

NOTICE OF ADOPTION

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

December 14, 2007

Pursuant to sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2007) and the rulemaking provisions of the State Administrative Procedure Act, section 24-4-103 C.R.S. (2007), I, Mike Coffman, Colorado Secretary of State, do hereby adopt and give **NOTICE** of the permanent rule adoption this 14th day of December, 2007, of the Secretary of State Election Rules (8 CCR 1505-1) as follows (additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~).

New Rule 2.6.3 is adopted as follows:

- 2.6.3 PURSUANT TO SECTION 1-2-509, C.R.S., A COUNTY CLERK SHALL TREAT AN APPLICATION AS "INCOMPLETE" IF AN APPLICANT FOR VOTER REGISTRATION PROVIDES A SOCIAL SECURITY NUMBER OR A PORTION OF A SOCIAL SECURITY NUMBER, BUT DOES NOT PROVIDE A DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD NUMBER AND FAILS TO INDICATE WHETHER THEY HAVE A DRIVER'S LICENSE OR IDENTIFICATION CARD NUMBER. THE COUNTY CLERK SHALL NOTIFY THE APPLICANT THAT THE APPLICATION IS NOT COMPLETE AND STATE THE ADDITIONAL INFORMATION REQUIRED TO COMPLETE REGISTRATION. A COUNTY CLERK MAY PLACE SUCH APPLICATION IN AN "INCOMPLETE" FILE WITHIN THE VOTER REGISTRATION SYSTEM, BUT THE APPLICANT SHALL NOT BE CONSIDERED REGISTERED UNLESS SUCH INFORMATION IS PROVIDED. THE APPLICANT SHALL BE DEEMED REGISTERED AS OF THE DATE OF APPLICATION IF THE ADDITIONAL INFORMATION IS PROVIDED AT ANY TIME PRIOR TO THE ACTUAL VOTING.
[1-2-204(2)(f.5) and (3)(c)]

Rule 2.7 is amended as follows:

- 2.7 First Time Voter Who Registers by Mail.
- 2.7.1 Prior to the implementation of the statewide voter registration database, when a first time voter registers to vote by mail, the voter shall provide a copy of one of the forms of identification set forth in Rule 30.1.6.
- 2.7.2 IF AN APPLICANT FAILS TO CHECK THE BOX(ES) ANSWERING THE QUESTION(S), "ARE YOU A CITIZEN OF THE UNITED STATES?" OR "WILL YOU BE 18 YEARS OF AGE ON

OR BEFORE ELECTION DAY?”, THE FORM SHALL BE ACCEPTED FOR REGISTRATION SO LONG AS IT IS OTHERWISE COMPLETE AND THE AFFIRMATION AT THE BOTTOM OF THE FORM IS SIGNED.

New Rule 2.11 is adopted as follows:

2.11 FOR THE PURPOSES OF SECTION 1-2-605(4)(A), C.R.S., AN UPDATE TO A VOTER'S REGISTRATION INFORMATION TO CHANGE THE VOTER'S STATUS FROM INACTIVE TO ACTIVE MUST BE PROVIDED TO THE COUNTY CLERK AND RECORDER BY ANY OF THE FOLLOWING WAYS:

- A. A SIGNED WRITTEN REQUEST, DELIVERED IN PERSON OR BY U.S. MAIL, FAX, OR PDF ATTACHMENT TO AN EMAIL; OR
- B. ORAL REQUEST IN PERSON WHEN VOTER PRESENTS IDENTIFICATION.

2.11.1 IN THE CASE OF THE APPLICANT'S INABILITY TO SIGN, THE ELECTOR'S MARK SHALL BE WITNESSED BY ANOTHER PERSON.

Rule 5.4.1 is amended as follows:

5.4.1 The form and verification of any petition requesting an election conducted by a water conservancy district pursuant to sections 37-45-114 (2) AND 37-45-136(3.5), C.R.S., (“Petition”), shall conform with the requirements of sections 1-40-113 and 1-40-116, C.R.S., and the sections cited therein, and Rule 22 17 of these rules; except that no prior approval of the form of such election petition needs to be provided by the Secretary of State, the petition shall be filed with the Court and the verification process shall be directed by the water conservancy district named in the petition rather than the Secretary of State, and the “warning” language appearing on the petition shall be applicable to the election requested to be conducted.

Rule 5.4.2 is amended as follows:

5.4.2 The procedures for issuing the statement of sufficiency or insufficiency of the petition shall conform to the requirements of section 1-40-117, C.R.S., and Rule 22.4-18 of these rules; except that such statement shall be issued by the water conservancy district named in the petition, unless otherwise ordered by the Court.

Rules 5.4.5 and 5.4.6 is amended as follows:

5.4.5 ~~Upon final determination of the sufficiency of a petition, the court~~ ANY ELECTION PURSUANT TO SECTION 37-45-114(2), C.R.S., shall order, regardless of the actual expiration date of the term of the office subject to the court ordered election, the holding of the election to be conducted no more than ONE HUNDRED (100)100 days nor less than SIXTY (60)60 days from the date of suchTHE Court order, unless-REGARDLESS OF THE ACTUAL EXPIRATION DATE OF THE TERM OF THE OFFICE, UNLESS THE COURT ORDER ESTABLISHES AN ALTERNATE DATE, OR the water conservancy district has notified the Court that such election is to be conducted as a coordinated election pursuant to section 1-7-116, C.R.S.

