



## Notice of Temporary Adoption

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

August 16, 2013

#### 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. (SMALL CAPS indicate proposed additions to the current rules. ~~Stricken-type~~ indicates proposed deletions from current rules. *Annotations* may be included):

32.7 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SEPTEMBER 10, 2013, RECALL ELECTIONS IN SENATE DISTRICTS 3 AND 11 WILL BE CONDUCTED AS POLLING PLACE ELECTIONS ACCORDING TO THE FOLLOWING PROCEDURES, WHICH SUBSTANTIALLY COMPLY WITH ARTICLE XXI OF THE COLORADO CONSTITUTION AND TITLE 1, C.R.S.

32.7.1 VERIFICATION OF SUCCESSOR CANDIDATE PETITIONS AND CERTIFICATION OF BALLOT CONTENT.

- (A) SUCCESSOR CANDIDATE PETITIONS ARE DUE NO LATER THAN 5:00PM ON AUGUST 26, 2013.
- (B) THE SECRETARY OF STATE WILL VERIFY CANDIDATE PETITIONS SUBMITTED AND ISSUE A DETERMINATION OF SUFFICIENCY OR INSUFFICIENCY WITHIN ONE DAY AFTER RECEIVING ALL PETITIONS.
- (C) CONSISTENT WITH THE REQUIREMENTS OF SECTION 1-1-113, C.R.S., A PERSON MAY FILE A PROTEST OF THE SECRETARY'S DETERMINATION OF SUFFICIENCY OR INSUFFICIENCY WITH THE DISTRICT COURT WITHIN FIVE CALENDAR DAYS AFTER ISSUANCE OF THE DETERMINATION.
- (D) THE SECRETARY OF STATE WILL CERTIFY THE CONTENT OF THE RECALL ELECTION BALLOT TO THE COUNTY AFTER DETERMINING THE SUFFICIENCY OF ALL CANDIDATE PETITIONS. IF A PROTEST IS FILED, THE SECRETARY WILL

<sup>1</sup> Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2012).

<sup>2</sup> Section 24-4-103, C.R.S. (2012).

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

IMMEDIATELY NOTIFY THE AFFECTED COUNTY OF THE PROTEST AND WILL WORK WITH THE COUNTY TO UPDATE THE BALLOT CONTENT ACCORDINGLY.

### 32.7.2 ELECTION NOTICE

- (A) THE COUNTY MUST PUBLISH THE ELECTION NOTICE BY AUGUST 30, 2013. THE NOTICE MUST COMPLY WITH THE PUBLICATION REQUIREMENTS IN SECTION 1-1-104(34), C.R.S.
- (B) IN ADDITION TO THE INFORMATION REQUIRED BY SECTION 1-5-205(1), C.R.S., THE NOTICE MUST ALSO ADVISE ELECTORS:
  - (1) THAT ALL ELECTORS MUST VOTE IN PERSON AT A POLLING LOCATION DURING ITS HOURS OF OPERATION; AND
  - (2) THE PROCEDURES AND QUALIFICATIONS FOR REQUESTING AN EMERGENCY MAIL BALLOT.
- (C) THE COUNTY MUST POST A COPY OF THE NOTICE ON THE COUNTY CLERK'S OFFICIAL WEBSITE BETWEEN THE DATES OF AUGUST 30, 2013, AND SEPTEMBER 13, 2013.
- (D) THE COUNTY MUST SEND A COPY OF THE NOTICE TO THE SECRETARY OF STATE BY AUGUST 30, 2013, FOR PUBLICATION ON THE SECRETARY'S WEBSITE.
- (E) IF THE COUNTY INCREASES THE HOURS THAT POLLING LOCATIONS WILL BE OPEN, THE COUNTY MUST POST A REVISED NOTICE ON ITS WEBSITE AND AT THE POLLING LOCATIONS.

