



NOTICE OF PROPOSED RULEMAKING

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

June 30, 2009

Pursuant to the requirements of section 24-4-103(3)(a), C.R.S., (2008), notice of proposed rulemaking is hereby given by the Secretary of State. A rulemaking hearing will be held on **August 3, 2009 from 2:00pm to 4:00pm** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of revisions and amendments to the "Election Rules" of the Colorado Secretary of State, 8 C.C.R. 1505-1.

Subject of the Proposed Rulemaking

Amendments and revisions to the Colorado Secretary of State Election Rules as may be necessary or appropriate to improve the administration of elections in Colorado. The revisions and amendments to be considered include rules concerning document retention, voting by mail, voting by uniformed and overseas electors, identification, and provisional voting. The Secretary of State shall also consider rules necessary to implement amendments to the election laws made during the 2009 regular session of the 67th General Assembly and such other rule amendments as may be necessary to answer questions arising under Title 1 of the Colorado Revised Statutes.

Authority for Proposed Rulemaking

Revisions and amendments to the "Election Rules" of the Colorado Secretary of State, 8 C.C.R. 1505-1, are proposed pursuant to the following statutes:

1. Section 1-1-107(2)(a), C.R.S., (2008), 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., (2008), 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]."

Copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 270, Denver, Colorado, 80290, or by calling (303) 894-2200, extension 6329. The proposed rules are also posted on the Secretary of State website at www.sos.state.co.us.

A final copy of the proposed rules for consideration at the public rulemaking hearing will be posted on the Secretary of State website and made available to the public no later than **July 29, 2009** in accordance with section 24-4-103(4)(a), C.R.S., (2008), which states that “[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing.”

The rulemaking hearing on August 3, 2009 will be held in accordance with section 24-4-103, C.R.S., (2008). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at or before the commencement of the hearing on August 3, 2009 at 2:00pm in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at www.sos.state.co.us on the “Information Center” page under “Broadcast and Recorded Meetings.” For additional information, please contact Andrea Gyger, Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 30th Day of June, 2009.



William A. Hobbs
Deputy Secretary of State

For

Bernie Buescher
Colorado Secretary of State



Proposed Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Election Rules

June 30, 2009

1. Basis and Purpose

This proposed 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 proposed 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. (2008).

The proposed amendments to these rules are necessary for the implementation of Article VII of the Colorado Constitution and Article 1, Title 1 of the Colorado Revised Statutes. Such proposed revisions are necessary to improve the administration of elections in Colorado, and to increase the transparency and security of the election process. The Secretary of State finds that these proposed amendments are further necessary to implement amendments to the election laws made during the 2009 regular session of the 67th General Assembly and answer questions arising under Title 1 of the Colorado Revised Statutes.

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. (2008), 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. (2008), 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."

COLORADO SECRETARY OF STATE

8 CCR 1505-1

ELECTION RULES

Preliminary Draft of Proposed Rules

June 30, 2009

Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

A final copy of the proposed rule changes will be available to the public no later than July 29, 2009, and a copy will be posted on the Department of State's web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that "[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing."

Proposed additions to the current rules are reflected in SMALL CAPS. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.

1 Rule 2.1 would be repealed as follows:

2 2.1 REPEALED.—All requests for lists, printouts, disks, tapes, and other media shall be made
3 in writing.

4 Rule 2.3 would be repealed as follows:

5 2.3 REPEALED.—Emergency Registration Application.—Prior to the implementation of the
6 statewide voter registration database, when an elector completes an emergency
7 registration application pursuant to section 1-2-217.5 (1)(b), C.R.S., the elector shall be
8 required to present one of the forms of identification set forth in Rule 30.1.6.

9 Rule 2.7 would be amended as follows:

10 2.7 TREATMENT OF APPLICATIONS WHERE THE REQUIRED INFORMATION WAS NOT PROVIDED

- 1 2.7.1 If an applicant fails to check the box(es) answering the question(s), “Are you a
2 citizen of the United States?” or “Will you be 18 years of age on or before election
3 day?”, the form shall be accepted for registration so long as it is otherwise
4 complete and the affirmation at the bottom of the form is signed.

- 5 2.7.2 IF AN APPLICANT FOR VOTER REGISTRATION FAILS TO COMPLETE THE REQUIRED
6 IDENTIFICATION PORTION OF THE FORM IN ACCORDANCE WITH SECTION 1-2-
7 204(2)(F.5) AND (3)(C), C.R.S., AND RULE 2.6.3, THE APPLICATION SHALL BE
8 TREATED AS “INCOMPLETE”; HOWEVER, IF THE APPLICANT SUBMITS A
9 PHOTOCOPY OF HIS/HER DRIVER’S LICENSE OR IDENTIFICATION CARD, THEN THE
10 COUNTY MAY ENTER THE ID NUMBER FROM THE CARD INTO THE APPLICANT’S
11 RECORD AND CONSIDER THE APPLICATION “COMPLETE”.

