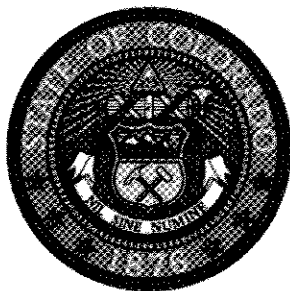


STATE OF COLORADO
Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Mike Coffman
Secretary of State

Holly Z. Lowder
Director, Elections Division

NOTICE OF ADOPTION

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

April 14, 2008

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 April, 2008, 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~~).

Rule 2.7.1 is repealed as follows: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.~~

Succeeding sections would be renumbered accordingly.

New Rule 2.12 is adopted as follows:

2.12 REGISTRATION OF ADDRESS CONFIDENTIALITY PROGRAM (ACP) ELECTORS

2.12.1 WHEN AN ACP PARTICIPANT REGISTERS TO VOTE BY MAIL, THE ELECTOR SHALL PROVIDE IDENTIFICATION PURSUANT TO RULE 30.3 AND A COPY OF HIS/HER ACP AUTHORIZATION CARD.

2.12.2 ACP PARTICIPANTS SHALL BE REGISTERED TO VOTE AS PERMANENT MAIL-IN BALLOT VOTERS. NOTHING IN THIS RULE SHALL PRECLUDE A PARTICIPANT FROM SURRENDERING HIS/HER MAIL-IN BALLOT IN THE SAME MANNER AS OTHER PERMANENT MAIL-IN BALLOT VOTERS.

2.12.3 PURSUANT TO SECTION 24-21-208(3)(A), C.R.S., THE DESIGNATED ELECTION OFFICIAL SHALL:

2.12.3.1 USE THE ACTUAL ADDRESS OF A PROGRAM PARTICIPANT FOR PRECINCT DESIGNATION AND SHALL KEEP THE PARTICIPANT'S ADDRESS AND PRECINCT NUMBER CONFIDENTIAL.

2.12.3.2 USE THE SUBSTITUTE ADDRESS, AS DEFINED IN SECTION 24-21-203 (13), C.R.S., FOR ALL CORRESPONDENCE AND MAILINGS PLACED IN THE UNITED STATES MAIL.

2.12.4 ACCESS TO ACP PARTICIPANT'S VOTER REGISTRATION RECORDS IS RESTRICTED PURSUANT TO SECTION 24-21-208(3) (B), C.R.S., AS FOLLOWS:

2.12.4.1 AN ACP PARTICIPANT'S ACTUAL ADDRESS AND PRECINCT NUMBER SHALL BE MASKED FROM ANY PUBLIC RECORD THAT IS REQUIRED TO BE MADE, MAINTAINED, OR KEPT PURSUANT TO SECTIONS 1-2-227 AND 1-2-301, C.R.S., AND SHALL AUTOMATICALLY BE CONFIDENTIAL IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-72-204(3.5), C.R.S., EXCEPT THAT THE EXCEPTIONS TO SUCH CONFIDENTIALITY SET FORTH IN SECTION 24-72-204(3.5) (C), C.R.S., SHALL NOT APPLY TO A PROGRAM PARTICIPANT.

2.12.4.3 A STATE OR LOCAL GOVERNMENT AGENCY'S ACCESS TO AN ACP PARTICIPANT'S VOTER REGISTRATION SHALL BE GOVERNED BY THE DISCLOSURE PROCESS SET FORTH IN SECTION 24-21-210, C.R.S.

New Rule 2.13 is adopted as follows:

2.13 PRESERVATION OF VOTER REGISTRATION RECORDS. 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. VOTER REGISTRATION RECORDS SHALL BE RETAINED IN PERPETUITY IN DIGITAL FORMAT BY THE VOTER REGISTRATION DATABASE.

Rule 11.4.1 is amended as follows:

11.4.1 The designated election official shall maintain an inventory record for each electronic vote-tabulating device used in an election. Such records shall include but not be limited to the manufacturer, make, model, serial number, hardware/firmware/software version or release number, HASH VALUE DOCUMENTATION WHERE APPLICABLE, date of acquisition, description of any services, repairs, maintenance, upkeep, and version upgrades, and the dates of performance of such services as of the date of adoption of these rules.