### 32.7.3 REGISTRATION

- (A) AN ELIGIBLE ELECTOR MAY REGISTER IN PERSON AT THE COUNTY'S OFFICE OR AT A POLLING LOCATION DURING THE HOURS THAT THE LOCATION IS OPEN.
- (B) THE COUNTY MUST PROCESS ALL OTHER VOTER REGISTRATION APPLICATIONS RECEIVED THROUGH SEPTEMBER 4, 2013, AND MAY PROCESS VOTER REGISTRATION APPLICATIONS RECEIVED AFTER THAT DATE.
- (C) THE COUNTY MAY DEFER PROCESSING NCOA DATA UNDER SECTION 1-2-302.5, C.R.S., UNTIL AFTER THE SECRETARY OF STATE HAS CLOSED THE ELECTION IN SCORE.
- (D) AN ELECTOR MUST ESTABLISH A RESIDENCE BEFORE REGISTERING TO VOTE OR CHANGING HIS OR HER RESIDENCE IN ACCORDANCE WITH SECTION 1-2-102, C.R.S. AN ELECTOR'S RESIDENCE IS HIS OR HER PRIMARY HOME TO WHICH HE OR SHE, WHENEVER ABSENT, HAS THE PRESENT INTENT OF RETURNING. AN ELECTOR ESTABLISHES A RESIDENCE EITHER BY

MAINTAINING A RESIDENCE AS HIS OR HER PRIMARY HOME OR BY PHYSICALLY MOVING TO A NEW RESIDENCE WITH THE INTENT TO MAINTAIN THAT RESIDENCE AS A PRIMARY HOME. INTENT TO MOVE, IN AND OF ITSELF, DOES NOT ESTABLISH RESIDENCE. AND NEITHER A BUSINESS NOR A TEMPORARY HOTEL ROOM IS A VALID RESIDENCE. UPON ESTABLISHING A NEW RESIDENCE THE ELECTOR MUST UPDATE HIS OR HER VOTER REGISTRATION RECORD WITH THE COUNTY CLERK AND RECORDER OF THE COUNTY TO WHICH THE ELECTOR MOVED.

(1) AN ELECTOR AND A COUNTY CLERK AND RECORDER MUST CONSIDER THE FOLLOWING FACTORS IN DETERMINING THE ELECTOR'S PRIMARY RESIDENCE:

- (A) WHICH ADDRESS THE ELECTOR USES FOR INCOME TAX PURPOSES;
- (B) WHICH ADDRESS THE ELECTOR USES FOR MOTOR VEHICLE REGISTRATION;
- (C) WHETHER THE ELECTOR IS REGISTERED TO VOTE IN ANOTHER STATE;
- (D) WHETHER THE ELECTOR SHARES HIS OR HER COLORADO ADDRESS WITH FAMILY MEMBERS;
- (E) WHETHER THE ELECTOR WORKS IN OR HAS BUSINESS PURSUITS IN COLORADO; AND
- (F) WHETHER THE ELECTOR HAS RESIDENCES IN ANY OTHER STATE.

(2) APPLYING THE FACTORS CONTAINED IN PARAGRAPH (1) OF THIS RULE, A PERSON IS LIKELY A RESIDENT IF:

- (A) HE OR SHE IS A MILITARY MEMBER OR FAMILY OF A MILITARY MEMBER WHO HAS THE PRESENT INTENT TO MAKE THE DISTRICT HIS OR HER PERMANENT HOME AFTER COMPLETING MILITARY SERVICE; OR
- (B) HE OR SHE IS A STUDENT ATTENDING COLLEGE IN COLORADO BUT HAS THE PRESENT INTENT TO MAKE THE DISTRICT HIS OR HER HOME AFTER COMPLETING SCHOOL.

(3) APPLYING THE FACTORS CONTAINED IN PARAGRAPH (1) OF THIS RULE, A PERSON IS LIKELY NOT A RESIDENT IF:

- (A) HE OR SHE IS A MILITARY MEMBER OR FAMILY OF A MILITARY MEMBER WHO IS STATIONED IN COLORADO BUT

WHO MAINTAINS A PRIMARY RESIDENCE IN ANOTHER STATE;  
OR

(B) HE OR SHE IS AN OUT-OF-STATE STUDENT ATTENDING COLLEGE IN COLORADO BUT HAS NO INTENT TO MAKE THE DISTRICT HIS OR HER PERMANENT HOME.

