



RULE-MAKING ORDER

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

Agency: 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: Implementation of a new top-two primary election system pursuant to chapter 2, Laws of 2005.

Citation of existing rules affected by this order:

Repealed: 434-262-005 and 434-230-210

Amended: 434-208-060, 434-215-012, 434-215-070, 434-230-010, 434-230-040, 434-230-050, 434-230-060, 434-230-170, 434-261-020, 434-262-160, and 434-381-120

Suspended:

Statutory authority for adoption: chapter 2, Laws of 2005; RCW 29A.04.611

Other authority :

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:

Initiative 872 created a new primary election system, known as the top-two primary. Initiative 872 passed in November 2005: chapter 2, Laws of 2005. The top-two primary conflicts with the nominating primary still described in statute. Because the Secretary of State is legally obligated to implement the new law, and because implementing legislation did not pass during the 2005 legislative session, the Secretary of State must implement the new primary through emergency rule making. The standard rule making process will not allow the rules to take effect until September 2005, after the election cycle has begun.

Date adopted: May 18, 2005

NAME (TYPE OR PRINT)

Steve Excell

SIGNATURE

TITLE

Assistant Secretary of State

CODE REVISER USE ONLY
 CODE REVISER'S OFFICE
 STATE OF WASHINGTON
 FILED

MAY 18 2005

TIME 9:30 AM
PM

WSR 05-11-101

**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	<u>4</u>	Amended	<u>9</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	<u>2</u>	Repealed	<u>2</u>
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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	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

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

WAC 434-208-060 Filing of electronic facsimile documents. In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

(1) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(2) Any minor party or independent candidate filing material for president and vice-president of the United States, except nominating petitions;

(3) Lists of presidential electors selected by political parties or independent candidates;

(4) Voted ballots, provided the voter agrees to waive the secrecy of his or her ballot;

(5) Resolutions from cities, towns, and other districts calling for a special election; and

(6) (~~Filling of vacancies on the ticket by a major political party,~~

~~(7))~~ Voter registration form.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-012 Declaration of candidacy(~~(--Offices subject to a primary)~~). Declarations of candidacy (~~(for all partisan and nonpartisan offices)~~) filed either in person or by mail shall be in substantially the following form:

((STRICKEN GRAPHIC))

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FILING DATA . . . FOR OFFICE USE ONLY

Date _____ Fee Paid \$ _____ File No. _____
 Paid By (Check one)
 AM Check Other
 PM Cash Nom. Petition
 Clerk/Cashier initials _____

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:

(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

2. _____
(STREET ADDRESS OR RURAL ROUTE) TELEPHONE NUMBER

_____ (MAILING ADDRESS - IF DIFFERENT)

_____, Washington (ZIP CODE)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for nomination to the office of:

_____ (NAME OF OFFICE)

_____ (CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

_____ (POSITION NUMBER IF APPLICABLE) _____ (DIRECTOR OR COMMISSIONER DISTRICT, IF ANY)

4. For the following term of office:

- a full term or a full term and a short term, or
- an unexpired term

5. This office is:

- Nonpartisan, or
- Partisan, and I am: a candidate of the _____ party, or
 an independent candidate nominated pursuant to chapter 29.24 RCW

6. Filing Fee (Check one):

- There is no filing fee because the office has no fixed annual salary, or
- I am submitting a filing fee of \$10 because the fixed annual salary of the office being sought is \$1,000 or less, or
- I am submitting a filing fee of \$ _____, an amount equal to 1% of the annual salary, or
- I am without sufficient assets or income to pay the filing fee required by law and I have attached a nominating petition in lieu of this fee, pursuant to RCW 29.18.050.

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

(PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to by either a notary public or by the officer with whom the declaration is filed.