5.4.6 The form and procedures for filing candidate nomination forms and call for nominations of persons desiring to be a candidate for the office to be voted upon at the Court-ordered election described in PARAGRAPH A OF Rule 5.4.5-~~of these rules~~, shall be in conformance with the form and procedures required for special districts under Article 1, Title 32, C.R.S., unless otherwise ordered by the Court.

New Rule 7.6 is adopted as follows:

7.6 TIME IN VOTING AREA. PURSUANT TO SECTION 1-7-115, C.R.S., IF VOTING BOOTHS IN A POLLING PLACE ARE ALL IN USE AND ELIGIBLE ELECTORS ARE WAITING TO USE THEM, EACH VOTER SHALL BE ALLOWED A MAXIMUM TIME IN A VOTING BOOTH.

7.6.1 THE MAXIMUM ALLOWABLE TIME IN A VOTING BOOTH SHALL BE FIFTEEN (15) MINUTES. THE SECRETARY OF STATE MAY ISSUE AN ORDER TO A DESIGNATED ELECTION OFFICIAL REQUIRING OR ALLOWING ADDITIONAL TIME BASED ON THE LENGTH OF THE BALLOT.

7.6.2 NOTWITHSTANDING RULE 7.6.1, THERE SHALL NOT BE A MAXIMUM ALLOWABLE TIME FOR VOTERS WITH DISABILITIES.

Rule 12.1.1.1 is amended as follows:

12.1.1.1 The secrecy sleeve or secrecy envelope shall be uniform within each type of mail-in ballot or mail ballot voting system used in the State of Colorado. Each secrecy sleeve, secrecy envelope, or voter instructions used in the State of Colorado in any mail ballot or mail-in ballot election shall INFORM THE VOTER THAT ADDITIONAL POSTAGE MAY BE REQUIRED TO RETURN A VOTED BALLOT AND contain the following required language, approved by the Secretary of State, regarding identification requirements of voters who have registered by mail:

(a) "First Time Voters Who Register By Mail"

"If you registered in your county by mail, and did not submit proof of identification in accordance with section 1-2-501, C.R.S., a copy of one of the forms of identification listed in Rule 30.1.6 is required with your mail ballot or your absentee MAIL-IN ballot."

(b) "Failure to provide ID will result in your ballot being treated as a provisional ballot. Provisional ballots are counted when registration is verified." See section 1-7.5-107(3.5)(d), C.R.S.

Rule 26.1.5 is amended as follows:

26.1.5 For the purposes of ~~Article 8.5 of C.R.S.~~TITLE 1, ARTICLE 8.5, C.R.S., and this Rule 26, "statewide offices" shall be defined as the following:

- Governor-Lieutenant Governor (as a pair)
- Attorney General

- Secretary of State
- Treasurer
- Regent of the University of Colorado – At Large
- JUSTICE OF THE SUPREME COURT
- JUDGE OF THE COURT OF APPEALS

New Rule 26.1.6 is adopted as follows:

26.1.6 VOTER ACCESS TO PROVISIONAL BALLOT INFORMATION REQUIRED BY SECTION 1-8.5-111, C.R.S.

26.1.6.1 THE SYSTEM SHALL BE MADE AVAILABLE TO THE VOTER FOR NO LESS THAN THIRTY (30) DAYS FOLLOWING THE DATE OF THE ELECTION.

26.1.6.2 THE SYSTEM SHALL PROVIDE ACCESS TO INFORMATION AT NO COST TO THE VOTER, REGARDLESS OF THE VOTER'S LOCATION, BY TOLL-FREE TELEPHONE CALL, INTERNET WEBSITE, OR OTHER SUITABLE MEDIUM, PURSUANT TO 1-8.5-111, C.R.S.

Rule 38 is amended as follows:

Rule 38. Minimum Security Procedures for Transmission of Election Records by Secure, Dedicated Teleprocessing Lines Employed by Vote Centers. See section 1-5-102.7, C.R.S.

38.1 Definitions.

38.1.1 "Vote Center" means a polling place at which any registered elector in the political subdivision holding the election may vote, regardless of the precinct in which the elector resides.

38.1.2 "Teleprocessing Lines" means secure, dedicated communication transmission facilities used for the purpose of transferring Elector Data between Vote Centers and a centralized computerized pollbook maintained by the county clerk and recorder, to ensure the security and integrity of voting information so that no deviation can go undetected.

38.1.3 "Elector Data" means voting information, including but not limited to, voter registration, voting history, and voting tabulations.

38.1.4 "Electronic Pollbook" is a list of eligible electors in electronic format who are permitted to vote at a polling place in an election conducted under the Election Code, which shall be processed by a computer at a Vote Center to be immediately accessible to all other computers at all Vote Centers in the county.

38.2 This Rule applies to each designated election official who transmits election records via Teleprocessing Lines to a centralized Electronic Pollbook maintained by the county clerk

and recorder for the purpose of running an election and compiling complete returns. THIS RULE 38 SHALL ONLY APPLY TO ELECTRONIC POLLBOOKS USED FOR VOTE CENTERS.

38.3 MINIMUM CONTINGENCY AND SECURITY PROCEDURES

38.3.1 The designated election official shall establish written ~~minimum~~—security procedures covering the transference of Vote Center teleprocessing information.

38.3.2 Such procedures shall include security covering the transmission of Elector Data processed through the Electronic Pollbook and reconciliation of the registration and history of voters casting ballots at a Vote Center.

