

ATTACHMENT A

**SECRETARY
of STATE**
Sam Reed



Legislative Building
PO Box 40220
Olympia, WA 98504-0220
Tel 360.902.4151
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July 15, 2005

Ms. Kerry Radcliff
Office of the Code Reviser
P.O. Box 40551
Olympia, WA 98504-0551

Ms. Radcliff:

The Office of the Secretary of State requests that the Emergency Rule filed as WSR 05-11-101 on May 18, 2005 be rescinded immediately.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "SE", written over a horizontal line.

STEVE EXCELL
Assistant Secretary of State

SE:tcn

CODE REVISER'S OFFICE STATE OF WASHINGTON FILED	
JUL 15 2005	
TIME	4:54 AM
WSR	05-15-102 PM

ATTACHMENT B



RULE-MAKING ORDER

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

Agency: Office of the Secretary of State

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

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

- Yes No If Yes, explain:

Purpose: To provide rules for minor party and independent candidate nominating conventions and filing dates because the period of time for conventions established in RCW 29A.20.121 had passed prior to the July 15, 2005, ruling in *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

Citation of existing rules affected by this order:

- Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 29A.04.611

Other authority: *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (date).

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

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

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

Reasons for this finding: A judge ruled Initiative 872's version of the top two primary is unconstitutional. Washington State will hold a pick-a-party primary, modeled after the Montana primary, in September 2005. See *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005); page 38, lines 17-18 state, "Therefore, the law as it existed before the passage of Initiative 872, including the Montana primary system, stands as if Initiative 872 had never been approved."

Date adopted:

June 20, 2005

NAME (TYPE OR PRINT)

Sam Reed

SIGNATURE

TITLE

Secretary of State

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUL 20 2005

TIME

WSR

8:50

05-15-158

AM
PM

(COMPLETE REVERSE SIDE)

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

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

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	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	<u>2</u>	Amended	_____	Repealed	_____
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The number of sections adopted using:

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

NEW SECTION

**WAC 434-215-120 Minor party and independent candidates--
Nominating conventions.** To qualify for the 2005 general election ballot, minor party and independent candidates must hold a nominating convention during the period of time specified in RCW 29A.20.121 or between August 13, 2005, and August 20, 2005. Consistent with RCW 29A.20.121(4), signatures of the requisite number of registered voters must be obtained at a single convention if the nomination is for an office other than president and vice-president, United States senator, United States representative, or statewide office.

Note: This section is adopted because the period of time for holding minor party and independent candidate conventions established in RCW 29A.20.121 had passed prior to the July 15, 2005, ruling in *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

**WAC 434-215-125 Minor party and independent candidates--
Filing requirements.** Minor party and independent candidates who held a nominating convention during the period of time specified in RCW 29A.20.121 may file the nominating documents, a declaration of candidacy, and the filing fee with the appropriate filing officer either during the week specified in RCW 29A.24.050 or no later than August 26, 2005. Minor party and independent candidates who hold a nominating convention during the period of time specified in WAC 434-215-120 must file the nominating documents, a declaration of candidacy, and the filing fee with the appropriate filing officer no later than August 26, 2005.

Note: This section is adopted because the period of time for holding minor party and independent candidate conventions established in RCW 29A.20.121 had passed prior to the July 15, 2005, ruling in *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

ATTACHMENT C



RULE-MAKING ORDER

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

Agency: Office of the Secretary of State

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

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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 provide rules for the September pick-a-party primary because a court ruled Initiative 872's version of the top two primary is unconstitutional on July 15, 2005 (see Washington State Republican Party, et al. v. Logan, et al., U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005)).

Citation of existing rules affected by this order:

Repealed:
 Amended:
 Suspended:

Statutory authority for adoption: RCW 29A.04.611

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Under RCW 34.05.350 the agency for good cause finds:

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

Reasons for this finding: A judge ruled Initiative 872's version of the top two primary is unconstitutional. Washington State will hold a pick-a-party primary, modeled after the Montana primary, in September 2005. See *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005); page 38, lines 17-18 state, "Therefore, the law as it existed before the passage of Initiative 872, including the Montana primary system, stands as if Initiative 872 had never been approved."