(E) VOTER REGISTRATION AT THE POLLING LOCATION

- (1) AN INDIVIDUAL CONDUCTING VOTER REGISTRATION AT A POLLING LOCATION MUST BE A COUNTY OR STATE EMPLOYEE OR TEMPORARY STAFF HIRED BY THE COUNTY CLERK, AND MUST SUCCESSFULLY PASS A CRIMINAL BACKGROUND CHECK. ANY PERSON CONVICTED OF AN ELECTION OFFENSE, OR AN OFFENSE WITH FRAUD AS AN ELEMENT, MAY NOT HANDLE VOTER REGISTRATION APPLICATIONS OR CONDUCT VOTER REGISTRATION AND LIST MAINTENANCE ACTIVITIES.
- (2) A PERSON WHO WANTS TO BOTH REGISTER AND VOTE AT A POLLING LOCATION MUST PROVIDE A DRIVER'S LICENSE OR STATE-ISSUED IDENTIFICATION CARD NUMBER THAT CAN BE VERIFIED IN SCORE, OR PRESENT AN ACCEPTABLE FORM OF IDENTIFICATION AS DEFINED IN SECTION 1-1-104(19.5), C.R.S.
- (3) IN ACCORDANCE WITH SECTION 1-2-102, C.R.S., ANY ELECTOR WHO REGISTERS TO VOTE IN PERSON MUST PROVIDE A VALID RESIDENTIAL ADDRESS TO REGISTER TO VOTE. THE ELECTOR MUST AFFIRM THAT THE ELECTOR CLAIMS THE RESIDENTIAL ADDRESS PROVIDED ON HIS OR HER APPLICATION AS THE ELECTOR'S SOLE LEGAL RESIDENCE AND THAT THE ELECTOR HAS NO OTHER LEGAL RESIDENCE.
- (4) BEFORE THE ELECTOR MAY CAST A BALLOT, THE COUNTY MUST VERIFY THAT THE ADDRESS IS LOCATED WITHIN THE APPROPRIATE DISTRICT, AND THAT THE ADDRESS IS A VALID RESIDENTIAL ADDRESS. IN ACCORDANCE WITH SECTION 1-2-102, C.R.S., AN ELECTOR MAY NOT PROVIDE THE ADDRESS OF A BUSINESS OR VACANT LOT.

32.7.4 LIMITED MAIL BALLOT PROCEDURES.

(A) MAIL BALLOTS FOR THE RECALL ELECTIONS MAY BE ISSUED ONLY TO:

- (1) MILITARY AND OVERSEAS ELECTORS AS SPECIFIED IN ARTICLE 8.3 OF TITLE 1, C.R.S.;
- (2) ADDRESS CONFIDENTIALITY PROGRAM ELECTORS AS SPECIFIED IN PART 21 OF ARTICLE 30 OF TITLE 24, C.R.S.;

- (3) ELIGIBLE ELECTORS WHO COMPLETE AND TIMELY SUBMIT TO THE COUNTY AN EMERGENCY MAIL BALLOT APPLICATION, AS OUTLINED BY SECTION 1-7.5-115, C.R.S., AND RULE 42; AND
  - (4) ELECTORS AT A HEALTHCARE FACILITY AS DEFINED IN SECTION 1-1-104(18.5), C.R.S.
- (B) MILITARY AND OVERSEAS VOTERS.
- (1) EXCEPT AS MODIFIED BY THIS RULE, THE PROVISIONS OF ARTICLE 8.3 OF TITLE 1, C.R.S., AND RULE 25 APPLY TO BALLOTS ISSUED TO OR RETURNED BY MILITARY AND OVERSEAS VOTERS.
  - (2) THE COUNTY MUST IMMEDIATELY NOTIFY ALL MILITARY AND OVERSEAS VOTERS, IN THE MOST EFFICIENT MANNER POSSIBLE, THAT:
    - (A) BALLOTS ISSUED AND SENT TO COVERED ELECTORS BY MAIL OR ELECTRONIC TRANSMISSION ON OR BEFORE AUGUST 12, 2013, MAY HAVE OMITTED THE NAMES OF ONE OR MORE QUALIFIED SUCCESSOR CANDIDATES;
    - (B) MILITARY AND OVERSEAS VOTERS MAY OBTAIN AN OFFICIAL BALLOT LISTING ALL QUALIFIED SUCCESSOR CANDIDATES AFTER AUGUST 27, 2013, ON THE SECRETARY OF STATE'S ONLINE BALLOT DELIVERY WEBSITE OR BY CONTACTING THE COUNTY; AND
    - (C) IF A MILITARY AND OVERSEAS VOTER BELIEVES HE OR SHE WILL BE UNABLE TO OBTAIN AN OFFICIAL BALLOT LISTING ALL QUALIFIED SUCCESSOR CANDIDATES AFTER AUGUST 27, 2013, HE OR SHE MAY VOTE AND RETURN THE BALLOT ISSUED ON OR BEFORE AUGUST 12, 2013, AND ALL OF HIS OR HER VOTES WILL BE COUNTED.
  - (3) AS SOON AS POSSIBLE FOLLOWING BALLOT CERTIFICATION, THE COUNTY MUST SEND BALLOTS TO MILITARY AND OVERSEAS VOTERS BY MAIL OR ELECTRONIC TRANSMISSION AS REQUESTED BY THE ELECTOR.
  - (4) EXCEPT FOR VERIFYING ELECTORS' SIGNATURES UNDER SECTION 1-7.5-107.3, C.R.S., AND RULE 29, THE COUNTY MAY NOT PROCESS OR TABULATE MILITARY AND OVERSEAS BALLOTS RECEIVED DURING THE 8-DAY POST-ELECTION DAY PERIOD. AFTER THE 8-DAY PERIOD, THE COUNTY MUST PROCESS THESE BALLOTS AS FOLLOWS:
    - (A) IF A MILITARY AND OVERSEAS VOTER RETURNS THE SECOND ISSUED BALLOT, THE COUNTY MUST COUNT THAT BALLOT,

