



NOTICE OF ADOPTION

Office of the Secretary of State
Election Rules
8 CCR 1505-1

April 18, 2011

Pursuant to sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2010) and the rulemaking provisions of the State Administrative Procedure Act, section 24-4-103 C.R.S. (2010), I, Scott Gessler, Colorado Secretary of State, do hereby adopt and give **NOTICE** of the permanent rule adoption this 18th day of April, 2011, of the following amended rules of the Colorado Secretary of State Election Rules (8 CCR 1505-1). (Additions to the current rules are reflected in **SMALL CAPS** and deletions from current rules are shown in ~~stricken type~~. *Annotations may be included*):

Rule 6.5.2(f)(1) is amended as follows:

- (f) Ballot issues from the various political subdivisions shall be ordered on the ballot as provided in section 1-5-407(5), C.R.S:
1. Each category of referred and initiated state amendments and propositions shall be numbered and listed on the ballot in the following series:

A-Z	State Referred Constitutional Amendments
01-99	State Initiated Constitutional Amendments
AA-ZZ	State Referred Statutory Propositions
101-199	State Initiated Statutory Propositions

IF A REFERRED OR INITIATED MEASURE CONTAINS BOTH A PROPOSED CONSTITUTIONAL AND STATUTORY CHANGE, THE MEASURE SHALL BE ORDERED ON THE BALLOT AS A CONSTITUTIONAL AMENDMENT.

Rule 15.2 is amended as follows:

15.2 PETITION REPRESENTATIVES

15.2.1 No petition shall be accepted which lists proponents other than the two identified as petition representatives pursuant to section 1-40-104, C.R.S.

15.2.2 FOR THE PURPOSES OF SECTION 1-40-118(2.5)(A), C.R.S., THE "PERSON RESPONSIBLE" INCLUDES BUT IS NOT NECESSARILY LIMITED TO ANY PERSON OR

ENTITY WHO CIRCULATES A PETITION, OR CAUSES A PETITION TO BE CIRCULATED, AND WHO COMMITS, AUTHORIZES, OR KNOWINGLY PERMITS FRAUD AS DEFINED IN SECTIONS 1-40-111(3)(A) AND 1-40-135(2)(C), C.R.S., RESULTING IN THE COLLECTION OF INVALID SIGNATURES OR PETITION SECTIONS.

Rule 15.3 is amended as follows:

15.3 PETITION CIRCULATION

15.3.1 Proponents may begin circulating a petition for signatures at any time after the final decision of the title board, including disposition of any motion for rehearing or the expiration of the time for filing a motion for rehearing, and after the Secretary of State has approved the format of the petition as provided in section 1-40-113-(1), C.R.S., whether or not an appeal is filed with the Supreme Court pursuant to section 1-40-107-(2). If an appeal is filed with the Supreme Court, the six-month period specified in section 1-40-108-(1) shall begin on the date that the first signature is affixed to the petition or on the date that the decision of the Supreme Court becomes final, whichever date occurs first. Signatures shall be counted only if affixed to the petition during the period provided in this rule.

15.3.2 THE PETITION CIRCULATOR SHALL PROVIDE HIS OR HER PERMANENT RESIDENCE ADDRESS ON THE CIRCULATOR AFFIDAVIT. IN ADDITION, IF THE CIRCULATOR IS NOT A RESIDENT OF COLORADO AS DESCRIBED IN SECTION 1-2-102, C.R.S., THE CIRCULATOR SHALL ALSO PROVIDE THE ADDRESS IN COLORADO WHERE HE OR SHE IS TEMPORARILY LIVING AS OF THE DATE THE AFFIDAVIT IS SIGNED.

A. FOR THE PURPOSES OF PETITION CIRCULATOR RESIDENCE ADDRESS, A HOMELESS CIRCULATOR SHALL PROVIDE THE ADDRESS OR LOCATION WHERE HE OR SHE IS LIVING AS OF THE DATE THE AFFIDAVIT IS SIGNED.