Rule 11.5.2.1 is amended as follows:

11.5.2.1 The county clerk and recorder shall commence the Hardware Diagnostic Test prior to the election and allow time for each electronic voting device within the county to be tested. Each device being used in the election, including units identified as spare or backup units, shall be tested to verify that mechanical components are working correctly. This test shall include, but not be limited to, the following tests:

- (a) All input and output devices;
- (b) Communications ports;
- (c) System printers;
- (d) System modems when applicable;
- (e) System Screen displays;
- (f) Boot performance and initializations;
- (g) Firmware loads;
- (h) Software loads;
- (i) DISPLAY OF FIRMWARE/SOFTWARE HASH VALUE (MD5 OR SHA-1) WHEN POSSIBLE;
- (j) Confirmation that screen displays are functioning; and
- (k) Date, time and calibration of systems.

Rule 11.5.2.2 is amended as follows:

11.5.2.2 Each device tested shall be sealed upon the successful completion of the test. Documentation of the seal information AND ALL RECORDS FROM TESTING must be maintained for each device.

Rule 11.5.3.8.2 is amended as follows:

11.5.3.8.2 Prior to the start of testing, all devices used will have the public counter reset to zero, and presented to the testing board for verification. FOR ANY DEVICE CAPABLE OF PRODUCING THE TRUSTED BUILD HASH VALUE (MD5 OR SHA-1) OF THE FIRMWARE OR SOFTWARE, THE ELECTION OFFICIAL SHALL VERIFY AND DOCUMENT THE ACCURACY OF THE VALUE TO BE INCLUDED WITH THE RECORDS FOR THE DEVICE.

Rule 11.5.4.6 is amended as follows:

11.5.4.6 For Direct Record Electronic Devices (DREs) that do not meet the requirements of section 1-5-802, C.R.S., used for any function of counting ballots in an election, the designated election official will manually verify the image of all the ballots contained in the Ballot Log or Ballot Audit that were counted on the specific device with the report generated for that specific device at the close of polls which contains the election summary report. The Secretary of State shall randomly select a minimum of two (2) races per device to be manually verified to ensure that each office, issue, and question on the ballot is audited in accordance with section 1-7-514, C.R.S.

11.5.4.6.1 FOR ANY DEVICE CAPABLE OF PRODUCING THE TRUSTED BUILD HASH VALUE (MD5 OR SHA-1) OF THE FIRMWARE OR SOFTWARE, THE DESIGNATED ELECTION OFFICIAL SHALL VERIFY AND DOCUMENT THE ACCURACY OF THE VALUE TO BE INCLUDED WITH THE RECORDS FOR THE DEVICE PRIOR TO CONDUCTING THE AUDIT.

Rule 11.5.4.7 is amended as follows:

11.5.4.7 For Direct Electronic Devices (DREs) that do meet the requirement of section 1-5-802, C.R.S., used for any function of counting ballots in an election, after the close of the polls, the designated election official will manually verify all of the voter verified paper record produced with the report generated for that specific device, which contains the election summary report. The Secretary of State shall randomly select a minimum of two races on each device to be manually verified to ensure that each office, issue, and question on the ballot is audited in accordance with section 1-7-514, C.R.S.

11.5.4.7.1 FOR ANY DEVICE CAPABLE OF PRODUCING THE TRUSTED BUILD HASH VALUE (MD5 OR SHA-1) OF THE FIRMWARE OR SOFTWARE, THE DESIGNATED ELECTION OFFICIAL SHALL VERIFY AND DOCUMENT THE ACCURACY OF THE VALUE TO BE INCLUDED WITH THE RECORDS FOR THE DEVICE PRIOR TO CONDUCTING THE AUDIT.