Date adopted:

June 22, 2005

NAME (TYPE OR PRINT)

Sam Reed

SIGNATURE

TITLE

Secretary of State

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
 STATE OF WASHINGTON
 FILED

JUL 22 2005

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**Note: If any category is left blank, it will be calculated as zero.
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**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	_____
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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	<u>9</u>	Amended	<u>6</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	<u>9</u>	Amended	<u>6</u>	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Chapter 434-220 WAC

PARTISAN PRIMARIES

NEW SECTION

WAC 434-220-010 Partisan primaries. This chapter is limited in application to the conduct of partisan primaries and nonpartisan primaries held in conjunction with partisan primaries. If a county holds only a nonpartisan primary, it is exempt from this chapter.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-020 Definitions. As used in this chapter:

(1) "Checkbox" means a voter response position on a consolidated ballot where a voter who desires to participate in a partisan primary must indicate major party affiliation.

(2) "Consolidated ballot" is a single ballot on which the candidates for each political party are separate from the candidates for any other political party and which also includes nonpartisan offices and issues, listed after the candidates of each political party at the end of the ballot.

(a) In the case of a punchcard ballot where the candidates and issues are listed on a separate ballot guide, the ballot guide must be considered part of the ballot.

(b) In the case of a direct recording device, a consolidated ballot must have a beginning screen which contains a check-off box for each of the major political parties. After the voter has affiliated by marking a checkbox, only the party ballot checked by the voter and the nonpartisan ballot must appear to the voter.

(3) "Nonpartisan" means not associated with any one political party.

(4) "Party affiliation" means:

(a) On a consolidated ballot, a voter's selection of a major political party in a manner consistent with the type of voting system used; or, with physically separate ballots, voting a major political party's ballot;

(b) For a write-in candidate, filing as a write-in candidate for a major political party.

(5) "Physically separate ballot" is a ballot specific to a single major political party, listing candidates for that major political party and including nonpartisan offices and ballot measures, or a ballot containing only nonpartisan offices and ballot measures.

(a) In the case of a punchcard ballot where the candidates and ballot measures are listed on a separate ballot guide or a consolidated ballot guide, the ballot guide must be considered part of the ballot.

(b) In the case of a direct recording device, separate ballots must be issued by offering all ballot choices when the poll worker programs their ballot code, from which the voter must choose one.

(6) "Spot color" means coloring a portion of the ballot.

(7) "Void," when applied to unvoted ballots, means keeping them in the sealed container in which they were deposited on election day.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-040 Ballot layout and color--Consolidated ballots. A county may choose to use a combination of both consolidated and physically separate ballots for poll-site, absentee, and vote by mail ballots. County auditors may use spot coloring, shading, or colored printing to assist the voter in distinguishing between party sections. If color is used, blue must be used for the democratic party ballot, and red must be used for the republican party ballot. In addition to other requirements listed in state law and administrative rule, the following provisions apply to the layout of consolidated ballots:

(1) The two party checkboxes must be listed before all offices and ballot measures, pursuant to RCW 29A.36.106. The checkboxes must be labeled "democratic party" and "republican party."

(2) Optical scan ballots must list candidates in columns or sections by major political party. If a party section spans

multiple columns, the next major party section must either:

(a) Begin where the last major party section ended, and there must be a well-defined division between the party sections; or

(b) A new column may be started but each party's section must remain entirely on one side of the ballot.

(3) Punchcard ballots must have separate columns for each political party and nonpartisan sections. At the poll-site, clearly defined ballot pages or other means of division must be used to clearly separate the listing of candidates by party.

(4) Ballot instructions must be printed on the ballot and include:

(a) The definition of "nonpartisan," as defined in WAC 434-220-020;

(b) Direction on how to mark the ballot, including write-in votes; and

(c) Instructions, as required by RCW 29A.36.106 and 29A.36.161, printed in substantially the following form:

"This ballot contains major political party candidates, nonpartisan candidates, and ballot measures. You may vote for only one political party's candidates and vote on any nonpartisan offices and ballot measures by:

- Selecting one political party, which also entitles you to vote on all nonpartisan offices and ballot measures on the ballot. If you do not select one party or if you select more than one party, your votes for candidates for partisan offices will **not** be counted.

- Voting for only that party's candidates. Votes for another party's candidates will **not** be counted.

- Voting for nonpartisan offices and ballot measures. These votes **will** be counted, even if you do not mark a political party."

(5) For optical scan and Datavote systems, ballot instructions may be printed on the ballot itself or on the ballot stub. An instruction page may be considered a separate page of the ballot in which case page one of the ballot must be the instruction page and the candidates and ballot measures must begin on page two.

