of the state.
- Candidates may file for more than one office because the short term race is a temporary elected position.
- The full term Congressional race will be printed on the ballot before the short term Congressional race.
- The term will be described as "1 month short term."

PCO Elections:

- The new PCO Declaration of Candidacy is adopted, also available [here](#).
- If only one candidate files, the candidate is deemed elected and the race does not appear on the ballot.
- If two or more candidates file, then the race appears on the Primary election ballot.
- If no candidates file, the position is filled by appointment.
- A voter may only vote for one PCO candidate.
- The following statement must be printed before the PCO race:
 - "For this office only: In order to vote for precinct committee officer, a partisan office, you must affirm that you are a Democrat or a Republican and may vote only for one candidate from the party you select. Your vote for a candidate affirms your affiliation with the same party as the candidate. This preference is private and will not be matched to your name or shared."
- Party designation must be provided by either:
 - A heading of "Democratic Party Candidates" or "Republican Party Candidates;" or
 - "Dem" or "Rep" printed next to the candidate's name.
- The following statement must be printed under each candidate's name:
 - "I affirm I am a Democrat." or "I affirm I am a Republican."



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Office of the Secretary of State, Elections Division

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

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

- Yes
 - No
- If Yes, explain:

Purpose:

To adopt emergency rules to conduct:

- (1) the special election to fill the vacancy in the 1st Congressional District; and
- (2) Precinct Committee Officer elections in accordance with recently passed legislation, E3SHB 1860.

Citation of existing rules affected by this order:

Repealed:
 Amended: 434-230-100
 Suspended:

Statutory authority for adoption: RCW 29A.04.611, RCW 29A.24.031, RCW 29A.28.061

Other authority :

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding:

The timing of the vacancy in the 1st Congressional District, the special requirements for conducting the special election due to redistricting, and the timing of recently passed legislation on precinct committee officer elections requires emergency rulemaking in order to have rules in place prior to the candidate filing period May 14 – 18, 2012.

Date adopted: April 24, 2012

NAME (TYPE OR PRINT)

Steve Excell

SIGNATURE

TITLE

Assistant Secretary of State

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 25, 2012

TIME: 9:54 AM

WSR 12-10-033

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

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

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	<u>1</u>	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>1</u>	Repealed	_____

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

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

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

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

Negotiated rule making:	New	<u>2</u>	Amended	<u>1</u>	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

WAC 434-208-150 First congressional district vacancy. (1)

Dates. Washington state's first congressional district in the United States House of Representatives was vacated on March 20, 2012. Pursuant to Article I, Section 2 of the United States Constitution and RCW 29A.28.041, the governor issued a writ of election on April 2, 2012, to fill the vacancy, ordering a special primary election to be held on August 7, 2012, and a special election to be held on November 6, 2012.

(2) **District boundaries.** The special primary and special election for the short term shall be conducted as a separate race from the primary and election for the full term:

(a) The special primary and special election for the short term shall be conducted using the boundaries of the first congressional district approved by the Washington state redistricting commission on January 1, 2002, and amended by the legislature on February 8, 2002.

(b) The primary and election for the full term, which begins January 3, 2013, shall be conducted using the boundaries of the first congressional district approved by the Washington state redistricting commission on January 1, 2012, and amended by the legislature on February 8, 2012.

(3) **Candidacy.** Pursuant to Article I, Section 2 of the United States Constitution and RCW 29A.20.021(4), candidates for the United States House of Representatives are only required to reside within the state of Washington, not within the boundaries of the congressional district. The first congressional district short term is a temporary elected position; for purposes of RCW 29A.20.021(2) and 29A.36.201, candidates filing for the short term are not prohibited from filing for another office or appearing on the ballot more than once. Consistent with the top two primary election system enacted by chapter 2, Laws of 2005, and WAC 434-215-130, the minor party and independent candidate nominating procedures referenced in RCW 29A.28.041 and 29A.28.061 do not apply. *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442 (2008).

(4) **Ballots.** Each voter in the vacated first congressional district is eligible to vote in both the short term race in the first congressional district and the full term race in the voter's 2012 congressional district (District 1, 2, 6 or 7). The location of the congressional races on the ballot must be consistent with WAC 434-230-025.