REGARDLESS OF WHETHER THE VOTER RETURNED THE FIRST ISSUED BALLOT.

(B) IF A MILITARY OR OVERSEAS VOTER RETURNS ONLY THE FIRST ISSUED BALLOT, THE COUNTY MUST COUNT BOTH THE RECALL QUESTION AND THE CANDIDATE RACE.

(C) VOTERS COVERED BY THE ADDRESS CONFIDENTIALITY PROGRAM (ACP).

(1) THE COUNTY MUST ISSUE MAIL BALLOTS TO ACP PARTICIPANTS AS PROVIDED BY TITLE 1, C.R.S., AND THE ELECTION RULES.

(2) AS SOON AS POSSIBLE FOLLOWING BALLOT CERTIFICATION, THE COUNTY MUST SEND BALLOTS TO ACP PARTICIPANTS.

(D) EMERGENCY MAIL BALLOTS.

(1) AN ELIGIBLE ELECTOR MAY APPLY FOR AN EMERGENCY MAIL BALLOT AS OUTLINED IN SECTION 1-7.5-115, C.R.S, AND RULE 42. AN ELECTOR WHO HAS NO ACCESS TO FAX, EMAIL, OR AN AUTHORIZED REPRESENTATIVE, MAY REQUEST DELIVERY OF HIS OR HER BALLOT BY A BIPARTISAN TEAM OF JUDGES. THE TEAM OF JUDGES WILL DELIVER AND RETURN THE ELECTOR'S BALLOT FOLLOWING THE HCF PROCEDURES IN SECTION 1-7.5-113, C.R.S.

(2) IN ADDITION TO THE REASONS OUTLINED IN SECTION 1-7.5-115, C.R.S., AN ELECTOR WHO CANNOT VOTE IN PERSON BECAUSE THE ELECTOR IS ABSENT FROM HIS OR HER COUNTY OF RESIDENCE MAY ALSO APPLY FOR AN EMERGENCY MAIL BALLOT.

(3) UNDER SECTIONS 1-9-201 AND 1-9-207, C.R.S., THE REASON AN ELECTOR REQUESTS AN EMERGENCY MAIL BALLOT IS NOT SUBJECT TO CHALLENGE.

(4) UNLESS EXPRESSLY PROHIBITED BY STATUTE, AN ELECTOR'S EMERGENCY MAIL BALLOT APPLICATION IS AN OPEN RECORD THAT THE COUNTY MAY RELEASE SUBJECT TO REDACTION.

(E) HEALTHCARE FACILITY (HCF) RESIDENTS

(1) THE COUNTY MUST DELIVER BALLOTS TO HCF RESIDENTS IN ACCORDANCE WITH SECTION 1-7.5-113, C.R.S.