8. Sign Here **X** _____
(SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

(SIGNATURE OF ACKNOWLEDGING OFFICIAL)

(TITLE OF ACKNOWLEDGING OFFICIAL)

Candidate: Return all copies of this declaration to your Elections Dept.
Distribution by Elections Dept: White--County; Yellow--POC; Pink--Candidate

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STRICKEN GRAPHIC))

((STRICKEN GRAPHIC _____

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FILING DATA . . . FOR OFFICE USE ONLY

Date/Time _____	Fee Paid \$ _____	File No. _____
Paid By (Check one)		
<input type="checkbox"/> Check	<input type="checkbox"/> Other	Office _____
<input type="checkbox"/> Cash	<input type="checkbox"/> Nom. Petition	Code: _____
Clerk/Cashier initials _____		

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:

(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

2. _____ (STREET ADDRESS OR RURAL ROUTE WHERE REGISTERED TO VOTE) (CITY) (COUNTY) (ZIP CODE)

_____ (MAILING ADDRESS) (CITY) (COUNTY) (ZIP CODE)

_____ (TELEPHONE NO.) (EMAIL ADDRESS)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for nomination to the office of:

_____ (NAME OF OFFICE)

_____ (CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

_____ (POSITION NUMBER IF APPLICABLE)

_____ (DIRECTOR OR COMMISSIONER DISTRICT, IF ANY)

4. For the following term of office:
 A full term or a full term and a short term, or
 An unexpired term

5. This office is:
 Nonpartisan, or
 Partisan, and I am: a candidate of the _____ party, or
 an independent candidate nominated pursuant to chapter 29.24 RCW.

6. Filing Fee (Check one):
 There is no filing fee because the office has no fixed annual salary, or
 I am submitting a filing fee of \$10 because the fixed annual salary of the office being sought is \$1,000 or less, or
 I am submitting a filing fee of \$ _____, an amount equal to 1% of the annual salary, or
 I am without sufficient assets or income to pay the filing fee required by law and I have attached a nominating petition in lieu of this fee, pursuant to RCW 29.15.050.

7. Please print my name on the ballot exactly as follows: _____ (PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to either by a notary public or by the officer with whom the declaration is filed.

8. Sign Here X _____ (SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

STATE OF WASHINGTON, COUNTY OF _____

SIGNED OR ATTESTED BEFORE ME ON _____ (DATE)

by _____ (CANDIDATE)

_____ (SIGNATURE OF NOTARY)

_____ (TITLE)

MY APPOINTMENT EXPIRES _____

(SEAL OR STAMP)

SSE 94-1 (2002)

Candidate: Return all copies of this declaration to your Elections Dept.
Distribution by Elections Dept: White—County; Yellow—PDC; Pink—Candidate

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STRICKEN GRAPHIC))

FILING DATA . . . FOR OFFICE USE ONLY

Date _____	Fee Paid \$ _____	File No _____	Office Code _____
<input type="checkbox"/> Check	<input type="checkbox"/> Debit/Credit		
<input type="checkbox"/> Cash	<input type="checkbox"/> Filing Fee Petition	Clerk Initials _____	

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:

(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

2. _____ (STREET ADDRESS OR RURAL ROUTE WHERE REGISTERED TO VOTE) (CITY) (COUNTY) (ZIP CODE)

_____ (MAILING ADDRESS) (CITY) (COUNTY) (ZIP CODE)

_____ (TELEPHONE NO.) (EMAIL ADDRESS)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for the office of:

_____ (NAME OF OFFICE)

_____ (CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

_____ (POSITION NUMBER IF APPLICABLE)

_____ (DIRECTOR OR COMMISSIONER DISTRICT, IF ANY)

4. For the following term of office:
 A full term or a full term and a short term, or
 An unexpired term

5. This office is:
 Nonpartisan, or
 Partisan, and (check one): my party preference is _____, or
 I am an independent candidate.

The party preference will be listed on the ballot exactly as provided unless limited space necessitates abbreviation.

6. Filing Fee (check one):
 There is no filing fee because the office has no fixed annual salary, or
 I am submitting a filing fee of \$10 because the fixed annual salary of the office is \$1,000 or less, or
 I am submitting a filing fee of \$_____, an amount equal to 1% of the annual salary, or
 I am without sufficient assets or income to pay the filing fee required by law and I have attached a filing fee petition in lieu of this fee, pursuant to WAC 434-215-013 and RCW 29A.24.091.

7. Please print my name on the ballot exactly as follows: _____ (PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to either by a notary public or by the officer with whom the declaration is filed.

B. Sign Here X _____ (SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

STATE OF WASHINGTON, COUNTY OF _____ SIGNED OR ATTESTED BEFORE ME ON _____ (DATE)

(SEAL OR STAMP) by _____ (CANDIDATE)

_____ (SIGNATURE OF NOTARY)

_____ (TITLE)

MY APPOINTMENT EXPIRES _____

SSE84-1 (2005)

Candidate: Return all copies of this declaration to your Elections Dept.