- 12 2.7.3 IF AN APPLICANT FOR VOTER REGISTRATION FAILS TO PROVIDE A DATE OF BIRTH
13 THE APPLICATION SHALL BE TREATED AS “INCOMPLETE”; HOWEVER, IF THE
14 APPLICANT SUBMITS A PHOTOCOPY OF HIS/HER DRIVER’S LICENSE OR OTHER
15 APPROVED FORM OF ID WHICH INCLUDES THE DATE OF BIRTH, THEN THE COUNTY
16 MAY ENTER THAT INFORMATION INTO THE APPLICANT’S RECORD AND CONSIDER
17 THE APPLICATION “COMPLETE”.

- 18 2.7.4 IF AN APPLICANT FOR VOTER REGISTRATION FAILS TO PROVIDE HIS OR HER
19 GENDER THE APPLICATION SHALL BE TREATED AS “INCOMPLETE; HOWEVER, IF
20 THE APPLICANT SUBMITS A PHOTOCOPY OF HIS/HER DRIVER’S LICENSE OR OTHER
21 APPROVED FORM OF ID WHICH INCLUDES THE APPLICANT’S GENDER, THEN THE
22 COUNTY MAY ENTER “MALE” OR “FEMALE” AS REFLECTED ON THE CARD INTO
23 THE APPLICANT’S RECORD AND CONSIDER THE APPLICATION “COMPLETE”.

24 Rule 2.12 would be amended as follows:

- 25 2.12 Registration of Address Confidentiality Program (ACP) Electors

- 26 2.12.1 When an ACP participant registers to vote by mail, the elector shall provide
27 identification pursuant to Rule 30.3 and a copy of his/her ACP Authorization
28 Card.

- 29 2.12.2 ACP participants shall be registered to vote as permanent mail-in ballot voters.
30 Nothing in this rule shall preclude a participant from surrendering his/her mail-in
31 ballot in the same manner as other permanent mail-in ballot voters.

- 32 2.12.3 Pursuant to section 24-21-208(3)(a), C.R.S., the designated election official shall:
 - 33 2.12.3.1 Use the actual address of a program participant for precinct
34 designation and shall keep the participant’s address, county, and
35 voting precinct AND SPLIT number confidential FROM THE PUBLIC.

 - 36 2.12.3.2 Use the substitute address, as defined in section 24-21-203 (13),
37 C.R.S., for all correspondence and mailings placed in the United
38 States mail.

1 ~~2.12.4 Access to ACP participant's voter registration records is restricted pursuant to~~
2 ~~section 24-21-208(3)(b), C.R.S., as follows:~~

3 ~~2.12.4.1 An ACP participant's actual address, county, and voting precinct~~
4 ~~number shall be masked from any public record that is required to be~~
5 ~~made, maintained, or kept pursuant to sections 1-2-227 and 1-2-301,~~
6 ~~C.R.S., and shall automatically be confidential in accordance with~~
7 ~~the provisions of section 24-72-204(3.5), C.R.S., except that the~~
8 ~~exceptions to such confidentiality set forth in section 24-72-204(3.5)~~
9 ~~(e), C.R.S., shall not apply to a program participant.~~

10 ~~2.12.4~~ 2.12.4.3 A state or local government agency's access to an ACP participant's
11 voter registration shall be governed by the disclosure process set forth in section
12 24-21-210, C.R.S.

13 2.12.5 EXCEPT AS SPECIFICALLY PROVIDED BY PART 2, ARTICLE 21 OF TITLE 24,
14 C.R.S., A PROGRAM PARTICIPANT'S ACTUAL ADDRESS AND TELEPHONE NUMBER
15 MAINTAINED BY A STATE OR LOCAL GOVERNMENT AGENCY IS NOT A PUBLIC
16 RECORD THAT IS SUBJECT TO INSPECTION PURSUANT TO THE PROVISIONS OF
17 PART 2 OF ARTICLE 72 OF TITLE 24 (KNOWN AS "CORA").