New Rule 12.1.1.2 is adopted as follows:

12.1.1.2 THE SECRECY SLEEVE, SECRECY ENVELOPE, OR VOTER INSTRUCTIONS SHALL:

- (A) INFORM THE VOTER THAT ACCESSIBLE VOTING SYSTEMS ARE AVAILABLE FOR USE; AND
- (B) INSTRUCT THE VOTER TO CONTACT THE COUNTY CLERK AND RECORDER FOR ANY OTHER RELEVANT INFORMATION SUCH AS THE DATE, TIME, AND LOCATION SUCH MACHINES ARE AVAILABLE.

New Rule 12.3.2.1 is adopted as follows:

12.3.2.1 IN ADDITION TO THE FOREGOING, ANY HOME RULE MUNICIPALITY SHALL INCLUDE IN ITS PLAN A DECLARATION, AS FOLLOWS:

“NOTHING IN THIS PLAN REFLECTS LOCALLY ADOPTED MAIL BALLOT ELECTION PROCEDURES DIFFERENT FROM THOSE SET FORTH IN THE COLORADO MAIL BALLOT ELECTION ACT, SECTION 1-7.5-101-11, C.R.S., AS FROM TIME TO TIME AMENDED, AND ANY REGULATIONS ADOPTED PURSUANT THERETO.”

THE SECRETARY OF STATE SHALL NOT REVIEW THE MAIL BALLOT PLAN OF ANY HOME RULE MUNICIPALITY THAT FAILS TO INCLUDE THE ABOVE DECLARATION.

New rule 13.13.1 is adopted as follows:

13.13.1 IF A REGISTERED ELECTOR SUBMITS A MAIL-IN BALLOT APPLICATION THAT DOES NOT CONTAIN ALL OF THE INFORMATION REQUIRED BY SECTION 1-8-104.5, C.R.S., THE COUNTY CLERK AND RECORDER MAY NOT PROCESS THE APPLICATION, UNLESS THE COUNTY CLERK AND RECORDER CAN CONFIDENTLY IDENTIFY THE ELECTOR, EXCEPT THAT IN NO EVENT SHALL AN APPLICATION BE PROCESSED IF SUCH APPLICATION DOES NOT CONTAIN THE ELECTOR'S SIGNATURE. IF THE COUNTY CLERK AND RECORDER IS UNABLE TO CONFIDENTLY IDENTIFY THE ELECTOR, THE COUNTY CLERK SHALL PROMPTLY NOTIFY THE ELECTOR WHAT ADDITIONAL INFORMATION IS REQUIRED.

Rule 15.3 is amended as follows:

15.3 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). ~~The~~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, ~~in the case of an appeal to the Supreme Court,~~ 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.

Rule 43.8 is amended as follows:

43.8.2 Physical Locking Mechanisms and Seals

- a. DREs. ~~a~~All DRE voting devices shall have industry standard, commercial off the shelf tamper-evident seals with printed, unique serial numbers affixed as follows:
 - i. A seal shall be placed over any removable card or cartridge that is inserted into the unit, or over the slot or door covering the card or cartridge.
 - ii. A seal is to be placed over any removable card or cartridge slot when no card or cartridge is inserted into the unit.
 - iii. Tamper-evident, numbered seals shall be affixed across the seam at which the two sides of the case of the electronic components of the voting unit join, with at least one seal for each of the four sides of the device; EXCEPT IN THE INSTANCES WHERE THE HASH VALUE (MD5 OR SHA-1) OF THE FIRMWARE OR SOFTWARE CAN BE DISPLAYED OR PRINTED BY THE DEVICE AS VERIFIED BY THE STATE CERTIFICATION PROCESS. IN SUCH CASES, ADDITIONAL SEALS FOR

THE CASE ARE NOT REQUIRED. OFFICIALS SHALL PRODUCE DOCUMENTATION OF THE VERIFICATION OF THE HASH VALUE DURING HARDWARE DIAGNOSTICS TESTING, PRE-ELECTION TESTING AND PRIOR TO THE POST ELECTION AUDIT AS REQUIRED IN RULE 11.