(6) For punchcard ballots, voting instructions may be printed on the ballot itself, on the ballot stub that is removed from the ballot, or on the voting guide as additional instructions for the voter.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-050 Ballot layout and color--Physically separate ballots. A county may choose to use a combination of both consolidated and physically separate ballots for poll-site, absentee, and vote by mail ballots. The following provisions apply to the layout of physically separated ballots:

(1) A separate ballot must be produced for each major political party and for all nonpartisan races. The political party abbreviation after each candidate's name may be eliminated if the ballot layout clearly identifies the candidate's political party. County auditors may use colored ballot stock, spot coloring, shading, or colored printing to assist the voter in distinguishing between the ballots. If colored ballot stock is used, blue must be used for the democratic party ballot, and red must be used for the republican party ballot. If color is used to distinguish punchcard ballots, the appropriate ballot pages in the poll-site must also be the corresponding color.

(2) Punchcard systems must prepunch each party ballot to ensure that votes are counted for only one party's candidates. Punchcard ballot guides may be consolidated into one guide. In this case, the party and nonpartisan ballots must be printed in the same manner as consolidated ballots. In the case of punchcard systems, if separate ballot cards are provided for each ballot they shall be considered as separate ballots.

(3) Each physically separate ballot must have "democratic party," "republican party," or "nonpartisan" printed on the ballot. In addition to the requirements of RCW 29A.36.121, each ballot must list partisan offices first, then all nonpartisan offices and ballot measures. All ballots must be issued to each voter, both at the poll-site and to voters voting by mail or absentee. Absentee voters must be instructed to vote and return only one ballot.

(4) Ballot instructions must be printed on the ballot and must include:

(a) The definition of "nonpartisan," defined in WAC 434-220-020;

(b) Direction on how to mark the ballot, including write-in votes;

(c) Language advising voters that if they have voted for nonpartisan candidates on one of the partisan ballots, they should return that ballot only and should **not** cast the separate nonpartisan ballot; and

(d) Instructions, as required by RCW 29A.36.106 and

29A.36.161, printed in substantially the following form:

"Separate ballots have been provided for each political party in addition to a nonpartisan ballot. You must choose only one ballot to vote. Though party affiliation is inferred by choosing a political party ballot, no record will be made of the ballot you choose. Only vote and cast one ballot and deposit the other two ballots in the specified container. If you vote more than one political party ballot, none of your votes for political party candidates will count. You may vote a nonpartisan ballot, regardless of any party affiliation."

(5) For optical scan and Datavote systems, ballot instructions may be printed on the ballot itself or on the ballot stub. An instruction page may be considered a separate page of the ballot in which case page one of the ballot must be the instruction page and the candidates and ballot measures must begin on page two.

(6) For punchcard ballots, voting instructions may be printed on the ballot itself, on the ballot stub that is removed from the ballot, or on the voting guide as additional instructions for the voter.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-060 Order of political parties. The order of political parties for consolidated ballots and ballot guides, sample ballots, and notices of election must be in the same order as candidates on the general election ballot as determined by RCW 29A.36.161.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-070 Ballot programming--Consolidated ballots.

(1) Before a county may use a consolidated ballot format, the ballot counting program must achieve the following:

(a) If a voter marks a check-off box for a major political party, only votes for that party may be counted; and

(b) If a voter does not mark a check-off box for a major

political party, no votes for a partisan office may be counted; and

(c) If a voter marks two or more check-off boxes, no votes for a partisan office may be counted; and

(d) In the case of direct recording devices, the voter must be able to select a ballot type on the first screen and have only the ballot selected appear to the voter.

(2) If an optical scan or punchcard ballot counting program cannot use the check-off box to eliminate invalid votes for each of the situations listed in this section, all ballots must be inspected for those marks that cannot be read correctly. Improperly marked ballots must be duplicated to ensure invalid votes are not counted. In the case of precinct ballot counters, ballots must be inspected after they have been returned from the polls. As part of the canvassing process, the county auditor must take appropriate steps to amend the unofficial precinct count totals to reflect the correct count.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-080 Polling place procedures--Physically separate ballots. (1) In the case of optical scan ballots, poll workers must give the voter a ballot for each major political party, which also contains nonpartisan offices and ballot measures, and one ballot that only contains nonpartisan offices and ballot measures. The county auditor must number the ballot stubs in a manner so that it cannot be determined which ballot was cast by the voter. The poll workers must instruct the voter to choose one ballot to vote. The remaining two ballots must be deposited into an "unvoted ballots" container secured with a numbered seal. The county auditor may have the voter select a single ballot and deposit the unselected ballots in the secure container prior to entering the voting booth or the selection may be done after the voter leaves the booth. Regardless of when the ballot selection is made, the auditor must ensure that only one ballot is deposited in the ballot box and the remaining ballots deposited into an "unvoted ballots" container. The auditor must ensure that, wherever possible, the privacy of the ballot selection by the voter is maintained. The ballot stub must be removed and placed into the ballot stub envelope before the voted ballot is deposited into the ballot box.