18 Rule 2.13 would be amended as follows:

19 ~~2.13~~ Preservation of Voter Registration Records. NOTWITHSTANDING THE RETENTION
20 TIMELINES SPECIFIED IN SECTION 1-2-227, C.R.S., PAPER VOTER REGISTRATION RECORDS
21 MAY BE DESTROYED AS SOON AS THEY HAVE BEEN DIGITALLY RECORDED IN THE VOTER
22 REGISTRATION DATABASE. SUCH RECORDS SHALL BE RETAINED IN PERPETUITY IN
23 DIGITAL FORMAT BY THE VOTER REGISTRATION DATABASE IN ACCORDANCE WITH TITLE
24 1, C.R.S. AND THIS RULE. ~~The county clerk and recorder may destroy paper voter~~
25 ~~registration records pursuant to section 1-2-227, C.R.S., only if the documents have been~~
26 ~~digitally recorded in the voter registration database. Voter Registration records shall be~~
27 ~~retained in perpetuity in digital format by the voter registration database.~~

28 Rule 2.15 would be repealed as follows:

29 2.15 ~~Notification that elector has moved and registered in a different county.~~ REPEALED.

30 ~~2.15.1~~ Upon receipt of the information transferred pursuant to section 1-2-603, C.R.S., the
31 county clerk and recorder of the new county shall transfer the elector's registration
32 record from the old county in accordance with 1-2-603(1), C.R.S. the following
33 provisions:

34 ~~2.15.1.1~~ If the voter provides a name, date of birth, and prior address and the
35 county clerk and recorder can match the name, date of birth, and prior
36 address to the voter's prior registration record, the voter's registration
37 record shall be transferred from the old county;

38 ~~2.15.1.2~~ If the voter provides a name and date of birth but does not provide a prior
39 address, the voter's registration record shall be transferred from the old
40 county only if:

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~~2.15.1.2.1 — The voter provides a driver’s license or identification card number, and the county clerk and recorder of the county can match the name, date of birth, and driver’s license or identification card number to the voter’s prior registration record; or~~

~~2.15.1.2.2 — The voter provides a social security number, and the county clerk and recorder of the county can match the name, date of birth, and social security number to the voter’s prior registration record.~~

~~2.15.1.3 If the voter does not provide a prior address, driver’s license number, or social security number, the voter shall not be transferred from the old county unless the elector submits a request to have his name removed from the voter list in accordance with section 1-2-601, C.R.S. The county clerk and recorder of the county of prior residence may send notice to the voter by forwardable mail to the voter’s address of record. Any such notice shall have a returnable portion that has the return postage prepaid and is preaddressed to the sending county clerk and recorder, and shall include an area for the voter to indicate if the voter has moved to another county and wishes to have his or her voter registration record transferred from the old county.~~

Rules 6.5.2(e) and (f) would be amended as follows:

(E) IN ACCORDANCE WITH SECTION 1-5-407(5)(B), C.R.S., WHETHER INITIATED OR REFERRED, EVERY PROPOSED CHANGE TO THE COLORADO CONSTITUTION SHALL BE CALLED AN “AMENDMENT” AND EVERY PROPOSED CHANGE TO THE COLORADO REVISED STATUTES SHALL BE CALLED A “PROPOSITION”

(e)(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 IMITATED AND REFERRED STATE AMENDMENTS AND PROPOSITIONS SHALL BE NUMBERED AND LISTED ON THE BALLOT IN THE FOLLOWING SERIES:

01-99	STATE INITIATED CONSTITUTIONAL AMENDMENTS
A-Z	STATE REFERRED CONSTITUTIONAL AMENDMENTS
101-199	STATE INITIATED STATUTORY PROPOSITIONS
AA-ZZ	STATE REFERRED STATUTORY PROPOSITIONS

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2. Each category of initiated LOCAL ballot issues and questions shall be numbered in the following series:

01-99	State Issues
100-199-200-299	County Issues
200-299-300-399	Municipal Issues
300-399-400-499	School District Issues
400-499-500-599	Ballot Issues and Questions for other political subdivisions greater than a county.
500-599-600-699	Ballot Issues and Questions for other political subdivisions which are wholly within a county.

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2. Each category of LOCAL referred ballot issues and questions shall be designated by a letter or a number and a letter in the following series:

A-Z	State Issues
1A-1Z	County Issues
2A-2Z	Municipal Issues
3A-3Z	School District Issues
4A-4Z	Ballot Issues and Questions for other political subdivisions greater than a county.
5A-5Z	Ballot Issues and Questions for other political subdivisions which are wholly within a county.

8 Rule 11.5.4.1 would be amended as follows:

9 11.5.4.1 Within ~~twenty-four (24)~~ FORTY-EIGHT (48) hours of the close of polls on
10 election night, the Secretary of State shall notify the designated election official
11 which voting devices and which race or races on the ballots have been selected
12 for auditing purposes based on the submitted hardware inventory list referred to
13 in Rule 11.4.2.

14 Rule 12.5 would be amended as follows:

15 12.5 Mail-in and Early Voting.