38.3.3 SUCH PROCEDURES SHALL INCLUDE CONTINGENCY PROCEDURES FOR NETWORK AND POWER FAILURE. SUCH PROCEDURES SHALL AT A MINIMUM INCLUDE PROCEDURES TO ADDRESS ALL SINGLE POINT FAILURES INCLUDING:

- A. NETWORK FAILURE;
- B. POWER FAILURE THAT LASTS LESS THAN ONE (1) HOUR; AND
- C. POWER FAILURE THAT LASTS MORE THAN ONE (1) HOUR.

38.3.4 ACCEPTABLE ALTERNATIVES FOR ADDRESSING SUCH FAILURES INCLUDE EITHER:

- A. A PAPER BACKUP OF THE POLLBOOK WITH THE MINIMUM INFORMATION REQUIRED TO VERIFY A VOTER'S ELIGIBILITY; OR
- B. A SUFFICIENT NUMBER OF COMPUTERS PER VOTE CENTER TO ENSURE THAT THE VOTER CHECK-IN CONTINUES IN AN EFFICIENT MANNER. THE COMPUTERS SHALL HAVE THE ABILITY TO FUNCTION ON BATTERIES OR AN EXTERNAL POWER SOURCE FOR UP TO TWO (2) HOURS. IN ADDITION, EACH COMPUTER SHALL HAVE AN ELECTROTNIC BACKUP OF THE CURRENT POLLBOOK IN ONE (1) OF THE FOLLOWING FORMATS:
 - I. A PORTABLE DOCUMENT FILE (PDF);
 - II. A SPREADSHEET THAT IS LIMITED TO SIXTY-FOUR THOUSAND (64, 000) LINES IF IN EXCEL; OR
 - III. A DATABASE WITH A BASIC LOOK-UP INTERFACE.

38.3.5 IN ADDITION TO ACCEPTABLE BACKUP POLLBOOK PROCEDURES, THE SECURITY PROCEDURES SHALL ADDRESS CONTINGENCY PROCEDURES TO PROTECT AGAINST ACTIVITIES SUCH AS VOTING TWICE, INCLUDING BUT NOT LIMITED TO THE USE OF AN AFFIDAVIT THAT THE VOTER HAS NOT AND WILL NOT CAST ANOTHER BALLOT.

38.4 MINIMUM STANDARDS FOR DATA ENCRYPTION

38.4.1 THE DESIGNATED ELECTION OFFICIAL SHALL SUBMIT TO THE SECRETARY OF STATE EVIDENCE THAT THE CONNECTION TO AN ELECTRONIC POLLBOOK IS SECURE INCLUDING DETAILS CONCERNING ENCRYPTION METHODOLOGY. IN ADDITION, THE

ELECTRONIC POLLBOOK SHALL MEET OR EXCEED THE FOLLOWING STANDARDS. THE REQUIREMENTS OF THIS RULE SHALL NOT APPLY TO COUNTIES USING THE STATEWIDE COLORADO REGISTRATION AND ELECTION (SCORE) SYSTEM ELECTRONIC POLLBOOK AS THE SECRETARY OF STATE SHALL ENSURE COMPLIANCE WITH THE MINIMUM STANDARDS FOR DATA ENCRYPTION REQUIRED BY THIS RULE 38.4.

- A. PROVEN, STANDARD ALGORITHMS SUCH AS DES, BLOWFISH, RSA, RC5 AND IDEA SHOULD BE USED AS THE BASIS FOR ENCRYPTION TECHNOLOGIES.
- B. IF AN ELECTRONIC POLLBOOK UTILIZES A VIRTUAL PRIVATE NETWORK (VPN), THE FOLLOWING SHALL APPLY:
 - 1. IT IS THE RESPONSIBILITY OF THE COUNTY TO ENSURE THAT UNAUTHORIZED USERS ARE NOT ALLOWED ACCESS TO INTERNAL NETWORKS.
 - 2. VPN USE IS TO BE CONTROLLED USING EITHER A ONE-TIME PASSWORD AUTHENTICATION SUCH AS A TOKEN DEVICE OR A PUBLIC/PRIVATE KEY SYSTEM WITH A STRONG PASSPHRASE.
 - 3. WHEN ACTIVELY CONNECTED TO THE NETWORK, VPNS WILL FORCE ALL TRAFFIC TO AND FROM THE PC OVER THE VPN TUNNEL: ALL OTHER TRAFFIC WILL BE DROPPED.
 - 4. DUAL (SPLIT) TUNNELING IS NOT PERMITTED; ONLY ONE (1) NETWORK CONNECTION IS ALLOWED.
 - 5. VPN GATEWAYS WILL BE SET UP AND MANAGED BY THE COUNTY OR ITS DESIGNEE.
 - 6. ALL COMPUTERS CONNECTED TO INTERNAL NETWORKS VIA VPN OR ANY OTHER TECHNOLOGY MUST USE UP-TO-DATE ANTI-VIRUS SOFTWARE.
 - 7. THE VPN CONCENTRATOR IS LIMITED TO AN ABSOLUTE CONNECTION TIME OF TWENTY-FOUR (24) HOURS.
 - 8. ONLY INFOSEC-APPROVED VPN CLIENTS MAY BE USED.

38.5 MINIMUM ELECTRONIC POLLBOOK REQUIREMENTS

- 38.5.1 THE DESIGNATED ELECTION OFFICIAL SHALL ADHERE TO THE FOLLOWING MINIMUM PROCEDURES AND SHALL INCLUDE IN THE SECURITY PLAN, PURSUANT TO SECTION 1-5-616(5), C.R.S., DOCUMENTATION OF THE COUNTY'S PLAN FOR COMPLIANCE AND ASSURANCE THAT PRE-ELECTION TESTING WILL BE CONDUCTED. THE REQUIREMENTS OF THIS RULE SHALL NOT APPLY TO COUNTIES USING THE STATEWIDE COLORADO REGISTRATION AND ELECTION (SCORE) SYSTEM ELECTRONIC POLLBOOK AS THE SECRETARY OF STATE SHALL ENSURE COMPLIANCE WITH THE MINIMUM ELECTRONIC POLLBOOK REQUIREMENTS.