(2) THE COUNTY MAY DELIVER BALLOTS TO HCF RESIDENTS WHERE THE FACILITY HAS INDIVIDUAL MAIL BOXES OR DOES NOT MEET THE MINIMUM NUMBER OF BALLOTS OUTLINED IN SECTION 1-7.5-113, C.R.S.

### 32.7.5 POLLING LOCATIONS

- (A) FOR THE PURPOSES OF THE RECALL ELECTION, POLLING LOCATION MEANS A VOTER SERVICE AND POLLING CENTER AS DESCRIBED IN SECTIONS 1-1-104(50.5), 1-5-102.9, AND 1-7.5-107(4.5), C.R.S.
- (B) THE COUNTY MUST DESIGNATE THE MINIMUM NUMBER OF POLLING LOCATIONS OUTLINED IN SECTION 1-7.5-107(4.5), C.R.S., AND CONSPICUOUSLY POST NOTICE OF THE LOCATION NO LATER THAN SEPTEMBER 3, 2013.
- (C) THE COUNTY MUST COMPLETE AND FILE AN ACCESSIBILITY ASSESSMENT FOR EACH LOCATION WITH THE SECRETARY OF STATE BY SEPTEMBER 3, 2013, USING THE APPROVED ANNUAL POLLING PLACE ACCESSIBILITY SURVEY FORM.
- (D) THE COUNTY MUST OPEN THE MINIMUM NUMBER OF POLLING LOCATIONS ON THE DATE ORDERED BY THE SECRETARY OF STATE, FOR A MINIMUM OF EIGHT HOURS ON WEEKDAYS AND SATURDAY. ALL POLLING LOCATIONS MUST BE OPEN FROM 7:00AM TO 7:00PM ON ELECTION DAY.
- (E) THE COUNTY MUST PROVIDE ALL SERVICES OUTLINED IN SECTION 1-5-102.9, C.R.S., AT EVERY POLLING LOCATION.
- (F) VOTER CHECK-IN AT POLLING LOCATIONS
  - (1) EACH POLLING LOCATION MUST INCLUDE AN ADEQUATELY STAFFED CHECK-IN TABLE OR AREA WHERE A CHECK-IN JUDGE MUST VERIFY EACH ELECTOR'S REGISTRATION INFORMATION, INCLUDING ADDRESS.
  - (2) IF THE ELECTOR HAS MOVED OR IS NOT REGISTERED, THE CHECK-IN JUDGE MUST DIRECT THE ELECTOR TO THE REGISTRATION AREA. IF THE ELECTOR IS REGISTERED AND HAS NO UPDATES, THE CHECK-IN JUDGE MUST DIRECT THE ELECTOR TO THE VOTING TABLE.
- (G) POLLING LOCATION CONNECTIVITY
  - (1) THE COUNTY MUST HAVE REAL-TIME ACCESS TO SCORE AT EVERY POLLING LOCATION.
  - (2) AT NO TIME MAY AN ELECTION JUDGE OPEN BOTH THE SCORE VOTER REGISTRATION SCREEN AND THE VOTING MODULE ON A SINGLE WORKSTATION.

### 32.7.6 TESTING AND AUDITING VOTING EQUIPMENT

- (A) BEFORE SEPTEMBER 5, 2013, THE COUNTY MUST CONDUCT A HARDWARE DIAGNOSTIC AND LOGIC AND ACCURACY TEST OF THE EQUIPMENT THAT

WILL BE USED IN THE ELECTION USING THE PROCEDURES OUTLINED IN RULE 11.5.

- (B) THE COUNTY MUST SUBMIT THE VOTING SYSTEMS INVENTORY LISTS REQUIRED BY RULE 11.4 TO THE SECRETARY OF STATE NO LATER THAN SEPTEMBER 5, 2013.
- (C) THE COUNTY MUST SUBMIT A COPY OF THE ELECTION SETUP RECORDS TO THE SECRETARY OF STATE NO LATER THAN SEPTEMBER 6, 2013.
- (D) THE COUNTY MUST CONDUCT A POST-ELECTION AUDIT OF THE ELECTION FOLLOWING THE PROCEDURES OUTLINED IN SECTION 1-7-514, C.R.S., AND RULE 11.