(a) The full term congressional race shall be listed on the ballot before the short term race, and labeled in substantially the following form:

U.S. Representative

Congressional District (1, 2, 6 or 7).

(b) The short term congressional race shall be listed on the ballot after the full term race, and labeled in substantially the following form:

U.S. Representative
Congressional District 1
1 Month short term.

(5) **Results.** The results for the special primary and special election in the first congressional district shall be certified separately from the results of the primary and election in the full term congressional elections. Consistent with the top two primary election system, the two candidates who receive the most votes, and at least one percent of the votes, in the special primary qualify for the special election. The candidate who receives the most votes in the special election shall be declared elected to the short term.

NEW SECTION

WAC 434-215-021 Declaration of candidacy--Precinct committee officer. Declarations of candidacy for the office of precinct committee officer shall be in substantially the following form:

Declaration of Candidacy

Precinct Committee Officer

instructions

File this form with your county elections department.
Note: This document becomes public record once filed.

office information

member of the Democratic Party
 Republican Party

precinct representing (name / number)

personal information as registered to vote

first name middle last

date of birth (mm / dd / yyyy) phone number

residential address city / ZIP

ballot information

exact name I would like printed on the ballot (*only contested races will appear on the ballot*)

contact information

mailing address (*if different from residential address*) city / ZIP

email address phone number

oath

I declare that the above information is true, that I am a registered voter residing at the residential address and precinct listed above, and that I am a candidate for Precinct Committee Officer for the party and precinct identified above.

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.

sign here

date here

for office use only

voter registration number date

precinct verified office code

staff

03/2012

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

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

~~((The method for electing precinct committee officers on party ballots established in chapter 271, Laws of 2004 (the pick-a-party primary), was repealed by chapter 2, Laws of 2005. The method for electing precinct committee officers on a top two primary ballot under chapter 2, Laws of 2005 (the top two primary), was declared unconstitutional by the U.S. District Court for the Western District of Washington in *Washington State Republican Party, et al. v. State of Washington, et al.*, Case No. C05-0927-JCC (January 11, 2011). "The central holding is that the political parties, not the government, are free to define the scope of their membership." Consequently, precinct committee officer elections are no longer conducted by state or county government. As private organizations, the political parties determine how to conduct their internal affairs, including selection of their officers.))~~ (1) The election of major political party precinct committee officers is established in RCW 29A.52.--- (section 3, chapter 89, Laws of 2012) and RCW 29A.80.051.

(2) The election of precinct committee officer is an intraparty election; candidates compete against other candidates in the same political party.

(a) If only one candidate files for a position, that candidate is deemed elected without appearing on the ballot and the county auditor shall issue a certificate of election.

(b) If more than one candidate files for a position, the contested race must appear on the ballot at the August primary and the candidate who receives the most votes is declared elected.

(c) If no candidates file during the regular filing period, the race does not appear on the ballot and the position may be filled by appointment pursuant to RCW 29A.28.071.

(d) No write-in line may be printed on the ballot for a contested race, and no write-in votes may be counted.

(3) If both major political parties have contested races on the ballot in the same precinct, the political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the other political party appearing second. Within each party, candidates shall be listed in the order determined by lot.

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

(b) The following explanation must be printed before the list of candidates: "For this office only: In order to vote for precinct committee officer, a partisan office, you must affirm that

you are a Democrat or a Republican and may vote only for one candidate from the party you select. Your vote for a candidate affirms your affiliation with the same party as the candidate. This preference is private and will not be matched to your name or shared."

(c)(i) If all candidates are listed under one heading, the applicable party abbreviation "Dem" or "Rep" must be printed next to each candidate's name, with the first letter of the abbreviation capitalized. For example:

John Smith Dem

Jane Doe Dem

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

(d) One of the following statements, as applicable, must be printed directly below each candidate's name: "I affirm I am a Democrat." or "I affirm I am a Republican."

(5) A voter may vote for only one candidate for precinct committee officer. If a voter votes for more than one candidate, the votes must be treated as overvotes.