- iv. If the voting device contains one or more slots for a flash memory card, a seal shall be affixed over each flash card or each flash card slot, door, or access panel.
- v. These same procedures also apply to the Judge's Booth Controller (JBC) unit for the Hart InterCivic System.
- vi. All seals are to be verified by two employees or election judges.

Rule 43.8.11.3 is amended as follows:

43.8.11.3 If a seal has been broken or removed outside of the situation in RULE 43.8.11.2, Any unit involved must undergo the reinstatement or verification of the trusted build. eCounty clerk and recorders will be required to complete a security incident report. The minimum Sspecific requirements on the remedy are as follows (additional requirements may be determined based on the details of the incident report):

- A. FOR INSTANCES WHERE THE TRUSTED BUILD HASH VALUE (MD5 OR SHA-1) OF THE FIRMWARE OR SOFTWARE CAN BE DISPLAYED OR PRINTED BY THE DEVICE AS VERIFIED BY THE STATE CERTIFICATION PROCESS, THE ELECTION OFFICIAL WILL BE REQUIRED TO DOCUMENT AND VERIFY THAT THE HASH VALUE MATCHES THE DOCUMENTED NUMBER ASSOCIATED WITH THE TRUSTED BUILD FOR THE SOFTWARE OR FIRMWARE OF THAT DEVICE.

Succeeding sections would be renumbered accordingly.

New Rule 43.11 is adopted as follows:

43.11 LEASE, LOAN, OR RENTAL OF ELECTION EQUIPMENT

43.11.1 NOTHING IN THIS RULE SHALL BE CONSTRUED TO REQUIRE A COUNTY CLERK TO LEASE, LOAN, OR RENT ANY ELECTION EQUIPMENT TO ANY MUNICIPALITY, SPECIAL DISTRICT OR OTHER LOCAL JURISDICTION.

43.11.2 A COUNTY CLERK WHO CHOOSES TO LEASE, LOAN, OR RENT ANY CERTIFIED ELECTION EQUIPMENT TO A MUNICIPALITY, SPECIAL DISTRICT, OR OTHER LOCAL JURISDICTION FOR USE IN THEIR ELECTIONS SHALL FOLLOW AT LEAST ONE OF THE FOLLOWING PROCEDURES IN ORDER TO MAINTAIN OR REESTABLISH AN ACCEPTABLE CHAIN OF CUSTODY AND APPROPRIATE DOCUMENTATION PURSUANT TO RULE 43.8.

- A. AFTER THE CERTIFIED EQUIPMENT HAS BEEN RETURNED TO THE COUNTY CLERK BY THE APPLICABLE JURISDICTION, AND PRIOR TO

USE OF THE EQUIPMENT IN ANY PRIMARY, GENERAL, CONGRESSIONAL VACANCY, STATEWIDE BALLOT ISSUE (INCLUDING RECALL), OR SPECIAL ELECTION CONDUCTED BY THE COUNTY CLERK, REINSTATEMENT OR VERIFICATION OF THE TRUSTED BUILD, PURSUANT TO RULE 43.8.11.3(A), SHALL BE COMPLETED.

