

**STATE OF COLORADO**  
**Department of State**

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**Proposed Statement of Basis, Purpose and Specific Statutory Authority**

**Office of the Secretary of State**  
**Election Rules**

**February 29, 2008**

**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.

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

- The repeal of Rule 2.7.1 is necessary to avoid repetition or confusion with Rule 30.3.2.
- New Rule 2.12 establishes rules relating to voter registration of address confidentiality program participants, as required by C.R.S. 24-21-201 (2007); the Address Confidentiality Program Act.
- New Rule 2.13 clarifies that the county clerk and recorder may destroy paper voter registration records pursuant to section 1-2-227, C.R.S., only if the documents have been digitally recorded in the voter registration database.
- New Rule 12.1.1.2 clarifies that the mail ballot secrecy sleeve or 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 accessible voting systems are available and provide any relevant additional information.
- New Rule 12.3.2.1 addresses the issue of whether or not the Secretary of State will review mail ballot plans submitted by home rule municipalities.
- New Rule 43.11 resolves difficulties arising from local governments' need to utilize county election equipment for their spring 2008 regular elections, in the context of the security "chain of custody" requirements pursuant to Rule 43. New Rule 43.11

- proposes four (4) options available to county clerk and recorders for establishing procedures relating to the lease, loan, or rental of voting equipment.
- New Rule 48 relates to challenges to voting pursuant to section 1-9-203, C.R.S., and clarifies that an election judge shall offer a person challenged a regular ballot when he/she answers challenge questions satisfactorily.

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.”