Candidate: Return all copies of this declaration to the filing officer. Distribution by the filing officer: White--County; Yellow--PDC; Pink--Candidate
 The form shall measure eight and one-half inches by eleven inches

and be printed on paper stock of good quality. The form shall also contain space for recording the date and time of filing and a sequential filing and receipt number. One copy of the form or an electronic file, in a format approved by the secretary of state and acceptable to the public disclosure commission, containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be forwarded to the public disclosure commission as required by RCW ((29.15.030)) 29A.24.070, and one copy of the form or an electronic file containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be returned to the candidate.

NEW SECTION

WAC 434-215-013 Filing fee petition. A candidate who lacks sufficient assets or income to pay the filing fee may submit a filing fee petition with the declaration of candidacy. The filing fee petition must meet the requirements of RCW 29A.24.091 and 29A.24.111, must be printed on sheets of uniform color and size, must include a place for each person to sign and print his or her name and voter registration address, and must contain no more than twenty numbered lines. The filing fee petition must be in substantially the following form:

The warning prescribed by RCW 29A.72.140, followed by:

We, the undersigned registered voters of (the state of Washington or the political subdivision for which the filing is made) , hereby petition that the name of (candidate's name) be printed on the official primary ballot for the office of (name of office) .

NEW SECTION

WAC 434-215-015 Political party preference and independent status. A candidate for partisan office who files a declaration of candidacy properly must appear on the primary election ballot, regardless of the candidate's party preference or independent status, unless the office is not subject to a primary election. Except for the offices of President and Vice-President of the United States, neither endorsement by a political party nor a nominating convention are required in order to file a declaration of candidacy and appear on the primary election ballot. A candidate for partisan office who does not provide a political party preference is deemed to be an independent candidate. An

independent candidate or a candidate who lists on the declaration of candidacy a preference for a party that does not qualify as a major political party is not required to hold a convention, file a nominating petition, or file a certificate of nomination, as stated in RCW 29A.20.110 through 29A.20.201. The requirements of RCW 29A.20.110 through 29A.20.201 are limited to candidates for President and Vice-President of the United States.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-070 Definition and standards for systems to file declarations of candidacy electronically. An electronic system to file declarations of candidacy shall be an online system accessible to candidates on the world wide web that records the information specified in RCW 29.15.010 (1) through (4) and WAC 434-215-090. At a minimum, the system shall perform the following functions:

- (1) Verify the candidate's voter registration status;
- (2) Check the candidate's name against the name returned by electronic transfer of funds process;
- (3) Allow the filing officer to verify filings before filing information is made public;
- (4) Accept electronic transfer of funds for the payment of filing fees required by RCW 29.15.050, except that a candidate submitting a ((nominating)) filing fee petition in the place of a filing fee may not file the declaration of candidacy electronically;
- (5) Inform, and require the candidate to acknowledge, that submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitution and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee established in RCW 29.15.050; and
- (6) Inform the candidate that knowingly providing false information on a declaration of candidacy is a class C felony as provided by RCW 29.85.100.

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

WAC 434-230-010 Official and 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. 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.))~~ Positions or offices shall be arranged on all official and sample ballots in substantially the following order: State ballot measures, United States president and vice-president, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, county officers, justices of the supreme court, judges of the court of appeals, judges of superior court, and judges of the district court. For all other jurisdictions, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any.

The names of candidates and ballot measures shall appear on the sample ballot in the same order as they appear on the official ballot. The names of the candidates shall appear on the primary election ballot in the order determined by lot. The party preference of candidates for partisan office shall have no bearing on the order in which candidates appear on the ballot. The names of the candidates shall appear on the general election ballot according to the number of votes the candidates received in the primary election: The name of the candidate who received the greatest number of votes shall appear first and the name of the candidate who received the second greatest number of votes shall appear second. If no primary was conducted, the names of the candidates shall appear on the general election ballot in the order determined by lot.

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.

NEW SECTION

WAC 434-230-035 Special filing periods for voids in candidacy and vacancies in office. Voids in candidacy, as provided in RCW 29A.24.141 through 29A.24.181, may occur for partisan as well as nonpartisan office. A three day special filing period must be opened, as provided in RCW 29A.24.171 and 29A.24.181, whether the office is partisan or nonpartisan.