- B. THE COUNTY CLERK OR THEIR DEPUTIZED REPRESENTATIVE SHALL:
 - I. DELIVER THE CERTIFIED EQUIPMENT TO THE JURISDICTION;
 - II. WITNESS AND DOCUMENT THE INSTALLATION OF THE MEMORY CARD(S) OR CARTRIDGE(S) TO BE USED BY THE JURISDICTION;
 - III. PLACE ONE OR MORE SECURE AND NUMBERED SEALS ON THE VOTING EQUIPMENT PURSUANT TO RULE 43.8.2. IF DURING THE COURSE OF THE JURISDICTION'S ELECTION, THE DESIGNATED ELECTION OFFICIAL REQUIRES REMOVAL OF A MEMORY CARD OR CARTRIDGE AS A FUNCTION OF THE ELECTION PROCESS, THE COUNTY CLERK OR THEIR DEPUTIZED REPRESENTATIVE SHALL WITNESS AND DOCUMENT THE REMOVAL AND PROPER RESEALING OF THE MEMORY CARD OR CARTRIDGE; AND
 - IV. UPON RETURN OF THE EQUIPMENT TO THE COUNTY CLERK AND RECORDER, THE COUNTY CLERK SHALL VERIFY AND DOCUMENT THAT THE SEALS ARE INTACT. IF ANY SEAL APPEARS TO BE DAMAGED OR REMOVED, THE COUNTY CLERK SHALL REINSTALL OR VERIFY THE TRUSTED BUILD IN ACCORDANCE WITH THIS RULE 43.
- C. THE COUNTY CLERK AND RECORDER SHALL DESIGNATE DEPUTIZED COUNTY STAFF TO BE STATIONED WITH THE LOANED CERTIFIED EQUIPMENT AT ALL TIMES WHILE THE EQUIPMENT IS UNDER CONTROL OF THE DESIGNATED ELECTION OFFICIAL. THE CERTIFIED EQUIPMENT SHALL NOT BE ALLOWED OUT OF THE PHYSICAL CUSTODY OF THE DEPUTIZED COUNTY STAFF AT ANY TIME. THE DEPUTIZED COUNTY STAFF SHALL ENSURE THAT NO UNAUTHORIZED ACCESS OCCURS.
- D. PURSUANT TO SECTION 1-5-605.5, C.R.S., THE COUNTY CLERK SHALL APPOINT THE DESIGNATED ELECTION OFFICIAL AS A DEPUTY FOR THE PURPOSES OF SUPERVISING THE CERTIFIED VOTING EQUIPMENT. THE DESIGNATED ELECTION OFFICIAL SHALL:
 - I. SIGN AND SUBMIT TO THE COUNTY CLERK AND RECORDER AN AFFIRMATION THAT HE/SHE WILL ENSURE THE SECURITY AND INTEGRITY OF THE CERTIFIED VOTING EQUIPMENT AT ALL TIMES;
 - II. AFFIRM THAT THE USE OF THE CERTIFIED VOTING EQUIPMENT SHALL BE CONDUCTED IN ACCORDANCE WITH RULE 43 AND THE SPECIFIC CONDITIONS FOR USE OF THE CERTIFIED VOTING EQUIPMENT; AND

III. AGREE TO MAINTAIN ALL CHAIN OF CUSTODY LOGS FOR THE VOTING DEVICE(S).

43.11.3 UPON RETURN OF THE CERTIFIED VOTING EQUIPMENT TO THE COUNTY CLERK AND RECORDER, THE COUNTY CLERK SHALL NOT BE REQUIRED TO VERIFY THE TRUSTED BUILD IF THE DOCUMENTATION AND CHAIN OF CUSTODY SUPPORT THE PROPER MAINTENANCE OF THE TRUSTED BUILD SOFTWARE AND CHAIN OF CUSTODY.

Rule 45.5.2.3.19 is amended as follows:

45.5.2.3.19 All electronic voting devices provided by the voting system provider shall have the capability to continue operations and provide continuous device availability during a period of electrical outage without any loss of election data.

(a) For optical scan devices, this capability shall include at a minimum for a period of not less than ~~three (3)~~ TWO (2) hours the ability to:

- (i) Continue to scan or image voters' ballots;
- (ii) Tabulate accurately voters' choices from the ballots;
- (iii) Store accurately voters' ballot choices during a period of electrical outage; and
- (iv) Transmit required results files accurately if power failure experienced during transmittal of results.

(b) For DRE devices, this capability shall include at a minimum for a period of not less than ~~three (3)~~ TWO (2) hours the ability to:

- (i) Continue to present ballots accurately to voters;
- (ii) Accept voters' choices accurately on the devices;
- (iii) Tabulate voters' choices accurately;
- (iv) Store voters' choices accurately in all storage locations on the device; and
- (v) Transmit required results files accurately if power failure is experienced during transmittal of results.