- 38.5.2 THE SYSTEM SHALL CONTAIN ENOUGH BANDWIDTH TO HANDLE THE PROCESSING TIME, TAKING INTO ACCOUNT SECURED TRANSACTION METHOD, FOR ANY COMPUTER ON THE SYSTEM AS FOLLOWS:
- A. A MAXIMUM OF FIVE (5) SECONDS TO UPDATE VOTER CREDIT;
 - B. A MAXIMUM OF ONE AND A HALF (1.5) SECONDS TO PROCESS A VOTER INQUIRY BY IDENTIFICATION NUMBER; AND
 - C. A MAXIMUM OF FORTY-FIVE (45) SECONDS FOR SESSION STARTUP AND PASSWORD VERIFICATION.
- 38.5.3 THE COUNTY SHALL SUBMIT IN THE SECURITY PLAN THE SYSTEM DATA TRANSFER REQUIREMENTS TO COMPLETELY PROCESS A SINGLE VOTER RECORD. THIS SHALL INCLUDE AT A MINIMUM THE FOLLOWING:
- A. THE DATA STREAM INFORMATION ON BOTH SEND AND RECEIVING DATA FOR ALL POINTS OF THE TRANSACTION UNTIL THE TRANSACTION IS COMPLETE;
 - B. INFORMATION ON ALL POINTS WHERE THE CONNECTION IS CLOSED AND THE DATA STREAM RELEASED BETWEEN THE REMOTE COMPUTER AND THE SERVER; AND
 - C. THE PROPOSED METHOD OF SECURING TRANSMISSIONS ACROSS PUBLIC NETWORKS.
- 38.5.4 THE COUNTY SHALL SUBMIT IN THE SECURITY PLAN A DETAILED LIST OF ALL VOTE CENTERS, WITH A PROPOSED NUMBER OF WORKSTATIONS CONNECTING TO THE DATABASE AND THE PROPOSED CONNECTION (INCLUDING BANDWIDTH AND SECURITY) FOR EACH LOCATION.

38.5.5 ELECTRONIC POLLBOOK PRE-ELECTION TESTING PROCEDURES

38.5.5.1 THE ELECTRONIC POLLBOOK APPLICATION SHALL BE TESTED TO ENSURE THAT IT MEETS THE MINIMUM SYSTEM REQUIREMENTS PRIOR TO THE FIRST ELECTION IN WHICH IT IS USED.

- A. THE APPLICATION SHALL ALSO BE TESTED AFTER THE IMPLEMENTATION OF ANY SYSTEM MODIFICATIONS. THE COUNTY SHALL INDICATE IN THE SUBSEQUENT SECURITY PLAN WHETHER SUCH RETESTING HAS OCCURRED.

38.5.5.2 THE TEST SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING:

- A. A LOAD TEST SHALL BE DEMONSTRATED THROUGH EITHER SIXTY PERCENT (60%) OF ACTUAL COMPUTERS RUNNING AT PROPOSED BANDWIDTH AND SECURITY SETTINGS, OR BY SIMULATING A LOAD TEST WITH COMMERCIAL-OFF-THE-SHELF ("COTS") TECHNOLOGY DESIGNED FOR LOAD TESTING SUCH AS MERCURY;

- B. A CONTINGENCY/FAILURE TEST SHALL BE DEMONSTRATED AND DOCUMENTED ILLUSTRATING THE EFFECTS OF FAILURES IDENTIFIED IN RULE 38.3.3; AND
- C. ALL TESTS SHALL BE CONDUCTED WITH CLIENTS AND SERVERS IN NORMAL, TYPICAL, DEPLOYED OPERATING MODE.

38.5.5.3 ALL RECORDS AND DOCUMENTATION OF THE TESTING SHALL BE RETAINED BY THE DESIGNATED ELECTION OFFICIAL FOR A PERIOD OF TWENTY-FIVE (25) MONTHS AS PART OF THE ELECTION RECORD PURSUANT TO SECTION 1-7-802, C.R.S. THE TESTING RECORD AND DOCUMENTATION SHALL INCLUDE BUT IS NOT LIMITED TO THE FOLLOWING:

- A. A FORMAL TEST PLAN CONTAINING ALL TEST SCRIPTS USED;
 - I. THE TEST PLAN SHALL INCLUDE TEST ENVIRONMENT CONTAINING MAKE, MODEL, TYPE OF HARDWARE AND SOFTWARE VERSIONS USED IN TESTING.
 - II. THE TEST PLAN SHALL ALSO INCLUDE THE NUMBER OF CLIENT COMPUTERS, SERVERS, AND PHYSICAL LOCATIONS INVOLVED IN TESTING.
- B. TEST LOGS OF ALL EVENTS THAT WERE OBSERVED DURING TESTING INCLUDING:
 - I. THE SEQUENCE OF ACTIONS NECESSARY TO SET UP THE TESTS;
 - II. THE ACTIONS NECESSARY TO START THE TESTS;
 - III. THE ACTIONS TAKEN DURING THE EXECUTION OF THE TESTS;
 - IV. ANY MEASUREMENTS TAKEN OR OBSERVED DURING THE TESTS;
 - V. ANY ACTIONS NECESSARY TO STOP AND/OR SHUT DOWN THE TESTS;
 - VI. ANY ACTIONS NECESSARY TO BRING THE TESTS TO A HALT; AND
 - VII. ANY ACTIONS NECESSARY OR TAKEN TO DEAL WITH ANOMALIES EXPERIENCED DURING TESTING.
- C. PERFORMANCE LOGS AND REPORTS TAKEN FROM BOTH SERVER(S) AND WORKSTATION(S) DURING THE TESTING WHICH CONTAIN PERFORMANCE INFORMATION OF:
 - I. NETWORK USAGE (BANDWIDTH);

