



Notice of Temporary Adoption

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

Adopted: May 8, 2020
Update: May 21, 2020

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a temporary basis and effective immediately. Some amendments were temporarily adopted on February 3, 2020 and are temporarily readopted to extend the effective period to prevent a gap in rules before they may be permanently adopted and effective. (SMALL CAPS indicate proposed additions to the current rules. ~~Stricken type~~ indicates proposed deletions from current rules. **Shading** indicates an amendment to a temporary rule adopted on February 3, 2020. **Red font** indicates amendments to the initial May 8, 2020, temporary adoption. *Annotations* may be included):

Current 8 CCR 1505-1 is amended as follows:

New Rule 1.1.17, concerning definitions:

- 1.1.17 "DE MINIMIS CHANGE" MEANS A CHANGE TO VOTING SYSTEM HARDWARE THAT IS SO MINOR IN NATURE AND EFFECT THAT IT REQUIRES NO ADDITIONAL TESTING BY A VSTL.

[Not shown: renumbering current Rules 1.1.17-1.1.50 to Rules 1.1.18-1.1.51]

Temporary re-adoption of amendments to Rule 7.2.3(b) and new Rule 7.2.3(c), including additional revisions to Rule 7.2.3 concerning ballots and ballot packets:

- 7.2.3 ~~In accordance with section 1-7.5-107(3), C.R.S., the county clerk must mail ballots no later than 18 days before election day.~~ PROCESSING DEADLINES.
- (a) The county clerk must process all new registration applications and updates received by the 22-day deadline to mail applicants a ballot in accordance with section 1-7.5-107(3), C.R.S.

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2019).

² Section 24-4-103, C.R.S. (2019).

³ 8 CCR 1505-1.

- (b) ~~The BEGINNING THE 15TH DAY BEFORE ELECTION DAY, THE county clerk must process new online and in person ALL registration applications and mail registration updates received by the eighth day before election day and mail a ballot within one TWO business day after DAYS OF receipt; SUBJECT TO RULE 7.2.3(D).~~
- (c) BEGINNING THE 14TH DAY BEFORE ELECTION DAY, THE COUNTY CLERK MUST DELIVER ANY ORIGINAL OR REPLACEMENT BALLOT TO THE UNITED STATES POSTAL SERVICE WITHIN ONE TWO BUSINESS DAY DAYS AFTER PROCESSING A REGISTRATION APPLICATION OR UPDATE; SUBJECT TO RULE 7.2.3(D).
- (d) NO COUNTY MAY TAKE MORE THAN THREE DAYS TO PROCESS AND DELIVER THE BALLOT TO THE UNITED STATES POSTAL SERVICE.

Temporary re-adoption of New Rule 7.2.17:

7.2.17 THE COUNTY CLERK MUST SEND ALL MAIL BALLOTS BY FIRST-CLASS MAIL BEGINNING THE 11TH DAY BEFORE ELECTION DAY.

Amendments to Rule 7.5.1 update a cross-reference:

7.5.1 The county clerk must adequately light all drop box locations and use a video security surveillance recording system as defined in ~~Rule 1.1.44~~-RULE 1.1.45 to monitor each location.

Temporary re-adoption of New Rule 7.9.11, concerning voter service and polling centers:

7.9.11 THE COUNTY CLERK OF ANY COUNTY THAT HAS A TRIBAL ~~NATION COUNCIL~~ HEADQUARTERS LOCATED WITHIN THE COUNTY BORDERS MUST NOTIFY THE TRIBAL COUNCIL BY LETTER THAT THE TRIBAL NATION HAS THE RIGHT TO REQUEST THAT A VOTER SERVICE AND POLLING CENTER BE LOCATED WITHIN THE BOUNDARIES OF THE TRIBAL NATION IN THE UPCOMING GENERAL ELECTION. THE COUNTY CLERK MUST SEND THIS NOTIFICATION BY MAIL NO LATER THAN 225 DAYS BEFORE THE DATE OF ANY GENERAL ELECTION.