Vacancies in office, as provided in RCW 29A.24.171, 29A.24.181, and 42.12.040, may be filled through a special three day filing period as provided in RCW 29A.24.171 and 29A.24.181, whether the office is partisan or nonpartisan.

A scheduled election shall lapse when a void in candidacy remains after both a normal filing period and a special three day filing period, or when a vacancy in office occurs involving an unexpired term on or after the sixth Tuesday before the general election.

If the death or disqualification of a candidate for a partisan or nonpartisan office does not give rise to the opening of a new filing period, then the following occurs:

(1) If the candidate dies or becomes disqualified after filing a declaration of candidacy but before the close of the filing period, then the declaration of candidacy is void and his or her name will not appear on the ballot;

(2) If the candidate dies or becomes disqualified after the close of the filing period but before the day of the primary, then his or her name will appear on the primary ballot and all otherwise valid votes for that candidate will be tabulated. The candidate's name will not appear on the general election ballot even if he or she otherwise would have qualified to do so, but no other candidate will advance, or be substituted, in the place of that candidate. If the candidate was the only candidate to qualify to advance to

the general election, then the general election for that office lapses, and the office will be regarded as vacant as of the time the newly elected official would have otherwise taken office;

(3) If the candidate dies or becomes disqualified on or after the day of the primary, and he or she would have otherwise qualified to appear on the general election ballot, then his or her name will appear on the general election ballot and all otherwise valid votes for that candidate will be tabulated. If the candidate received a number of votes sufficient to be elected to office, but for his or her death or disqualification, then the office will be regarded as vacant as of the time the newly elected official would have otherwise taken office.

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

WAC 434-230-040 Candidate's political party ((~~designation~~)) preference--Primary to general. ((~~No person who has offered himself or herself as a candidate for the nomination of one party at the primary, shall have his or her name printed on the ballot of the succeeding general election as the candidate of another political party.~~)) A candidate for partisan office who indicated a party preference on the declaration of candidacy may not change the party preference between the primary election and the general election.

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

WAC 434-230-050 Candidate ((~~nominated by two or more political parties or~~)) eligible for two or more offices. ((~~In the event a candidate, as a result of write-in votes, is the nominee of two or more political parties for the same office, such candidate shall designate in writing, under which political party designation he or she desires to be listed on the ballot. Such written notice shall be submitted to the county auditor within three days of the certification of the primary.~~))

In the event a candidate, as a result of write-in votes in the primary, is ((~~a nominee~~)) eligible to advance to the general election for two or more offices, the candidate shall notify the county auditor within three days of the primary certification, in writing, of the single office for which he or she desires to appear on the general election ballot. Any void in candidacy for other positions thus created will be handled as provided by law.

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

WAC 434-230-060 Primary votes required for appearance on general election ballot. Following any ~~((nonpartisan))~~ primary, no candidate's name shall be entitled to appear on the general election ballot unless he or she receives the greatest or the next greatest number of votes for the office and additionally receives at least one percent of the total votes cast for the office.

~~((Following any partisan primary, no political party candidate's name shall be entitled to appear on the general election ballot unless he or she receives a plurality of votes cast for the candidates of his or her party for that office and additionally at least one percent of the total votes cast for the office. An independent candidate must receive one percent of the total votes cast for the office in the primary in order for his or her name to appear on the general election ballot.))~~ The filing officer shall notify, in writing, all candidates who satisfy other requirements but who fail to meet the one percent requirement of the fact that their name will not appear on the general election ballot.

~~((In those charter counties where provision is made in the county charter for the qualification of minor party and independent candidates, the charter provisions shall apply if the candidates has chosen that method for ballot qualification.))~~

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))~~. If the position is a partisan position, the party preference or independent status of each candidate shall be listed next to the

candidate. The party preference must be listed exactly as provided by the candidate on the declaration of candidacy unless limited space on the ballot necessitates abbreviation or the party description provided is, in the opinion of the county auditor, obscene. If the office encompasses more than one county, the county auditor must coordinate the appearance of the ballot with other affected counties to achieve consistency. If the position is a nonpartisan position, the word "nonpartisan" or "NP" shall be listed next to each candidate. 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~~)) his or her choice.