- II. PROCESSOR UTILIZATION;
 - III. RANDOM ACCESS MEMORY (RAM) UTILIZATION; AND
 - IV. ANY ADDITIONAL PERFORMANCE MONITORING REPORTS NECESSARY TO EXPLAIN THE PROCESS TAKEN AND TO SUPPORT THE FINDINGS OF THE TESTS.
- D. ALL TEST LOGS SHALL CONTAIN DATE, TIME, OPERATOR, TEST STATUS (OR OUTCOME), AND ANY ADDITIONAL INFORMATION TO ASSIST THE SECRETARY IN MAKING A DETERMINATION.

38.6 MINIMUM NUMBER OF COMPUTERS REQUIRED FOR A VOTE CENTER

38.6.1 COUNTIES SHALL ALLOCATE COMPUTERS TO THEIR VOTE CENTERS BASED UPON THE FOLLOWING MINIMUM REQUIREMENTS. VOTER REGISTRATION NUMBERS SHALL BE CALCULATED BASED UPON THE TOTAL NUMBER OF REGISTERED VOTERS IN THE COUNTY NINETY (90) DAYS PRECEDING THE ELECTION. THE MINIMUM COMPUTERS REQUIRED SHALL BE ON-SITE AT EACH VOTE CENTER. FOR PRIMARY OR COORDINATED ELECTIONS, COUNTIES SHALL ALLOCATE NO LESS THAN 2 ON-SITE COMPUTERS AT EACH VOTE CENTER WITH THE EXCEPTION PROVIDED IN THIS RULE 38.6.1 (A). THIS RULE 38.6 SHALL NOT APPLY TO EARLY VOTING.

- A. COUNTIES WITH FEWER THAN TEN THOUSAND (10,000) REGISTERED VOTERS SHALL ALLOCATE A MINIMUM OF TWO (2) COMPUTERS TO EACH VOTE CENTER, EXCEPT THAT A COUNTY WITH FEWER THAN TEN THOUSAND (10,000) REGISTERED VOTERS MAY ALLOCATE A SINGLE COMPUTER TO EACH VOTE CENTER SO LONG AS THE COUNTY HAS ESTABLISHED PAPER BACKUP CONTINGENCY PROCEDURES OF THE POLLBOOK WITH THE MINIMUM INFORMATION REQUIRED TO VERIFY A VOTER'S ELIGIBILITY.
- B. COUNTIES HAVING AT LEAST TEN THOUSAND (10,000) BUT FEWER THAN TWENTY-FIVE THOUSAND (25,000) REGISTERED VOTERS SHALL ALLOCATE A MINIMUM OF THREE (3) COMPUTERS TO EACH VOTE CENTER.
- C. COUNTIES HAVING AT LEAST TWENTY-FIVE THOUSAND (25,000) BUT FEWER THAN FIFTY THOUSAND (50,000) REGISTERED VOTERS SHALL ALLOCATE A MINIMUM OF THIRTY-TWO (32) COMPUTERS TO BE DISPERSED AS EQUALLY AS POSSIBLE AMONG ALL VOTE CENTERS.
- D. COUNTIES HAVING AT LEAST FIFTY THOUSAND (50,000) BUT FEWER THAN SEVENTY-FIVE THOUSAND (75,000) REGISTERED VOTERS SHALL ALLOCATE A MINIMUM OF SIXTY-THREE (63) COMPUTERS TO BE DISPERSED AS EQUALLY AS POSSIBLE AMONG ALL VOTE CENTERS.
- E. COUNTIES WITH MORE THAN SEVENTY-FIVE THOUSAND (75,000) REGISTERED VOTERS SHALL ALLOCATE A MINIMUM OF NINETY-FIVE (95) COMPUTERS TO BE DISPERSED AS EQUALLY AS POSSIBLE AMONG ALL VOTE CENTERS.

38.6.1.1 A COUNTY MAY SUBMIT TO THE SECRETARY OF STATE AN ALTERNATE PLAN ESTABLISHING THE NUMBER OF COMPUTERS ALLOCATED TO EACH VOTE CENTER. SUCH ALTERNATE PLAN SHALL:

- ESTABLISH THE REASON(S) FOR PROPOSED COMPUTER ALLOCATION AND PROVIDE STATISTICAL INFORMATION BASED ON HISTORICAL VOTER TURNOUT AT EACH VOTE CENTER;
- PROVIDE INFORMATION RELATING TO POPULATION CENTERS WITHIN THE COUNTY; AND
- INCLUDE OTHER RELEVANT INFORMATION, AS NECESSARY.

IN NO EVENT SHALL AN ALTERNATE PLAN BE SUBMITTED TO THE SECRETARY OF STATE UNLESS THE MINIMUM AMOUNT OF COMPUTERS ALLOCATED BY A COUNTY IS EQUAL TO OR GREATER THAN THE MINIMUM NUMBER OF COMPUTERS ESTABLISHED IN THIS RULE AND THERE ARE NO LESS THAN TWO (2) COMPUTERS ALLOCATED TO EACH VOTE CENTER EXCEPT FOR THE REQUIREMENTS ESTABLISHED IN RULE 38.6.1 (A).