New Rule 17.1.8 is adopted as follows:

17.1.8 ADDITIONAL SIGNATURES SUBMITTED AFTER THE ORIGINAL FILING OF AN INITIATIVE PETITION OR ADDENDUM, OR CANDIDATE PETITION SHALL BE REJECTED, EVEN IF SUCH SIGNATURES ARE SUBMITTED TO THE DESIGNATED ELECTION OFFICIAL WITHIN THE TIME PERMITTED BY LAW FOR THE ORIGINAL FILING.

Rule 17.3.11 is amended as follows:

17.3.11 Duplicate signatures ON THE SAME PETITION. If the elector has previously signed the same petition, the first valid entry VERIFIED shall be counted, and all other entries shall be rejected.

Rule 17.3.12 is amended as follows:


17.3.12 ELECTORS SIGNING PETITIONS FOR MORE THAN ONE CANDIDATE FOR THE SAME OFFICE.

- A. WHERE AN ELECTOR MAY SIGN ONLY ONE PETITION FOR THE SAME OFFICE AND SIGNS MULTIPLE PETITIONS, THE FIRST VALID ENTRY VERIFIED ON THE FIRST PETITION SUBMITTED TO THE DESIGNATED ELECTION OFFICIAL SHALL BE COUNTED, AND ALL OTHER ENTRIES SHALL BE REJECTED.
- B. Where an elector may sign more than one petition FOR THE SAME OFFICE, the first ~~signature(s) filed~~ VALID ENTRIES VERIFIED ON THE FIRST PETITIONS SUBMITTED TO THE DESIGNATED ELECTION OFFICIAL, up to the maximum allowed, shall be ~~the ones that are~~ counted, AND ALL OTHER ENTRIES SHALL BE REJECTED.

These new and amended rules shall take effect twenty (20) days after publication in the Colorado Register in accordance with the State Administrative Procedures Act.

A written Statement of Basis, Purpose and Specific Statutory Authority is attached and hereby incorporated herein by reference.

Dated this 18th day of April, 2011,


William A. Hobbs
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State



STATEMENT OF BASIS, PURPOSE, AND SPECIFIC STATUTORY AUTHORITY

**Office of the Secretary of State
Election Rules
8 CCR 1505-1**

April 18, 2011

I. Basis and Purpose

This statement pertains to the amendments to the Colorado Secretary of State Election Rules for the administration of Colorado State Constitution Article VII, and Title 1 of the Colorado Revised Statutes. The amendments are necessary to achieve the uniform and proper administration and enforcement of the election laws of the State of Colorado, including the requirements of the federal Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252. See sections 1-1.5-101 et seq., C.R.S. (2010).

The amendments to these rules are necessary for the implementation of Article VII of the Colorado Constitution and Title 1 of the Colorado Revised Statutes. Such revisions are further necessary to improve the administration of elections in Colorado, to increase the transparency and security of the election process, and to answer questions arising under Title 1 of the Colorado Revised Statutes.

The Secretary of State finds that the amendments and revisions to specific rules are necessary as follows:

- The Amendment to Rule 6.5.2(f)(1) clarifies how a referred or initiated measure containing both a proposed constitutional and statutory change should be ordered on the ballot. The amendment requires that such a measure be ordered on the ballot as a constitutional amendment.
- Amendments to Rules 15.2 and 15.3 are consistent with the ruling of the United States Court of Appeals for the Tenth Circuit in *Yes on Term Limits, Inc. v. Savage*, 550 F.3d 1023 (10th Cir. 2008). The amendments to these rules clarify residence information required to complete a circulator affidavit. Specifically, the rules require that a petition circulator who is not a Colorado resident for the purposes of voter registration must provide both his or her permanent residence address and the address in Colorado where he or she is living as of the date the circulator affidavit is signed.

- New Rule 17.1.8 clarifies that in accordance with Rule 15.4, no signatures submitted after the original filing will be counted.
- Amendments to Rules 17.3.11 and 17.3.12 clarify the verification process for duplicate signatures.

II. Statutory Authority

Amendments to the Colorado Secretary of State Election Rules are adopted pursuant to the following statutory provisions:

1. Section 1-1-107(2)(a), C.R.S., (2010), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-104(1)(e), C.R.S., (2010), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545].”