(2) The "unvoted ballots" container must remain sealed and be returned to the county auditor with the supplies and voting

materials.

(3) If a voter spoils one or more physically separate ballot(s) and wishes to correct the error, the ballot(s) must be returned to the poll worker and placed into the spoiled ballot envelope. The poll worker must issue a new set of ballots, consisting of each major political party's ballot and the nonpartisan ballot. The ballot stub number must be recorded in the poll book.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-110 No records made at poll-sites. Pursuant to RCW 29A.44.231, no record of the political party ballot selected by the voter must be made by any person at the polling place. This prohibition includes poll workers, political observers and any other person who may be present while voting is taking place. The use of devices such as telephones, cameras, or recording devices to report, track, or monitor the ballot selection by voters is prohibited.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

NEW SECTION

WAC 434-220-210 Partisan primary recounts. When a recount is requested or mandatory under chapter 29A.64 RCW in a partisan office, the recount must only apply to the candidates of the affected political party. Votes for the same office of other political parties must not be recounted.

Note: This section is adopted pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

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

WAC 434-230-010 Sample ballots. Sample paper ballots shall be printed in substantially the same form as official ballots, but shall be a different color than the official ballot. Sample ballots for counties using electronic or mechanical voting systems shall be printed in a manner that makes them easily distinguishable from the official ballot. Sample ballots shall be available starting fifteen days prior to an election. Such sample ballots shall be made available through the office of the county auditor and at least one shall be available at all polling places on election day.

Names of the candidates in each office to appear on the primary ballot shall be arranged on the sample ballot in the order provided by RCW ((~~29A.36.120~~) 29A.36.121). The names of the candidates in each office to appear on the general election ballot shall be listed on the sample ballot in the order in which their names appear on the official ballot. State measures and local measures shall be in the same order as they appear on 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 printed.

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 appears on at least one of the various sample ballots printed for such county. 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 polling place and to other locations within the appropriate region or area.

Note: This section is amended pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-230-030 Placement of ballot measures for local units of government. All county-wide ballot measures shall be listed immediately following state measures or issues. In the absence of state measures or issues, county-wide ballot measures shall appear first on all sample ballots and on all ballots. On a partisan primary ballot, a county-wide ballot measure must appear first on the nonpartisan ballot or nonpartisan section of the consolidated ballot. For other local ballot measures and offices, each county shall establish written procedures to determine the order in which local units of government are to be listed on the ballot. Such order of local governmental units shall be consistent on official, absentee, and sample ballots. The order may be determined by, but is not limited to the following: Size of jurisdictional area, alphabetical order by jurisdictional area, or such order as to provide for efficient use of ballot spacing and voting positions. Such procedures are to provide consistency from election to election within a county.

Except for county-wide ballot measures, local ballot measures and offices, if any, may be positioned in the area dedicated for that jurisdiction; or, local ballot measures may be grouped in a separate area dedicated to special measures only. This may be an area on the ballot separate from the candidates of such local government unit.

Note: This section is amended pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-230-160 Electronic voting device instructions.

The ballot shall identify the type of primary or election, the county, and the date of the primary or election. Prominently displayed in the voting booth or on the ballot shall appear instructions directing the voter how to operate the voting device and correctly cast votes on issues and candidates, including write-in votes. The instructions shall read substantially as follows: To vote for a candidate or for or against a measure, punch or mark the voting position to the right of the measure or of the name of the person for whom you desire to vote. To vote for a person not on the ballot, write the title of the office, (if applicable), the name of the candidate, and party affiliation if for a partisan office, in the space provided (~~on the ballot card or ballot envelope and punch or mark~~) for such write-in position (if applicable).

~~((Absentee ballots shall be designated in such a manner as to clearly distinguish them from polling place ballots.))~~

Note: This section is amended pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

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

WAC 434-230-170 Electronic voting devices--Ballot form.

