Concise Explanatory Statement

Rulemaking: Random Check of Ballot Counting Equipment
Chapter 434-261 WAC

Public Hearing: January 8, 2026
Adoption: January 9, 2026
Effective: February 9, 2026

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Introduction

The Elections Division of the Office of the Secretary of State is amending a rule to update the procedure for the random check of ballot counting equipment conducted under Chapter 29A.60 RCW. This document will serve as the Concise Explanatory Statement (CES) for this rulemaking.

Formal comments were accepted November 17, 2025 8:00 AM through January 7, 2026 5:00 PM.

The formal CR-102 public hearing was held January 8, 2026 in person at the Washington State Library – 6880 Capitol Blvd. SE, Tumwater, WA 98501.

Rules Summary and Agency Reasons for Adoption

Rules Text

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-261-108 Random check of ballot counting equipment. ((~~If a random check of up to six batches of ballots is conducted pursuant to RCW 29A.60.170 in a county that uses optical scan voting equipment, each batch must be tabulated on a different scanner if more than one scanner is used in the election. If there are more scanners used in the election than batches to be checked, then the scanners must be selected at random.~~)) When conducting a random check of ballot counting equipment, a county auditor must establish the number of counting boards.

(1) Each board shall be comprised of no less than two members, made up of:

(a) One representative from each of the two major political parties; or

(b) Two staff persons.

(2) Counting boards shall manually count each precinct or batch in the same manner as manual recounts, as described in WAC 434-264-110.

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Rules Summary
Proposed amendments to this section clarify that the random check of ballot counting equipment shall be conducted in the same manner as manual recounts.

Agency Reason for Adoption
The proposed rules standardize how the random check of ballot counting equipment shall be conducted statewide.

Agency Rulemaking Authority
RCW 29A.04.611 grants the Secretary of State rulemaking authority to facilitate execution of Title 29A RCW to ensure uniformity relating to federal, state, county, city, town, and district elections.
RCW 29A.60.185 requires the Secretary of State to establish rules to implement and administer specific auditing methods.

Summary of the Rulemaking Activities
The Elections Division released drafts of the proposed rule language for public comment and the CR-102 on November 16, 2025. Formal comments were accepted November 17, 2025 8:00 AM through January 7, 2026 5:00 PM. The public had the opportunity to provide formal public comment at the public hearing and by email, fax, or mail.

The CR-101 Preproposal Statement of Inquiry was filed March 3, 2025. Informal comments were accepted until November 16, 2025 5:00 PM.

Changes to Rule (Proposed versus Adopted)
None.

Public Comment and Responses
Comment Period
The comment period for this rulemaking was November 17, 2025 8:00 AM through January 7, 2026 5:00 PM. A total of zero (0) comments were received.

Public Hearing
Date: January 8, 2026
Time: 10:30 AM
Location: 6880 Capitol Blvd. SE, Tumwater, WA 98501
Attendance: Zero (0) people
Testified: Zero (0) people

Summary of Comments Received and the Elections Division Responses
No comments were received.