### 32.7.7 PROVISIONAL BALLOTS

- (A) THE COUNTY MUST USE THE PROVISIONAL BALLOT AFFIDAVIT APPROVED BY THE SECRETARY OF STATE.
- (B) IF A POLLING LOCATION CANNOT CONNECT TO SCORE, THE JUDGES MUST ISSUE PROVISIONAL BALLOTS TO ELECTORS UNTIL THE COUNTY RESTORES CONNECTIVITY. THE COUNTY MUST USE ACCEPTANCE CODE "ALC" FOR ALL ACCEPTED PROVISIONAL BALLOTS THAT THE COUNTY ISSUES DUE TO A LOSS OF CONNECTIVITY.
- (C) THE COUNTY MUST PROCESS AND TABULATE ALL REGULAR BALLOTS BEFORE PROCESSING PROVISIONAL BALLOTS.
- (D) PUBLIC ACCESS TO PROVISIONAL BALLOT INFORMATION.
  - (1) THE LIST OF VOTERS WHO CAST A PROVISIONAL BALLOT AND THE ACCEPT OR REJECT CODE FOR THE BALLOT IS AVAILABLE FOR PUBLIC INSPECTION.
  - (2) THE COUNTY MAY NOT RELEASE AN ORIGINAL OR COPY OF THE ELECTOR'S:
    - (A) MONTH AND DAY OF DATE OF BIRTH;
    - (B) DRIVER'S LICENSE OR DEPARTMENT OF REVENUE IDENTIFICATION NUMBER;
    - (C) SOCIAL SECURITY NUMBER; OR
    - (D) SIGNATURE.
  - (3) IF AN ELECTOR HAS REQUESTED CONFIDENTIALITY UNDER SECTION 24-72-204(3.5), C.R.S., THE COUNTY MAY NOT RELEASE THE



ELECTOR'S RESIDENCE OR DELIVERABLE MAILING ADDRESS, OR TELEPHONE NUMBER.

- (4) IF AN ELECTOR IS A PARTICIPANT IN THE ADDRESS CONFIDENTIALITY PROGRAM UNDER SECTION 24-30-2101, C.R.S., THE COUNTY MAY NOT RELEASE THE PROVISIONAL BALLOT AFFIDAVIT.

#### 32.7.8 ELECTION JUDGES

- (A) THE COUNTY MUST APPOINT ELECTION JUDGES IN ACCORDANCE WITH SECTION 1-6-111, C.R.S. THE COUNTY MUST DETERMINE THE NECESSARY NUMBER OF ELECTION JUDGES TO CONDUCT THE ELECTION, REQUEST A LIST OF INDIVIDUALS FROM THE LOCAL POLITICAL PARTIES, AND SELECT JUDGES FROM THESE LISTS ACCORDING TO THE PRIORITY ESTABLISHED BY THE LOCAL POLITICAL PARTY. CLERKS MUST MAINTAIN A BIPARTISAN BALANCE OF ELECTION JUDGES.
- (B) THE COUNTY MUST HAVE AT LEAST ONE SUPERVISOR JUDGE AT EACH POLLING LOCATION, APPOINTED IN ACCORDANCE WITH SECTION 1-6-109.5, C.R.S.
- (C) EVERY ELECTION JUDGE MUST SUCCESSFULLY PASS A CRIMINAL BACKGROUND CHECK. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION OFFENSE, OR AN OFFENSE WITH FRAUD AS AN ELEMENT, IS PROHIBITED FROM SERVING AS A JUDGE.

#### 32.7.9 WATCHERS AND OBSERVERS

- (A) A MAJOR OR MINOR POLITICAL PARTY WITH A CANDIDATE ON THE BALLOT, AN UNAFFILIATED CANDIDATE WHO IS ON THE BALLOT, OR A REGISTERED ISSUE COMMITTEE SUPPORTING OR OPPOSING THE RECALL QUESTION MAY APPOINT ONE OR MORE WATCHERS TO OBSERVE ELECTION ACTIVITIES.
- (B) A WATCHER MAY WITNESS AND VERIFY THE CONDUCT OF THE ELECTION, WHICH INCLUDES ALL ACTIVITIES IN A POLLING LOCATION AS WELL AS BALLOT PROCESSING AND COUNTING.
- (C) WATCHERS MAY BE PRESENT AT EACH STAGE OF THE CONDUCT OF THE ELECTION, INCLUDING:
  - (1) RECEIVING AND PROCESSING EMERGENCY MAIL BALLOTS;
  - (2) PROVISIONAL BALLOT PROCESSING;
  - (3) SIGNATURE VERIFICATION; AND
  - (4) MILITARY AND OVERSEAS BALLOT PROCESSING.