Temporary re-adoption of New Rule 7.17, including additional revisions:

7.17 CLOSURE OF VSPCs DUE TO EMERGENCY CONDITION

7.17.1 IF AS A RESULT OF AN EXTREME WEATHER EVENT, NATURAL DISASTER, ACT OF GOD, HUMAN MADE INCIDENT, OR DISRUPTION TO, OR THREAT OF DISRUPTION TO CRITICAL INFRASTRUCTURE, A COUNTY GOVERNMENT OR OTHER ENTITY CLOSES ALL DAY, CLOSES EARLY, OR DELAYS THE OPENING OF A BUILDING WHERE A VOTER SERVICE AND POLLING CENTER IS LOCATED, THEN THE COUNTY CLERK MAY CLOSE FOR THE DAY, CLOSE EARLY, OR DELAY THE OPENING OF ANY VOTER SERVICE AND POLLING CENTER LOCATED IN THOSE BUILDINGS AFFECTED.

7.17.2 THE COUNTY CLERK MUST IMMEDIATELY NOTIFY THE SECRETARY OF STATE AND THE PUBLIC OF ANY CLOSURE OR DELAYED OPENING OF A VOTER SERVICE AND POLLING CENTER UNDER THIS RULE.

7.17.3 A COUNTY CLERK MUST REQUEST APPROVAL FROM THE SECRETARY OF STATE BEFORE CLOSING OR DELAYING THE OPENING OF A VOTER SERVICE AND POLLING CENTER UNDER THIS RULE BEGINNING ~~FOUR SEVEN~~ DAYS BEFORE ELECTION DAY THROUGH ELECTION DAY.

7.17.4 THE SECRETARY OF STATE MAY PETITION A COURT UNDER SECTION 1-7-101 (1)(B), C.R.S. TO EXTEND THE POLLING HOURS IN A COUNTY OR STATEWIDE IF VOTER SERVICE AND POLLING CENTERS ARE CLOSED OR DELAYED OPENING UNDER THIS RULE.

7.17.5 IF A COUNTY CLERK CLOSURES OR DELAYS THE OPENING OF A VOTER SERVICE AND POLLING CENTER UNDER THIS RULE, THEN THE SECRETARY OF STATE AND COUNTY CLERK MUST ISSUE AN EMERGENCY BALLOT AVAILABLE UNDER SECTION 1-7.5-115, C.R.S. TO ANY VOTER WHO REQUESTS IT DUE TO THE DELAY OR CLOSURE.

Amendments to Rule 8.7.4 update a cross-reference:

8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in ~~Rule 1.1.30~~ RULE 1.1.31 applies only to voting.

Temporary re-adoption of amendments to Rule 11.3.2(e), including new Rule 11.3.2(e)(2), concerning logic and accuracy test:

(e) Completing the test

- (1) The county must keep all test materials, when not in use, in a durable, secure box. Each member of the Testing Board must verify the seals and initial the chain-of-custody log maintained by the county clerk. If the records are opened for inspection, at least two election officials must verify the seals and initial the chain-of-custody log.
- (2) THE COUNTY MUST BACKUP AND PRESERVE THE ELECTION DATABASE OR PROJECT CONTAINING TEST RESULTS, AND EXPORT AND PRESERVE THE TEST RESULTS AND CVR FILES. THE COUNTY MUST PREPARE AND PRESERVE A BALLOT MANIFEST CORRESPONDING TO THE TEST CVR FILE.
- ~~(2)~~-(3) The county must upload the TEST results FILE from all tested scanners and DREs to the tabulation software, export, and save the tabulation results for DURING the ENR test required under Rule 11.9.3. THE COUNTY MUST HASH AND UPLOAD THE CVR AND BALLOT MANIFEST TO THE RLA SOFTWARE DURING THE RLA PRACTICE PERIOD, AS REQUIRED UNDER RULE 25.2.2(B).
- ~~(3)~~-(4) After testing, the Testing Board must watch the county reset and seal each voting device, if applicable.
- ~~(4)~~-(5) The Testing Board and the county clerk must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, if applicable, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.
- ~~(5)~~-(6) The county may not change the programming of any voting device after completing the logic and accuracy test for an election, except as required to conduct a recount or as authorized by the Secretary of State.