16 12.5.1 ~~In a mail ballot election, an elector who, will be absent from his or her address~~
17 ~~of record and requests that a mail ballot be sent to an alternate address, shall be~~
18 ~~issued a mail ballot in accordance with section 1-7.5-107., except that the~~
19 ~~return envelope shall contain the affidavit set forth in section 1-8-114, C.R.S.~~
20 IN A MAIL BALLOT ELECTION, ANY ELECTOR WITH A MAIL-IN BALLOT
21 REQUESTS SHALL BE SENT A MAIL BALLOT TO THE REQUESTED ADDRESS.

1 MAIL-IN BALLOTS SHALL BE TREATED AS A MAIL BALLOT FOR ALL OTHER
2 PURPOSES.

3 ~~12.5.2 An "in person" request for a ballot that is delivered to the absent elector in the~~
4 ~~clerk and recorder's office may be filed any time after January 1 of the year of~~
5 ~~the election, but no later than the close of business on the Friday prior to the~~
6 ~~election; except that, if the applicant wishes to receive the ballot by mail, the~~
7 ~~application shall be filed no later than the close of business on the seventh day~~
8 ~~before the election.~~

9 ~~12.5.3 Upon receipt of a request for a mail in ballot, the designated election official~~
10 ~~shall deliver the original ballot or a replacement ballot to that elector.~~

11 ~~12.5.4 A record shall be made on the registration rolls that a request for a mail in~~
12 ~~ballot was received, a ballot was mailed to the alternate address, and the ballot~~
13 ~~number shall be recorded.~~

14 ~~12.5.5 For mail ballot elections, the notation "Mail in Ballot No. M.I.V. ____" shall not~~
15 ~~be required on the mail in ballots.~~

16 12.5.6-2 Establishment of polling place for early voting shall not be required for a mail
17 ballot election, however the location for walk-in balloting shall be maintained.

18 Rule 12.9.3 would be amended as follows:

19 12.9.3 Any eligible elector may deliver in person to the designated or coordinated
20 election official's office no more than ~~5~~-TEN (10) voted mail ballots. ~~from~~
21 ~~members of his or her household.~~

22 Rule 12.7 would be amended as follows:

23 12.7 If a voter has been directed to return a document with his/her voted ballot, the election
24 judge shall open the returned envelope to retrieve the required form.

25 12.7.1 If the required form cannot be found in the return envelope, the election judge
26 shall open the secrecy envelope/sleeve to find the required form or document in
27 an effort not to disenfranchise the voter.

28 12.7.2 IF THE VOTER WAS DIRECTED TO RETURN A COPY OF IDENTIFICATION WITH
29 HIS/HER VOTED BALLOT AND FAILED TO DO SO, THE VOTER SHALL BE SENT A
30 LETTER IN ACCORDANCE WITH SECTION 1-7.5-107(3.5)(D), C.R.S.

31 12.7.3 IF THE ELECTOR PROVIDES A COPY OF HIS/HER IDENTIFICATION WITHIN EIGHT
32 DAYS AFTER ELECTION DAY, THEN THE BALLOT SHALL BE VERIFIED AND
33 COUNTED IN THE SAME MANNER AS OTHER MAIL BALLOTS IN ACCORDANCE WITH
34 SECTIONS 1-7.5-107 AND 1-7.5-107.3, C.R.S.

35 Rules 13.2 & 13.3 would be amended as follows:

36 13.2 The county clerk and recorder shall keep a list, to the extent possible, of the names and
37 mailing addresses of all individuals who deliver more than ~~five (5)~~-TEN (10) voted mail-in

1 ballots to the designated or coordinated election official's office or the designated drop
2 site for mail-in ballots.

3 13.3 The county clerk and recorder shall notify each individual on the list required by 13.2 by
4 letter that they have violated section 1-8-113, C.R.S., by delivering more than ~~five (5)~~
5 TEN (10) mail-in ballots to the designated election official.

6 Rule 13.8 would be amended as follows:

7 13.8 If the marked return envelope does not contain proper identification, the ballot shall be
8 treated as a provisional ballot. The outside of the return envelope shall be marked
9 "provisional". The provisional ballot shall be verified and counted in accordance with
10 section 1-8.5-105(5), C.R.S.

11 13.8.1 IN ACCORDANCE WITH SECTION 1-8-113(3)(D), C.R.S., THE ELECTOR SHALL BE
12 SENT A LETTER EXPLAINING THAT HE/SHE HAS NOT PROVIDED IDENTIFICATION.

13 13.8.2 IF THE ELECTOR PROVIDES A COPY OF HIS/HER IDENTIFICATION WITHIN EIGHT
14 DAYS AFTER ELECTION DAY, THEN THE BALLOT SHALL BE VERIFIED AND
15 COUNTED IN THE SAME MANNER AS OTHER MAIL-IN BALLOTS IN ACCORDANCE
16 WITH SECTION 1-8-113, C.R.S.