Candidate names and party preferences shall be printed in a type style and point size which is easily read. If a candidate's name or party preference 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.

For paper ballots, there shall be a box at either the left or right of the name of each candidate where the voter may indicate his or her choice.

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-230-210

Paper ballots--Ballot form.

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

WAC 434-261-020 Counting center--Political party observers.
Counting center operations shall be observed by at least one representative from each major political party, if representatives have been appointed by the respective political parties and those representatives are present while the counting center is in operation.

Prior to the primary or election, the county auditor shall determine the number of observers required in order to observe all aspects of the counting center proceedings, and shall request, in writing, that each major political party appoint representatives to fill the requirements. Where more than one observer is to be appointed, the political party shall designate one of their observers as supervisor. Counting center observers shall be provided training with respect to ballot processing procedures and the vote tallying system as required by RCW 29A.12.120.

Before final assignment as observers, major political party representatives so appointed shall be reviewed by the county auditor, who may refuse to approve any person so appointed. In the event the auditor rejects a person designated, he or she shall promptly notify the political party concerned and request that a substitute observer be appointed, and shall ensure that the substitute observer is trained (~~(as provided in subsection (2) of this section)~~).

Representatives of the major political parties appointed as observers shall be identified by roster, including assigned observer stations if more than one in the counting center, and by identification tags which will indicate the observer's name and the party represented.

NEW SECTION

WAC 434-262-012 Partisan Primaries. Pursuant to chapter 2, Laws of 2005, a partisan primary does not serve to determine the nominees of a political party but serves to winnow the number of candidates to a final list of two for the general election. The candidate who receives the highest number of votes and the candidate who receives the second highest number of votes at the primary election advance to the general election, regardless of the candidates' political party preference. The candidates also must receive at least one percent of the total votes cast for that office at the primary in order to advance to the general election.

Each voter may vote for any candidate listed on the ballot, regardless of the party preference of the candidates or the voter. Voters at the primary election are not choosing a political party's nominees.

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

WAC 434-262-160 Write-in-voting--Voter intent. In all cases of write-in votes the canvassing board shall exercise all reasonable efforts to determine the voter's intent. (~~Write-in votes are to be counted where abbreviations are used for office, position, or political party.~~) In a general election, write-in votes are not to be counted for any person who filed for the same office as either a regular or write-in candidate at the preceding primary and failed to qualify for the general election. If a (~~write-in~~) declaration of candidacy has been filed pursuant to RCW 29A.24.311, the voter (~~need only~~) must write in (~~that~~) the candidate's name in order for the vote to be counted. If no declaration of (~~write-in~~) candidacy has been filed, the voter must write in the candidate's name (~~of the candidate, the political party, if applicable,~~) and, if the office and/or position number cannot be determined by the location of the write-in on the ballot, the office and position number, in order for the write-in vote to be counted.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-262-005

Authority and purpose.

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

WAC 434-381-120 Deadlines. (1) Candidate statements and photographs shall be submitted to the secretary of state:

(a) For candidates who filed during the regular filing period, within three business days after filing their declaration of candidacy;

(b) For candidates who filed during a special filing period, (~~or were selected by a political party pursuant to either RCW 29A.52.010 or 29A.24.140,~~) within three business days after the close of the special filing period (~~or selection by the party~~).

(2) For ballot measures, including initiatives, referendums, 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.



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Office of the Secretary of State, Elections Division

Subject of possible rule making:

Implementation of a new top-two primary election system pursuant to chapter 2, Laws of 2005.

Statutes authorizing the agency to adopt rules on this subject: chapter 2, Laws of 2005; RCW 29A.04.611

Reasons why rules on this subject may be needed and what they might accomplish:

Initiative 872 created a new primary election system, known as the top-two primary. Initiative 872 passed in November 2005: chapter 2, Laws of 2005. The top-two primary conflicts with the nominating primary still described in statute. Because the Secretary of State is legally obligated to implement the new law, and because implementing legislation did not pass during the 2005 legislative session, the Secretary of State must implement the new primary through rule making.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:
(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

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DATE
May 18, 2005

NAME (TYPE OR PRINT)
Steve Excell

SIGNATURE

TITLE
Assistant Secretary of State

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