- 38.47 ~~Such~~ WRITTEN procedures AND REPORTS REQUIRED BY THIS RULE 38 shall be submitted ~~in writing~~ to the Secretary of State and received by that Office for approval no later than sixty (60) days before the election date. The Secretary of State shall either approve the procedures submitted or notify the designated election official of recommended changes.
- 38.58 If the Secretary of State rejects or approves the written procedures, the Secretary of State shall provide written notice of such rejection/approval, including specifics of non-compliance with this Rule, within fifteen (15) days of receiving the written procedures.
- 38.69 IF THE SECRETARY OF STATE REJECTS THE WRITTEN PROCEDURES, ~~The~~The designated election official shall submit a revised procedure within fifteen (15) days thereafter.
- 38.710 The Secretary of State shall permit the filing of the revised procedures at a later date if it is determined that compliance with the fifteen day requirement is impossible.
- 38.811 All reconciliations must be accomplished prior to canvassing board certification of final results and shall be certified by the canvassing board. The certification of reconciliation shall be filed with the Secretary of State at the time the canvassing board certification of official election results is filed.
- 38.912 Where the Elector Data is transmitted via Teleprocessing Lines for the purpose of combining with other such tabulations to produce complete returns, the designated election official shall establish procedures to reconcile received transmitted tabulations so that no deviation can go undetected.
- 38.1013 Prior to January 1, 2008, election judges shall make one certificate for each Vote Center in the form required by section 1-7-601, C.R.S.
- 38.114 Certificate of Reconciliation
- (a) In addition to the statutory form required by section 1-7-601, C.R.S., the election

judges for each ~~Voter~~-VOTE Center shall submit a certification of reconciliation in substantially the following form:

During the ____ Election held in _____ County on _____, 20____, Elector Data was transmitted using dedicated Teleprocessing Lines. The canvassing board hereby certifies that the reconciliation procedures required by Rule ~~38.8-38.11~~, Minimum Security Procedures for Transmission of Election Records by Dedicated Teleprocessing Lines in Vote Centers has been complied with.

(b) The Certification of Reconciliation must be signed and dated by the designated election official.

38.4215 After January 1, 2008, reconciliation shall consist of race-by-race comparison by precinct of the received tabulation to a tabulation report produced from the original tabulations sent from the precinct to those received at the Vote Center. All tabulation reconciliations must be accomplished prior to canvassing board certification of final results and shall be certified by the canvassing board. This certification of reconciliation shall be filed with the Secretary of State at the time the canvassing board certification of official election results is filed.

New Rule 40.5 is adopted as follows:

40.5 THE ADVISORY BOARD MAY REJECT APPLICATIONS FOR CERTIFICATION IF ANY OF THE EIGHT (8) CORE AND SIX (6) ELECTIVE CREDIT REQUIREMENTS HAVE BEEN ACHIEVED THROUGH A DUPLICATION OF COURSE CREDITS.

Succeeding sections would be renumbered according.

Rule 40.8.2 is amended as follows:

~~40.8.2 If a certification lapses within 18 months, the person shall be required to make up the continuing elections education credits to maintain certification.~~ CERTIFIED ELECTION OFFICIAL FAILS TO SATISFY CONTINUING ELECTIONS EDUCATION REQUIREMENTS IN ONE (1) CALENDAR YEAR, THEN THE ELECTION OFFICIAL SHALL HAVE A MAXIMUM OF TWELVE (12) MONTHS TO COMPLETE CONTINUING EDUCATION REQUIREMENTS FOR THE PREVIOUS CALENDAR YEAR AND THE CURRENT CALENDAR YEAR.

Rule 40.8.3 is amended as follows:

~~40.8.3 If a certification lapses after a period greater than 18 months, the person shall be required to fulfill all the necessary certification requirements and re-apply for certification.~~ FAILURE TO SATISFY CONTINUING EDUCATION REQUIREMENTS FOR TWO (2) CONSECUTIVE YEARS SHALL RESULT IN DE-CERTIFICATION.

Rule 40.8.4 is repealed as follows:

~~40.8.4 The advisory board created shall have the authority to review all de-certifications and take into account any extenuating circumstances regarding re-certification.~~

Rule 40.9 is repealed as follows:

~~40.9 Applications for certification received in the Year 2006~~

~~40.9.1 For applications for certification received by the secretary of state in the Year 2006, the advisory board may grant approval of certification if the applicant has met the following requirements:~~

Rule 43.8.7.1(c) is amended as follows:

- c. Transportation by Contract. Counties electing to contract the delivery of equipment to remote voting locations shall perform CBI background checks on the specific individuals who will be delivering the equipment. Two (2) employees or election judges shall verify, sign, and date the seal-tracking log upon release of the equipment TO THE INDIVIDUALS DELIVERING THE EQUIPMENT. ~~and two~~ TWO (2) other employees or election judges shall verify, sign, and date the seal-tracking log ~~upon acceptance of~~ AFTER the equipment at the delivery point HAS BEEN DELIVERED, AND PRIOR TO THE OPENING OF THE POLLS. If there is any evidence of possible tampering with a seal, or if the serial numbers do not agree, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in section 43.8.11 of this Rule.