17 Rule 13.12 would be amended as follows:

18 13.12 ~~Voters who appear in person at their correct polling place, but who requested mail in~~
19 ~~ballots, will nevertheless be permitted to cast provisional ballots upon their declaration~~
20 ~~that they have not and will not cast any vote in the election other than by that provisional~~
21 ~~ballot. The provisional ballot is then to be counted, once election officials determine that~~
22 ~~the voter did not in fact cast the mail in ballot. MAIL-IN VOTERS WHO APPEAR IN PERSON~~
23 ~~AT THE POLLING PLACE SHALL BE PERMITTED TO CAST A BALLOT IN ACCORDANCE WITH~~
24 ~~THE FOLLOWING PROVISIONS:~~

25 13.12.1 MAIL-IN VOTERS WHO HAVE REQUESTED AND HAVE BEEN ISSUED A MAIL-IN
26 BALLOT, WHO APPEAR AT THE POLLING PLACE ON ELECTION DAY SHALL BE
27 PERMITTED TO CAST A PROVISIONAL BALLOT IN ACCORDANCE WITH
28 SECTION 1-8.5-101(3), C.R.S.

29 13.12.2 MAIL-IN VOTERS WHO HAVE REQUESTED AND HAVE BEEN ISSUED A MAIL-IN
30 BALLOT WHO APPEAR AT AN EARLY VOTING LOCATION MAY VOTE A REGULAR
31 BALLOT IN ACCORDANCE WITH SECTION 1-8-113(1)(E), C.R.S. THE MAIL-IN
32 BALLOT MUST BE VOIDED PRIOR TO ISSUING THE EARLY VOTING BALLOT.

33 13.12.3 UNAFFILIATED MAIL-IN VOTERS WHO HAVE NOT BEEN ISSUED A MAIL-IN
34 BALLOT, WHO APPEAR AT THEIR CORRECT POLLING PLACE IN A PRIMARY
35 ELECTION MAY AFFILIATE AND BE ISSUED A REGULAR BALLOT IN ACCORDANCE
36 WITH SECTIONS 1-7-201 AND 1-8.5-101(5), C.R.S.

37 Rule 13.13 would be amended as follows:

38 13.13 Permanent Mail-in Voting.

1 13.13.1 An application for a mail-in ballot received by the county clerk and recorder shall
2 be treated as an application for permanent mail-in ballot only if the applicant makes such
3 designation. If the applicant does not specify the length of the request for a mail-in
4 ballot, the application shall be treated as an application for the current calendar year. If
5 the applicant marks both the permanent and calendar year boxes, the application shall be
6 treated as an application for permanent mail-in ballot.

7 A. If a registered elector submits a mail-in ballot application that does not
8 contain all of the information required by section 1-8-104.5, C.R.S., the
9 county clerk and recorder may not process the application, unless the
10 county clerk and recorder can confidently identify the elector, except that
11 in no event shall an application be processed if such application does not
12 contain the elector's signature.

13 B. If the county clerk and recorder is unable to confidently identify the
14 elector, the county clerk shall promptly notify the elector what additional
15 information is required.

16 13.13.2 IF AN ELECTOR WHO IS ELIGIBLE AND WISHES TO VOTE IN A MUNICIPAL OR
17 SPECIAL DISTRICT ELECTION WISHES TO HAVE A MAIL-IN BALLOT SENT TO AN
18 ADDRESS OTHER THAN HIS OR HER ADDRESS OF RECORD, THE ELECTOR SHALL
19 FILE A SEPARATE MAIL-IN BALLOT REQUEST WITH THE DESIGNATED ELECTION
20 OFFICIAL OF THAT JURISDICTION.

21 Rule 15.1 would be amended as follows:

22 15.1 ~~Each petition shall be verified according to the procedures set forth in Rule 17.1.~~
23 REGISTRATION, LICENSE, AND FILING PROCEDURES.

24 15.1.1 IN ACCORDANCE WITH SECTION 1-40-135, C.R.S., ANY PETITION PROPONENT OR
25 ISSUE COMMITTEE THAT INTENDS TO COMPENSATE PETITION CIRCULATORS MUST
26 REGISTER WITH, AND OBTAIN A PETITION ENTITY LICENSE FROM THE SECRETARY
27 OF STATE PRIOR TO COMPENSATING ANY CIRCULATOR.