- (D) WATCHERS MAY NOT HAVE ACCESS TO CONFIDENTIAL VOTER INFORMATION.
- (E) IF AN ELECTION OFFICIAL OR AN ELECTION JUDGE IS CONDUCTING ELECTION ACTIVITIES IN SEPARATE ROOMS OR AREAS OF A BUILDING OR BUILDINGS, THE COUNTY MUST ALLOW ADDITIONAL WATCHERS TO OBSERVE AND VERIFY EACH SEPARATE ACTIVITY IN EACH ROOM OR AREA IN THE BUILDING OR BUILDINGS. THE COUNTY MUST ALLOW ONE OR MORE WATCHERS TO OBSERVE EACH SIGNATURE VERIFICATION WORKSTATION.
- (F) A WATCHER MAY NOT USE A MOBILE PHONE TO MAKE OR RECEIVE A CALL, OR USE ANY ELECTRONIC DEVICE TO TAKE PICTURES, VIDEO, OR AUDIO RECORDING IN ANY POLLING LOCATION OR OTHER PLACE ELECTION ACTIVITIES ARE CONDUCTED.

32.7.10 CANVASS AND REPORTING

- (A) CANVASS
  - (1) THE COUNTY MUST APPOINT THE CANVASS BOARD BY AUGUST 26, 2013.
  - (2) THE CANVASS BOARD MUST CONDUCT THE CANVASS AND PREPARE THE ABSTRACT FOLLOWING THE PROCEDURES OUTLINED IN PART 1 OF ARTICLE 10, C.R.S.
  - (3) AFTER CERTIFICATION OF THE ABSTRACT BY THE CANVASS BOARD, THE COUNTY MUST TRANSMIT THE SUMMARY RESULTS TO THE SECRETARY OF STATE NO LATER THAN THE EIGHTEENTH DAY AFTER THE ELECTION.
- (B) THE COUNTY MUST UPLOAD RESULTS TO THE ELECTION NIGHT REPORTING SYSTEM AT THE FOLLOWING TIMES:
  - (1) NO LATER THAN ONE HOUR AFTER THE LAST VOTER CASTS HIS OR HER BALLOT ON ELECTION DAY;
  - (2) AT THE END OF THE NIGHT ON ELECTION DAY; AND
  - (3) AFTER THE CANVASS BOARD HAS COMPLETED ITS DUTIES AND CERTIFIED THE OFFICIAL RESULTS.

**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 this new rule on a temporary basis follows this notice and is incorporated by reference.<sup>4</sup>

**IV. Effective Date of Adopted Rules**

This new rule is immediately effective on a temporary basis.

Dated this 16<sup>th</sup> day of August, 2013,



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. (2012).



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

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

August 16, 2013

#### I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado election laws. The revision is also intended to improve elections administration in Colorado.

The temporary rule is necessary given that two recall elections: one for senate district 11 in El Paso County and one for senate district 3 in Pueblo County, are set for September 10, 2013. The new temporary rule provides clear guidance to county clerks and electors.

#### II. Rulemaking Authority

The constitutional and statutory authority is as follows:

1. Article XXI of the Colorado Constitution which prescribes recall procedures.
2. Section 1-1-107(2)(a), C.R.S., (2012), 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.”



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

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

**August 16, 2013**

New Rule: 32.7

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.

Temporary adoption is necessary both to comply with law and to preserve the public welfare given that two recall elections: one for senate district 11 in El Paso County and one for senate district 3 in Pueblo County, are set for September 10, 2013. In accordance with the Denver District Court ruling in Case No. 2013 CV 433491 on August 12, 2013, the Secretary of State must adopt rules to provide election administration procedures to the affected county clerks and electors.

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>2</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. (2012). 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)(6), C.R.S. (2012).