Rule 44.4.5 is amended as follows:

44.4.5 The VRD organizer is not eligible to receive ~~standard~~ THE APPROVED Colorado Voter Registration DRIVE Application Forms until the organizer has completed training, signed the statement of intent, completed and signed the Acknowledgement, and been assigned a number.

New Rules 44.5 and 44.6 are adopted as follows:

44.5 RENEWAL PROCEDURES

44.5.1 PRIOR TO CONDUCTING A VRD IN THE NEXT CALENDAR YEAR, A VRD ORGANIZER THAT COMPLETED TRAINING AND WAS ASSIGNED A UNIQUE VRD NUMBER IN THE PRIOR YEAR MUST APPLY FOR RENEWAL AND RECEIVE A NEW VRD NUMBER.

44.5.2 TO RECEIVE A VRD NUMBER FOR THE NEXT CALENDAR YEAR, THE VRD ORGANIZER MAY COMPLETE AN ONLINE RENEWAL WITHIN SIXTY (60) DAYS AFTER EXPIRATION OF THE VRD NUMBER, OR ATTEND TRAINING OFFERED BY THE SECRETARY OF STATE IN ACCORDANCE WITH RULE 44.2.

44.5.3 FOR ONLINE RENEWAL, THE VRD ORGANIZER SHALL COMPLETE THE RENEWAL EXERCISE PROVIDED ON THE SECRETARY OF STATE WEBSITE. THE VRD ORGANIZER SHALL THEN SUBMIT TO THE SECRETARY OF STATE A COMPLETED STATEMENT OF INTENT IN ACCORDANCE WITH SECTION 1-2-701, C.R.S., AND RULE 44.1.

- A. A VRD ORGANIZER WHO CORRECTLY ANSWERS ONE HUNDRED PERCENT (100%) OF THE RENEWAL EXERCISE QUESTIONS SHALL BE ISSUED A VRD NUMBER FOR THE NEXT CALENDAR YEAR.
- B. A VRD ORGANIZER WHO DOES NOT CORRECTLY ANSWER ONE HUNDRED PERCENT (100%) OF THE RENEWAL EXERCISE QUESTIONS SHALL NOT BE ISSUED A VRD NUMBER FOR THE NEXT CALENDAR YEAR UNTIL HE OR SHE ATTENDS A TRAINING OFFERED BY THE SECRETARY OF STATE.

44.5.4 A VRD ORGANIZER THAT ATTENDED TRAINING IN PERSON OR VIA CONFERENCE CALL IN THE PREVIOUS YEAR IS ELIGIBLE TO COMPLETE THE ONLINE RENEWAL IN THE CURRENT YEAR.

44.6 VOTER REGISTRATION DRIVE COMPLAINTS AND FINES

44.6.1 ANY PERSON, INCLUDING THE SECRETARY OF STATE, WHO BELIEVES A VRD ORGANIZER OR CIRCULATOR HAS NOT COMPLIED WITH THE REQUIREMENTS OF SECTION 1-2-701 *ET SEQ.*, C.R.S., OR THIS RULE 44 MAY FILE A WRITTEN COMPLAINT WITH THE SECRETARY OF STATE.

44.6.2 A WRITTEN COMPLAINT FILED WITH THE SECRETARY OF STATE SHALL CONTAIN THE FOLLOWING INFORMATION:

- A. THE COMPLAINANT'S NAME;
- B. THE COMPLAINANT'S FULL RESIDENCE ADDRESS AND MAILING ADDRESS (IF DIFFERENT FROM RESIDENCE);
- C. A DESCRIPTION OF THE ALLEGED VIOLATION, WHICH MAY INCLUDE A REFERENCE TO THE PARTICULAR STATUTE OR RULE;
- D. THE NAME AND ASSIGNED NUMBER OF THE VRD, IF KNOWN;
- E. THE DATE AND LOCATION OF THE ALLEGED VIOLATION, IF KNOWN; AND
- F. OTHER APPLICABLE OR RELEVANT INFORMATION

44.6.3 THE SECRETARY OF STATE SHALL REVIEW ALL COMPLAINTS SUBMITTED IN WRITING AND CONDUCT SUCH INVESTIGATIONS AS MAY BE NECESSARY AND APPROPRIATE. IF THE SECRETARY OF STATE DETERMINES THAT A VIOLATION HAS OCCURRED, THE SECRETARY OF STATE SHALL IMPOSE A FINE IN ACCORDANCE WITH SECTION 1-2-703, C.R.S.

44.6.4 THE SECRETARY OF STATE SHALL REVIEW ALL COMPLAINTS SUBMITTED IN WRITING AND CONDUCT SUCH INVESTIGATIONS AS MAY BE NECESSARY AND APPROPRIATE. IF THE SECRETARY OF STATE DETERMINES THAT A VIOLATION HAS OCCURRED, THE SECRETARY OF STATE SHALL IMPOSE A FINE IN ACCORDANCE WITH SECTION 1-2-703, C.R.S., AND NOTIFY THE VRD ORGANIZER OF:


- 44.6.4.1 THE DATE AND FACTUAL BASIS OF EACH ACT WITH WHICH THE VRD ORGANIZER IS BEING CHARGED;

- 44.6.4.2 THE PARTICULAR PROVISION OF THE STATUTE VIOLATED; AND
- 44.6.4.3 THE AMOUNT OF THE FINE IMPOSED.
- 44.6.5 NOTIFICATION OF VIOLATION SHALL BE SENT BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE VRD ORGANIZER.
- 44.6.6 THE VRD ORGANIZER MAY APPEAL A FINE AND SHALL HAVE THIRTY (30) DAYS FOLLOWING RECEIPT OF NOTIFICATION TO SUBMIT A WRITTEN RESPONSE SETTING FORTH THE REASON(S) THAT THE VRD ORGANIZER IS APPEALING THE FINE. THE VRD ORGANIZER MAY REQUEST, WITHIN THE THIRTY (30) DAYS, A HEARING WITH THE SECRETARY OF STATE TO DISPUTE THE FINE.
- 44.6.7 WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THE WRITTEN RESPONSE, OR HEARING PROCEDURES, THE SECRETARY OF STATE SHALL ISSUE AN ORDER AFFIRMING OR DISMISSING THE IMPOSED FINE.