28 15.1.2 TO REGISTER AND APPLY FOR A LICENSE THE DESIGNATED AGENT OF A PETITION
29 ENTITY MUST PAY A FEE AND SUBMIT A SIGNED APPLICATION INCLUDING:

30 A. THE BALLOT TITLE FOR WHICH A PETITION WILL BE CIRCULATED BY PAID
31 CIRCULATORS,

32 B. THE NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS OF THE
33 PETITION ENTITY,

34 C. THE NAME OF THE DESIGNATED AGENT,

35 D. AN AFFIRMATION THAT THE ENTITY WILL NOT PAY ANY CIRCULATOR
36 MORE THAN 20% OF HIS OR HER COMPENSATION ON A PER SIGNATURE
37 OR PER PETITION BASIS; AND

38 E. AN AFFIRMATION THAT AT LEAST ONE REPRESENTATIVE OF THE ENTITY
39 HAS READ AND UNDERSTANDS COLORADO PETITION LAWS AS OUTLINED

1 IN ARTICLE 40, TITLE 1, C.R.S., AND HAS COMPLETED THE CIRCULATOR
2 TRAINING PROGRAM PROVIDED BY THE SECRETARY OF STATE.

3 15.1.3 DETERMINATIONS REGARDING THE DENIAL OF AN APPLICATION OR REVOCATION
4 OF A LICENSE WILL BE MADE IN ACCORDANCE WITH THE REQUIREMENTS OF
5 SECTION 1-40-135, C.R.S.

6 15.1.4 AT THE TIME THE PETITION IS FILED, THE PROPONENTS SHALL FILE WITH THE
7 SECRETARY OF STATE A COPY OF THE LIST OF CIRCULATORS AND A COPY OF THE
8 LIST OF NOTARIES REQUIRED BY SECTION 1-40-111(4), C.R.S.

9 Rules 25.2.1, 25.2.2, and 25.2.3 would be amended as follows:

10 25.2.1 A uniformed services elector serving outside the United States may receive and
11 return an application for, or a mail-in ballot by electronic mail in circumstances
12 where a mail ballot or fax ballot is not available or feasible.

13 ~~(a) An application for an electronic mail ballot must be received no later~~
14 ~~than close of business the Friday immediately preceding the election~~

15 ~~(b) An email request for a replacement ballot must be received by 5:00 p.m.~~
16 ~~Mountain Time on election day.~~

17 25.2.2 Upon receipt and verification of an application, the designated election official
18 shall authorize the transmission of a blank ballot containing all contests and
19 questions for which the elector is eligible to vote.

20 (a) The designated election official shall TRANSMIT ~~fax~~ the election
21 materials, which shall include a blank ballot and voter instructions
22 (including the elector affidavit) TO THE ELECTOR EITHER DIRECTLY VIA
23 ELECTRONIC MAIL OR BY FAX to the Federal Voting Assistance Program
24 (FVAP) Electronic Transmission Service (ETS) FOR FORWARDING. ~~The~~
25 ~~designated election official shall not send the voting materials directly to~~
26 ~~the elector by electronic mail. Or,~~

27 (b) The designated election official may store the ballot electronically with
28 ETS using the procedures outlined in the FVAP ETS Guide, and
29 authorize the transmission of the blank ballot and instructions (including
30 the elector affidavit) to the elector by faxing a completed electronic
31 transmission coversheet to ETS.

32 25.2.3 The electronic package transmitted to THE ELECTOR EITHER DIRECTLY OR VIA
33 ETS shall contain:

34 (a) A completed electronic transmission coversheet;

35 (b) The blank ballot, if not stored with ETS, with voting instructions
36 (including the elector affidavit); and

37 (c) The contact information for the designated election official including:
38 name, title, mailing address, email address, phone, and fax number.

1 Rule 25.3 would be amended as follows:

2 25.3 Overall UOCAVA Requirements

3 25.3.1 If the designated election official has mailed a Clarification for Voter Status
4 Memorandum to an elector in response to receiving mail-in ballot request and has
5 not received a response to the memo at the time the mail-in ballot packet is
6 prepared, the designated election official shall mail the elector a full ballot for
7 which the elector, as a resident, would be eligible to vote (federal, state, local
8 offices, and questions).

9 25.3.2 Mail-in ballots sent by ~~ETS-ELECTRONIC MAIL~~ or facsimile transmission shall be
10 in text format on 8 ½" x 11" white paper to increase the readability of the ballot
11 and to avoid possible misinterpretations of the elector's intended choice because
12 of poor transmission of the document.

