

**From:** Merlin Klotz  
**To:** SoS Rulemaking  
**Subject:** [EXTERNAL] RE: Reminder Notice of Rulemaking Hearing - Election Rules  
**Date:** Monday, May 23, 2022 1:31:27 PM  
**Attachments:** [Comments for 5-24 Rule hearing\(1\).docx](#)

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Thank you for considering the attached comments on proposed rules at hearing 5/24/22

Merlin Klotz

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**From:** CO Secretary of State <ColoSecofState@public.govdelivery.com>  
**Sent:** Wednesday, May 18, 2022 3:15 PM  
**To:** Merlin Klotz [REDACTED]  
**Subject:** Reminder Notice of Rulemaking Hearing - Election Rules

JenaBanner



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Good afternoon,

**On Tuesday, May 24th, 2022**, the Colorado Department of State will host a rulemaking hearing. During the hearing, all members of the public will have an opportunity to comment on proposed amendments to Colorado Department of State Elections Rules (8 CCR 1505-1). **The hearing will begin at 9:30 a.m.** and will conclude at the end of public comment.

This hearing will be conducted in person and via webinar. **We highly recommend attending the hearing online.** To attend in person, please arrive at the Red Rocks Conference Room on the 5th floor of the Department of State's office at 1700 Broadway, Denver, CO 80920, accessible by elevator from the building's lobby level. [\[Map\]](#) To register for the webinar, please click on the following link: <https://attendee.gotowebinar.com/register/4289699957742255116>. You will receive a confirmation email containing information about joining the webinar.

**Revisions have been made to some proposed rules.** Copies of the revised draft rules and statement of basis are attached and also available on the Department's website. For additional information concerning this rulemaking, please see the following website: [https://www.coloradosos.gov/pubs/rule\\_making/hearings/2022/ElectionsRulesHearing20220524.html](https://www.coloradosos.gov/pubs/rule_making/hearings/2022/ElectionsRulesHearing20220524.html)

We recommend you indicate in advance if you would like to testify at the hearing. For efficiency's sake, the hearing officer may request attendees to limit their public comment testimony to three minutes in duration.

All members of the public are free to submit written comments regarding the proposed draft rules at any time prior to and during the hearing. An additional opportunity to submit written comments after the hearing will be announced before the close of the hearing. All written comments received during the comment period become part of the official rulemaking record.

**If the hearing extends past the close of business** on Tuesday, May 24th, 2022, then the hearing will adjourn and reconvene on **Wednesday May 25th, 2022 at 9:30 a.m.** in the Red Rocks Conference Room on the 5th floor of the Department of State's office at 1700 Broadway, Denver, CO 80920. **We highly recommend attending the hearing online.** To register for the webinar, please click on the following link: <https://attendee.gotowebinar.com/register/9085273799038409995>. You will receive a confirmation email containing information about joining the webinar.

If you are interested in the proposed rules but are unable to attend the rulemaking hearing, an audio recording will be available online: [https://www.coloradosos.gov/pubs/info\\_center/audioBroadcasts.html](https://www.coloradosos.gov/pubs/info_center/audioBroadcasts.html)

Please email [SoS.Rulemaking@coloradosos.gov](mailto:SoS.Rulemaking@coloradosos.gov) if you have any questions or would like to submit written comments.

Thank you

- [REVISED Elections StatementofBasis.pdf](#)
- [REVISED Elections DraftRules.pdf](#)



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Comments for 5/24 rule hearing

1.1.29

“This does not include a full or partial hard drive image or clone.”

This is problematic as it excludes the ability of the Clerk to retain the Server Log File. The Server log file contains record of any external or internal connection to the internet.

In order for a County Clerk to Comply with 2.5.3 (A) (1) “ The County Clerk must ensure that the wireless capability or device is disabled before use in an election,” he must be able to access and review the Server Log file for intrusion.

The Server Log file has three relevant fields. 1) a time and date stamp 2) IP addresses of any connected devices 3) a function field. Every Clerk must know the IP addresses of all legitimate connected devices and it doesn't take an IT specialist to read these three files. Any IP addresses other than legitimate local addresses that are present on the Server Log File are valid reason for a Clerk to not certify an election.

An SOS should not be legally allowed to override a Clerk failure to certify an election for this reason.

Currently the Server Log File may be hidden from the Clerk by an SOS password. Access to this file by the Clerk must be freely accessible.

As a CPA, I identify five should be required audit points of which Colorado only does two.

- 1) Audit of the voter registration file for authenticity. This may be done on a random sample basis. This is not currently being done.
- 2) Logic and Accuracy Test validates pre-election scoring of test ballots. Currently being done.
- 3) Risk Limiting Audit validates random sample of original ballots to ballot scoring. Currently being done.
- 4) Forensic or truthfulness audit validates on a random sample basis, that ballots are legitimate ballots supplied to voter considering water marks, pen indentation etc. Currently not being done.
- 5) **100% review of Server Log File IP addresses to ensure that no intrusion has occurred. Currently not being done.**
- 6) Post-election audit of totaling process on a random sample basis. Similar to LAT but post-election. Not currently being done.

Of audit steps not currently being done, review of the Serer log file is the most critical.

2006.3 Security at Trusted Build

Because the Server Log file contains critical election data and must be subject to 22 months Federal and 25 months data retention statutes, the contents and access to the Server Log File must not be destroyed during trusted build. No mention of this is currently made allowing for trusted build to potentially cover system or operational flaws by Vendor, Clerk or SOS.