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 by reference herein.

Dated this 14th day of December, 2007.



William A. Hobbs
Deputy Secretary of State

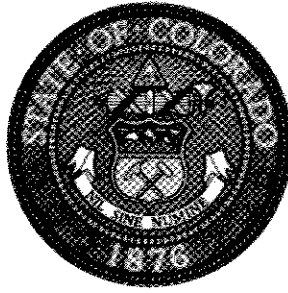
For

Mike Coffman
Colorado Secretary of State

STATE OF COLORADO

Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Mike Coffman

Secretary of State

Holly Z. Lowder

Director, Elections Division

Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State

Election Rules

8 CCR 1505-1

December 14, 2007

1. 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 implemented 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"), U.S.C. 15301 to 15545. See sections 1-1.5-101 *et seq.*, C.R.S. (2007).

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 necessary to improve the administration of elections in Colorado, to answer questions arising under Title 1 of the Colorado Revised Statutes, and to implement amendments to the Colorado election laws made during the 2007 regular session of the 66th General Assembly. The adoption of the amendments to the Rules is further necessary to increase the transparency and security of the election process.

The adoption of specific amendments to the Election Rules is necessary as follows:

- New Rule 2.6.3 clarifies that a county clerk shall treat an application for voter registration as incomplete if an applicant provides a social security number or a portion of a social security number but does not indicate that he or she does not possess a driver's license or identification card number.
- The amendments to Rule 2.7.2 clarify that a county clerk may register an elector who fails to check appropriate boxes relating to citizenship and age requirements if the elector properly completes the remainder of the application and signs the affirmation relating to the elector's eligibility.
- The amendments to Rule 2.11 clarify that an update to a voter's registration information must be provided by specified means to the county clerk and recorder in order to change the voter's status from inactive to active.
- The amendments to Rule 5.4.1, 5.4.2, 38.7, 38.9, and 44.4.5 make technical corrections and clarifications.

- The amendments to Rule 5.4.5 and 5.4.6 clarify the procedures for petitions and the calling of an election for water conservancy districts.
- New Rule 7.6 establishes rules as required by section 1-7-115, C.R.S., concerning the amount of time a voter may occupy a voting booth. The Rule further clarifies that there is no maximum allowable time for voters with disabilities.
- The amendments to Rule 12.1.1.1 require a county clerk and recorder to notify a voter that additional postage may be required to return a voted mail or mail-in ballot.
- The amendments to Rule 26.1.5 clarify that for the purposes of processing provisional ballots, “statewide offices” include Justice of the Supreme Court and Judge of the Court of Appeals.
- New Rule 26.1.6 establishes that the system electors may access free of charge to determine if their provisional ballot was counted must be available for at least thirty (30) days after an election. The Rule further clarifies that the access be at no cost to the voter, regardless of the voter’s location.
- The amendments to Rule 38 clarify minimum contingency and security procedures for vote centers, minimum standards for data encryption, minimum electronic pollbook requirements, the minimum number of computers in a vote center, electronic pollbook pre-election testing procedures, and make technical corrections.
- The amendments to Rule 40.5 are necessary to clarify that the election official certification advisory board may reject applications for certification if course work is duplicated.
- The amendments to Rule 40.8.2 are necessary to clarify the allowable time for completing continuing education if certification has lapsed.
- The amendments to Rule 40.8.3 are necessary to clarify that a certified election official shall be de-certified for failure to complete continuing education requirements for a period of two consecutive years.
- The repeal of Rule 40.8.4 is necessary to clarify that the election official certification advisory board shall not have discretionary authority with regard to de-certifying election officials.
- The repeal of Rule 40.9 is necessary as the Rule relates to applications for certification in the year 2006 only.
- The amendments to Rule 43.8.7.1 (c) are necessary to clarify procedures for delivering and logging the receipt of election equipment prior to the opening of the polls.
- New Rule 44.5 establishes the requirements and procedures for a voter registration drive to renew registration.
- New Rule 44.6 creates a process by which the Secretary of State may receive, review, and investigate complaints against voter registration drives prior to imposing a fine.

The Secretary of State therefore finds that in order to ensure the uniform and proper administration and enforcement of the election laws, the permanent adoption of the amendments to the Rules is necessary both to comply with law and to preserve the public welfare generally.

2. 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. (2007), which authorizes the Secretary of State:

“[t]o promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”

2. Section 1-1.5-104(1), C.R.S. (2007), which provides that:

“The secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements imposed upon it pursuant to HAVA . . . including, without limitation, the power and duty to:

(e) Promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of this article.”

3. Section 1-5-102.7(4), C.R.S., (2007) requiring the Secretary of State to:

“adopt rules . . . establishing requirements for the equipment used at a vote center, including but not limited to requirements to test and backup the equipment used for the secure electronic connection to the computerized registration book and requirements that a vote center have a noncomputerized copy of the registration book or a copy of the elector registration records stored electronically at the vote center to be used in case of a system failure.”