13 25.3.3 Instructions sent by ~~ETS-ELECTRONIC MAIL~~ or faxed to the elector with the blank
14 ballot shall be in text format on 8 ½" x 11" white paper and shall include the
15 following information:

16 (a) The dedicated fax number or email address ~~for ETS~~ to which the voted
17 ballot shall be returned (if applicable);

18 (b) The total number of pages transmitted;

19 (c) The total number of ballot pages;

20 (d) The telephone number or e-mail address where the eligible elector may
21 send questions regarding the ballot;

22 (e) A notice that the ballot shall not be duplicated for any other elector;

23 (f) A notice that once the ballot is returned by an elector, it will be counted
24 pursuant to section 1-8-116(4), C.R.S.; however, if an elector requests a
25 replacement ballot, the first ballot returned will be counted pursuant to
26 section 1-8-111(3), C.R.S.;

27 (g) A notice that the voted ballot must be ~~received by the clerk and recorder~~
28 ~~or Secretary of State~~ TRANSMITTED no later than 7:00 p.m. Mountain
29 Time on election day AND RECEIVED BY THE CLERK AND RECORDER OR
30 SECRETARY OF STATE NO LATER THAN THE CLOSE OF BUSINESS ON THE
31 EIGHTH DAY AFTER ELECTION DAY;

32 (h) A request for an e-mail address to which a confirmation notice of receipt
33 of the ballot may be sent at the discretion of the county clerk and
34 recorder; and

35 (i) Any other information deemed necessary by the Secretary of State or the
36 designated election official.

- 1 25.3.4 The designated election official shall fax a blank ballot with the instructions to
2 the fax number provided by the elector, or to ETS (if applicable). If the
3 transmission is unsuccessful, the designated election official shall attempt to fax
4 the ballot at least two more times.
- 5 25.3.5 Mail-in ballot applications returned via facsimile transmission or electronic mail
6 by the elector to the county clerk and recorder or the Secretary of State ~~via ETS~~
7 shall be received in the clerk and recorder's office or the Secretary of State's
8 office no later than the close of business on the Friday immediately preceding the
9 election.
- 10 25.3.6 Any voted ballot by a Uniformed Services elector or an overseas elector received
11 by the office of the Secretary of State by ~~7:00 p.m. Mountain Time on election~~
12 ~~day~~ THE DEADLINES SPECIFIED IN SECTIONS 1-8-103.5 AND 1-8-113, C.R.S., shall
13 be forwarded to the appropriate county clerk and recorder by overnight mail, fax,
14 or courier no later than the next business day. The office of the Secretary of
15 State shall immediately notify the appropriate county clerk and recorder of the
16 receipt and forwarding of the ballot.
- 17 25.3.6.1 If a county is notified by the Secretary of State ~~by 7:00 p.m. on election~~
18 ~~day~~ that a mail-in ballot has been received by the office of the Secretary
19 of State, the clerk and recorder shall retain a minimum of ten (10) voted
20 ballots, which shall be counted with the ballot received by the Secretary
21 of State to ensure voter secrecy.
- 22 25.3.7 Any ballot transmitted to an elector by ~~ETS-ELECTRONIC MAIL~~ or facsimile shall
23 contain a unique identification number for tracking and auditing purposes.
- 24 25.3.8 A log shall be kept by the designated election official of each ballot transmitted
25 to an elector by ELECTRONIC MAIL ~~ETS~~ or facsimile indicating:
- 26 (a) The name of the elector;
- 27 (b) The fax number to which the ballot was sent, or email address (if
28 applicable);
- 29 (c) The unique identification number of the ballot;
- 30 (d) The date the ballot and instructions were transmitted; and
- 31 (e) The initials of the employee of the designated election official
32 transmitting the ballot.
- 33 25.3.8.1 The electronic transmission log as well as any other ELECTRONIC MAIL,
34 ETS, or fax records shall be maintained as part of the official election
35 record.
- 36 25.3.9 The county clerk and recorder shall report to the Secretary of State's office no
37 later than sixty (60) days from the date of the election:

- 1 (a) The combined number of mail-in ballots transmitted (faxed, mailed, and
2 ~~transmitted via ETS-EMAILED~~)
- 3 (b) The combined number of mail-in ballots that were returned (faxed,
4 mailed, and ~~transmitted via ETS-EMAILED~~);
- 5 (c) The total number of mail-in ballots that were counted (faxed, mailed, and
6 ~~transmitted via ETS-EMAILED~~).

7 New Rule 25.3.10 would be adopted as follows:

8 25.3.10 IF AN UNREGISTERED UNIFORMED OR OVERSEAS ELECTOR SUBMITS A FEDERAL WRITE-IN
9 ABSENTEE BALLOT (“FWAB”), AND THE FORM IS RECEIVED BY THE COUNTY CLERK AND
10 RECORDER MORE THAN 29 DAYS PRIOR TO THE ELECTION, THE FORM MAY BE
11 CONSIDERED A TIMELY APPLICATION FOR REGISTRATION AND STATE MAIL-IN BALLOT
12 PURSUANT TO SECTION 1-8-117, C.R.S.