Each office on the ballot shall be identified, along with a statement designating how many candidates are to be voted on for such office (e.g., vote for , with the words, "one," "two," or a spelled number). The office term shall be included on the ballot if such term is other than a full term (e.g., short/full term, two-year unexpired term, etc.). Each office shall be listed on the ballot in the manner prescribed by law or administrative rule. Following the office designation the names of all candidates for that position shall be listed together with political party designation certified by the secretary of state as provided in RCW 29A.36.010 or the word "nonpartisan," or "NP" as applicable. Each office listed on the ballot shall be separated by a bold line. In a year in which a President of the United States is to be elected, the names of all candidates for President and Vice-President for each party shall be grouped together (~~(. Each group shall be enclosed in brackets)~~) with one vote response position for each party, where the voter may indicate their choice.

Candidate names shall be printed in a type style and point size which is easily read. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include using a smaller point size, a different type style, or setting the name in upper/lower case letters, rather than upper case, if appropriate.

Each position, with the candidates running for that office, shall be clearly delineated from the following one by a bold line. Following each listing of candidates shall be a blank space for writing in the name of any candidate, if desired, on the ballot card, or a write-in space provided on the ballot envelope.

Note: This section is amended pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

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

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

- (1) Precinct list of registered voters or a poll book, which shall include suitable means to record the signature and address of the voter;
- (2) Inspector's poll book;
- (3) Required oaths/certificates for inspectors and judges;
- (4) Sufficient number of ballots as determined by election officer;
- (5) Ballot containers;
- (6) United States flag;
- (7) Instruction signs for voters;
- (8) Challenge(~~(/special)~~) and provisional ballot envelopes;
- (9) Cancellation cards due to death;
- (10) Voting equipment instructions;
- (11) Procedure guidelines for inspectors and judges and/or precinct election officer guidebooks;
- (12) Keys and/or extra seals;
- (13) Pay voucher;
- (14) Ballot(~~(s)~~) stub envelope;
- (15) Emergency plan of action;
- (16) Sample ballot;
- (17) HAVA voter information poster;
- (18) Voter registration forms;
- (19) For partisan primaries in counties using physically separate ballots, an "unvoted ballots" container with a numbered seal.

Note: This section is amended pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).

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

WAC 434-262-150 Rejection of ballots or parts of ballots.

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

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

(2) Where two 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;

(3) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine voter's intent;

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

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

(6) Where the voter has incorrectly attempted to correct a vote on the ballot contrary to the instructions provided pursuant to WAC 434-240-200 unless the voter provides written instructions directing how the vote should be counted.

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

(7) In the case of a partisan primary:

(a) Physically separate ballots:

(i) A log must be kept of all voted ballots rejected and included as part of the county canvassing board minutes.

(ii) When a voted nonpartisan ballot and a voted party ballot are both returned, and the nonpartisan section of the party ballot was not voted, the votes from both ballots must be duplicated onto a blank ballot of the same party the voter originally voted for.

(iii) When a party ballot and nonpartisan ballot both have been returned with the nonpartisan offices and ballot measures voted on both ballots, only the party ballot, including the votes cast for nonpartisan candidates and ballot measures, must be counted and the nonpartisan ballot is rejected.

(iv) Write-in votes for a partisan candidate on a nonpartisan ballot must not be counted in the final write-in tally.

(v) Write-in votes for a partisan candidate who has not filed a write-in declaration of candidacy, thereby affiliating with a major party, must not be counted in the final write-in tally.

(vi) If physically separate ballots are used and a voter returns more than one voted partisan ballot, no votes cast for candidates for partisan office must be counted. If votes are cast for nonpartisan offices and/or ballot measures on only one of the partisan ballots, those votes must be counted. If votes are cast for nonpartisan offices and/or ballot measures on more than one party ballot, only those votes which are the same on each ballot must be duplicated onto a nonpartisan ballot and counted.

(vii) If more than one ballot is returned but only one ballot is voted, the voted ballot must be counted.

(b) Consolidated ballots:

(i) When voting a consolidated ballot, if the voter does not mark the party check-off box, votes cast for candidates for partisan office must not be counted but votes cast on the nonpartisan portion of the ballot must be counted.

(ii) Write-in votes for a partisan candidate in a partisan office on the nonpartisan section of the ballot must not be counted in the final write-in tally.

(iii) Write-in votes for a partisan candidate who has not filed a write-in declaration of candidacy must not be counted in the final write-in tally.

(iv) If the voter marks one party check-off box, only those votes for candidates of that party must count. Votes cast for candidates of other political parties must not be counted and do not cause over-votes for races where the voter has also voted for a candidate of the party they have selected for partisan offices.

Note: This section is amended pursuant to *Washington State Republican Party, et al. v. Logan, et al.*, U.S.D.C. No. CV05-0927-TSZ (W.D. Wash. 2005).