- (c) For V-VPAT devices connected to DREs, this capability shall include at a minimum for a period of not less than ~~three~~(3) TWO (2) hours the ability to:
 - (i) Continue to print voters' choices on the DRE accurately and in a manner that is identical to the manner of the printers' operations during a period of normal electrical operations; and
 - (ii) Continue to store the printed ballots in a secure manner that is identical to the manner of the printers' operations during a period of normal electrical operations.

New Rule 48 is adopted as follows:

RULE 48. CHALLENGES TO VOTING

48.1 PURSUANT TO SECTION 1-9-203 (7), C.R.S., A PERSON CHALLENGED ON THE GROUNDS OF RESIDENCY SHALL BE OFFERED A REGULAR BALLOT BY THE ELECTION JUDGE WHEN THE PERSON CHALLENGED SATISFACTORILY ANSWERS THE CHALLENGE QUESTIONS SPECIFIED IN SECTION 1-9-203 (3) (A)-(E), C.R.S. THE FOLLOWING DEMONSTRATE WHEN A PERSON CHALLENGED SATISFACTORY ANSWERED THE CHALLENGE QUESTIONS AND ACTION TO BE TAKEN BY THE ELECTION JUDGE BASED ON THE ELECTOR'S RESPONSE:

A. HAVE YOU RESIDED IN THIS STATE AND PRECINCT FOR THE THIRTY DAYS IMMEDIATELY PRECEDING THIS ELECTION?

SATISFACTORY RESPONSE: YES, HE/SHE HAS RESIDED IN THIS STATE AND PRECINCT FOR THE ENTIRE THIRTY-DAY PERIOD IMMEDIATELY PRECEDING THIS ELECTION. (IN OTHER WORDS, HIS/HER PRIMARY HOME OR PLACE OF ABODE WAS IN THIS STATE AND PRECINCT DURING THE ENTIRE THIRTY-DAY PERIOD IN ACCORDANCE WITH SECTIONS 1-1-104 (43) AND 1-2-102, C.R.S.)

PROCEED TO CHALLENGE QUESTION B.

UNSATISFACTORY RESPONSE: NO, FOR SOME PORTION OF THE THIRTY-DAY PERIOD IMMEDIATELY PRECEDING THIS ELECTION HE/SHE HAS NOT RESIDED IN THIS STATE AND PRECINCT.

OFFER THE ELECTOR A PROVISIONAL BALLOT.

B. HAVE YOU BEEN ABSENT FROM THIS STATE DURING THE THIRTY DAYS IMMEDIATELY PRECEDING THIS ELECTION, AND DURING THAT TIME HAVE YOU MAINTAINED A HOME OR DOMICILE ELSEWHERE?

SATISFACTORY RESPONSE #1: NO, HE/SHE HAS NOT BEEN ABSENT FROM THIS STATE AT ANY TIME DURING THE THIRTY-DAY PERIOD IMMEDIATELY PRECEDING THIS ELECTION.

OFFER THE ELECTOR A REGULAR BALLOT.

SATISFACTORY RESPONSE #2: YES, HE/SHE HAS BEEN ABSENT FROM THIS STATE DURING THE THIRTY-DAY PERIOD IMMEDIATELY PRECEDING THIS ELECTION, BUT HAS NOT MAINTAINED A HOME OR DOMICILE ELSEWHERE.

OFFER THE ELECTOR A REGULAR BALLOT.

RESPONSE REQUIRING FOLLOW-UP QUESTIONS: YES, HE/SHE HAS BEEN ABSENT FROM THIS STATE DURING THE THIRTY-DAY PERIOD IMMEDIATELY PRECEDING THIS ELECTION, AND HAS MAINTAINED A HOME OR DOMICILE ELSEWHERE.

PROCEED TO CHALLENGE QUESTION C.

- C. IF SO, WHEN YOU LEFT, WAS IT FOR A TEMPORARY PURPOSE WITH THE INTENT OF RETURNING, OR DID YOU INTEND TO REMAIN AWAY?

SATISFACTORY RESPONSE: YES, WHEN HE/SHE LEFT, IT WAS FOR A TEMPORARY PURPOSE WITH THE INTENT OF RETURNING.