13 New Rule 25.4 would be adopted as follows:

14 25.4 APPLICATION DEADLINES FOR UOCAVA BALLOTS TRANSMITTED BY EMAIL, FAX, AND
15 ETS

16 25.4.1 AN APPLICATION FOR A MAIL-IN BALLOT TO BE TRANSMITTED BY EMAIL, FAX,
17 OR ETS MUST BE RECEIVED NO LATER THAN THE CLOSE OF BUSINESS THE
18 FRIDAY IMMEDIATELY PRECEDING THE ELECTION

19 25.4.2 A REQUEST FOR A REPLACEMENT BALLOT TO BE TRANSMITTED BY EMAIL, FAX,
20 OR ETS MUST BE RECEIVED BY 5:00 P.M. MOUNTAIN TIME ON ELECTION DAY. A
21 REQUEST FOR SUCH REPLACEMENT BALLOT INCLUDES A REQUEST FOR AN
22 ELECTRONICALLY TRANSMITTED BALLOT BY A VOTER WHO HAS ALREADY BEEN
23 ISSUED A BALLOT BY REGULAR MAIL.

24 Rule 26.1.3 would be amended as follows:

25 26.1.3 An elector who has requested AND HAS BEEN ISSUED a mail-in ballot shall be
26 permitted to cast a provisional ballot ON ELECTION DAY upon his or her
27 declaration that they have not and will not cast any vote in the election other than
28 by that provisional ballot.

29 Rule 26.5.4 would be amended as follows:

30 26.5.4 Rejection Codes (Any ballot given a rejection code shall not be counted):

31 RFS (Rejection federal or state) No federal or state candidates or issues to
32 duplicate.

33 RNS (Rejection not signed) Provisional Ballot Affidavit not signed.

34 RIN (Rejection incomplete information provided) Required information is
35 incomplete and the designated election official is unable to confirm
36 voter’s eligibility.

- 1 RNR (Rejection not registered) Voter did not register by the voter registration
2 deadline or by emergency registration, Colorado voter registration record
3 was not found, or voter was previously cancelled and has not been
4 reinstated pursuant to section 1-2-605(10), C.R.S.
- 5 REE (Rejection envelope empty) Provisional ballot envelope is empty.
- 6 RAB (Rejection voter voted mail-in ballot) Designated election official has
7 confirmed that voter voted a mail-in ballot.
- 8 REV (Rejection based on ballot cast in early voting) Voter voted early.
- 9 RED (REJECTION BASED UPON BALLOT CAST ON ELECTION DAY) VOTER
10 VOTED IN A POLLING PLACE
- 11 RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
- 12 RFE (Rejection felon not eligible to vote) Individual was convicted of a
13 felony and is either serving a sentence of confinement or detention or is
14 on parole.
- 15 RWC (Rejection elector not registered in county or State of Colorado) Non-
16 county or non-state resident; therefore voter not eligible to vote in the
17 county where the provisional ballot was voted.
- 18 RID (Rejection first time voter has not supplied identification upon
19 registration or thereafter prior to and during time voter voted) First Time
20 Voter who registered by mail or through a voter registration drive, is
21 tagged as id deficient, and did not provide id at the time of voting.
- 22 RRD (Rejection registration deficient) Voter had deficient or incomplete
23 registration and required information was not provided prior to or at the
24 time of filling in the provisional ballot envelope. Voter's eligibility
25 cannot be established. Section 1-2-509(3), C.R.S.

26 Rule 30.1.6 would be amended as follows:

- 27 • A copy of a current utility bill, bank statement, government check, paycheck, or other
28 government document that shows the name and address of the elector. ~~(A cable bill, a
29 telephone bill, documentation from a public institution of higher education in Colorado
30 containing at least the name, date of birth, and legal residence address of the student
31 elector, a paycheck from a government institution, or a Certificate of Degree of Indian or
32 Alaskan Native Blood are sufficient forms of identification);~~

33 FOR EXAMPLE:

- 34 ○ A CABLE BILL OR TELEPHONE BILL,
- 35 ○ DOCUMENTATION FROM A PUBLIC INSTITUTION OF HIGHER EDUCATION IN
36 COLORADO CONTAINING AT LEAST THE NAME, DATE OF BIRTH, AND LEGAL
37 RESIDENCE ADDRESS OF THE STUDENT ELECTOR,

1 ○ A PAYCHECK FROM A GOVERNMENT INSTITUTION OR PRIVATE COMPANY; OR

2 ○ A CERTIFICATE OF DEGREE OF INDIAN OR ALASKAN NATIVE BLOOD.

3 Rule 42.2.2 would be amended as follows:

4 42.2.2 Requests for emergency mail-in ballots issued for administrative reasons
5 pursuant to Section 1-8-115(2), C.R.S. must be received by the designated
6 election official no later than ~~7:00~~ 5:00 P.M. on the day of the election.