



## Notice of Temporary Adoption

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

April 2, 2012

### I. Adopted Rule Amendments

As authorized by Colorado Elections Law<sup>1</sup> and the State Administrative Procedure Act<sup>2</sup>, the Colorado Secretary of State gives notice that the following amendments to the Election Rules<sup>3</sup> are adopted on a temporary basis and immediately effective.

(Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. *Annotations* may be included):

Rule 8.6 is amended as follows:

- 8.6 Watchers ~~shall be~~ ARE subject to the provisions of section 1-5-503, C.R.S. FOR ELECTION ACTIVITIES OUTSIDE THE IMMEDIATE VOTING AREA, THE DESIGNATED ELECTION OFFICIAL MAY, WITHIN HIS OR HER DISCRETION, ALLOW WATCHERS TO OBSERVE WITHIN SIX FEET OF THESE ACTIVITIES.

<sup>1</sup> Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2011).

<sup>2</sup> Section 24-4-103, C.R.S. (2011).

<sup>3</sup> 8 CCR 1505-1.

**II. Basis, Purpose, and Specific Statutory Authority**

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

**III. Statement of Justification and Reasons for Adoption of Temporary Rules**

A statement of the Secretary of State's findings to justify the immediate adoption of these new and amended rules on a temporary basis follows this notice and is incorporated by reference.<sup>4</sup>

**IV. Effective Date of Adopted Rules**

These new and amended rules are immediately effective on a temporary basis.

Dated this 2<sup>nd</sup> day of April, 2012,



Suzanne Staiert  
Deputy Secretary of State

For

Scott Gessler  
Colorado Secretary of State

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<sup>4</sup> Section 24-4-103(6), C.R.S. (2010).



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

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

**April 2, 2012**

#### **I. Basis and Purpose**

This statement is about amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws.<sup>1</sup> The revisions are also intended to improve the administration of elections in Colorado, to increase the transparency and security of the election process.

The revisions are specifically intended to answer questions arising under State election laws by providing clear guidance regarding watcher observation areas and the applicability of section 1-5-503, C.R.S., to election activities conducted outside the immediate voting area, such as ballot processing and counting. This guidance is necessary to ensure that watchers are provided a meaningful opportunity to observe election activities such as ballot processing and counting, while also ensuring that the designated election official is able to accommodate all of the watchers present without compromising security of the elections process.

#### **II. Rulemaking Authority**

The statutory authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2011), 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., (2011), 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].”

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<sup>1</sup> Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 (“HAVA”), P.L. No. 107-252.



## **Statement of Justification and Reasons for Adoption of Temporary Rules**

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

**April 2, 2011**

Amended Rules: 8.6

In accordance with Colorado election law,<sup>1</sup> the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws during the 2012 election cycle. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally.

These rules are adopted in accordance with recommendations made by the Secretary of State, Elections Division staff, County Clerk and Recorders, and interested parties throughout the State of Colorado. The Secretary of State anticipates commencement of formal rulemaking in accordance with the State Administrative Procedure Act<sup>2</sup> in the near future to consider adoption of these amended and new rules on a permanent basis. Adoption of the rules on a temporary basis, however, is necessary to provide clear guidance to interested parties, including, but not limited to: county clerks, political parties, election judges, and watchers, given the close proximity of the June 2012 Primary Election.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.<sup>3</sup>

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<sup>1</sup> Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-1.5-104(1)(e), C.R.S. (2011). The Secretary of State has the power “[t]o promulgate, publish, and distribute...such rules as [the Secretary] finds necessary for the proper administration and enforcement of the election laws” and “...[the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545]....”

<sup>2</sup> Section 24-4-103(3)(a), C.R.S. (2011).

<sup>3</sup> Section 24-4-103(3)(6), C.R.S. (2011).