PROCEED TO CHALLENGE QUESTION D.

UNSATISFACTORY RESPONSE: NO, WHEN HE/SHE LEFT, HE/SHE DID NOT INTEND TO RETURN.

OFFER THE ELECTOR A PROVISIONAL BALLOT.

- D. DID YOU, WHILE ABSENT, LOOK UPON AND REGARD THIS STATE AS YOUR HOME?

SATISFACTORY RESPONSE: YES, WHILE ABSENT, HE/SHE LOOKED UPON AND REGARDED THIS STATE AS HIS/HER HOME.

PROCEED TO CHALLENGE QUESTION E.

UNSATISFACTORY RESPONSE: NO, WHILE ABSENT, HE/SHE DID NOT LOOK UPON AND REGARD THIS STATE AS HIS/HER HOME.

OFFER THE ELECTOR A PROVISIONAL BALLOT.

- E. DID YOU, WHILE ABSENT, VOTE IN ANY OTHER STATE OR ANY TERRITORY OF THE UNITED STATES?

SATISFACTORY RESPONSE: NO, WHILE ABSENT, HE/SHE DID NOT VOTE IN ANY OTHER STATE OR ANY TERRITORY OF THE UNITED STATES.

OFFER THE ELECTOR A REGULAR BALLOT.

UNSATISFACTORY RESPONSE: NO, WHILE ABSENT, HE/SHE DID VOTE IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES.

OFFER THE ELECTOR A PROVISIONAL BALLOT.

48.2 IF THE PERSON CHALLENGED ANSWERS UNSATISFACTORILY OR REFUSES TO ANSWER THE CHALLENGE QUESTIONS, THE ELECTOR SHALL BE OFFERED A PROVISIONAL BALLOT.

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 April, 2008.



/s/ William A. Hobbs

William A. Hobbs

Deputy Secretary of State

For

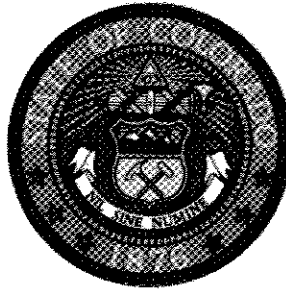
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Mike Coffman

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

April 14, 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, and 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, which effectively clarifies the ID requirement for voter registration by mail.
- New Rule 2.12 establishes rules relating to voter registration of address confidentiality program participants, as required by section 24-21-201, C.R.S., *et seq.*, 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.
- The amendments to Rule 11, pertaining to voting systems, clarify requirements for any device capable of producing the trusted build hash value of the firmware or software.
- 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 clarifies that the Secretary of State shall not review mail ballot plans submitted by a home rule municipality unless such municipality affirms that its home rule

charter does not contain procedures different from those established in section 1-7.5-101, C.R.S., *et seq.*

- New Rule 13.13.1 clarifies application requirements and when a county clerk and recorder may process such application.
- The amendments to Rule 15.3, pertaining to circulation of a petition for signatures, clarifies that in the case of an appeal to the Supreme Court, the six-month period specified in section 1-40-108(1), C.R.S., 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.
- The amendments to Rule 43.8, pertaining to security procedures, clarify that additional tamper-evident seals for the voting unit case are not required when the hash value of the firmware or software can be displayed or printed by the device as verified by the State Certification process. Additional amendments clarify the minimum specific requirement on the remedy for instances where the trusted build hash value of the firmware or software can be displayed or printed by the device.
- New Rule 43.11 provides alternative mechanisms for local governments that need to utilize county election equipment for their elections, in the context of the security “chain of custody” requirements pursuant to Rule 43. New Rule 43.11 proposes four options available to county clerk and recorders for establishing procedures relating to the lease, loan, or rental of voting equipment.
- The amendments to Rule 45.5.2.3.19 change the voting system battery life requirement from three hours to two hours, which reflects consistency with the Election Assistance Commission (EAC) direction in the voluntary voting system guidelines (VVSG).
- 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 Election 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.”