New Rule 21.1.1(c), concerning voting system standards for certification:

- (c) A VOTING SYSTEM PROVIDER MAY APPLY FOR MODIFICATION TO A CURRENTLY CERTIFIED VOTING SYSTEM TO ADDRESS DE MINIMIS COMMERCIAL OFF-THE-SHELF HARDWARE CHANGES USING THE PROCESS LAID OUT IN THIS RULE.
 - (1) THE PROVIDER MUST SUBMIT AN APPLICATION PACKAGE THAT INCLUDES AN APPLICATION FOR MODIFICATION PROVIDED BY THE SECRETARY OF STATE, INTERNAL TESTING DOCUMENTATION, VSTL DETERMINATION OF DE MINIMIS

CHANGES, SPECIFICATION DOCUMENTS FOR EXISTING AND NEW EQUIPMENT, UPDATED TDP DOCUMENTS AS APPLICABLE, OTHER ENGINEERING CHANGE ORDER DOCUMENTS, AN INTEGRATION TESTING PLAN, AND ANY OTHER DOCUMENTATION REQUESTED BY THE SECRETARY OF STATE. IF THE SUBMITTED APPLICATION PACKAGE IS INCOMPLETE THE SECRETARY OF STATE WILL IDENTIFY THE DEFICIENCIES AND THE VOTING SYSTEM PROVIDER MUST REMEDY THE DEFICIENCIES WITHIN TEN DAYS.

- (2) IF THE SECRETARY OF STATE REVIEWS THE APPLICATION PACKAGE AND DETERMINES THAT THE MODIFICATION REQUIRES ANY ADDITIONAL TESTING FROM THE VSTL, THE PROVIDER WILL WORK WITH THE SECRETARY OF STATE TO CREATE A TEST PLAN FOR THE MODIFICATION. THE SECRETARY OF STATE MAKES THE FINAL DETERMINATION AS TO WHETHER THE CHANGE IS DE MINIMIS OR NOT.
- (3) IF THE SECRETARY OF STATE REVIEWS THE APPLICATION PACKAGE AND DETERMINES THAT THE MODIFICATION DOES NOT REQUIRE TESTING BY THE VSTL, THE PROVIDER WILL COORDINATE WITH THE SECRETARY OF STATE TO PERFORM INTEGRATION TESTING OVERSEEN BY THE SECRETARY OF STATE USING THE PLAN PROVIDED IN THE APPLICATION PACKAGE.
- (4) UPON COMPLETION OF TESTING THE SECRETARY OF STATE WILL REVIEW THE OUTCOMES OF THE INTEGRATION TESTING AND DETERMINE IF THE MODIFICATION COMPLIES WITH SECTION 1-5-618(1.5), C.R.S. AND APPROVE OR DENY THE MODIFICATION REQUEST.

Temporary re-adoption of amendments to Rule 25.2.2, including new Rules 25.2.2(b) and 25.2.2(c)(2), concerning risk limiting audit:

25.2.2 Preparing for the audit

- (a) Risk limit. No later than 32 days before election day, the Secretary of State will establish and publish on the Audit Center the risk limits that will apply in RLAs for that election. The Secretary of State may establish different risk limits for comparison audits and ballot polling audits, and for audits of statewide and countywide contests. In comparison audits the risk limit will not exceed five percent for statewide contests, and ten percent for countywide contests.
- (B) PRACTICE PERIOD. BEGINNING 20 DAYS BEFORE THE ELECTION COUNTIES MAY PRACTICE CONDUCTING THE AUDIT. THE COUNTY MUST, AT A MINIMUM, HASH AND UPLOAD THE BALLOT MANIFEST AND CVR FILE FROM THE LOGIC AND ACCURACY TEST TO THE RLA SOFTWARE.
- ~~(b)~~-(C) Audit board. No later than 15 days before election day, the designated election official must appoint an audit board to conduct the risk-limiting audit. The audit board must consist of electors nominated by the major political party county chairpersons. The designated election official must give written notice to the county chairpersons of their obligation to nominate audit board members and may designate appropriately affiliated electors as audit board members if one or both county chairpersons fail to do so in a timely manner.
- (1) At least two canvass board members must observe AT LEAST THE FIRST ROUND OF the RLA, and members of the canvass board may serve as members of the audit board. The designated election official, members of his or her staff, and other duly appointed election judges may assist the audit board in conducting the audit. To the extent practicable, the audit

board should not consist of individuals who participated in ballot resolution or adjudication during the election being audited. Each member of the audit board must take the election judge oath.

- (2) IF THE SECRETARY OF STATE RANDOMLY SELECTS FIVE OR FEWER BALLOTS FOR ANY AUDIT ROUND AFTER THE FIRST, THE DESIGNATED ELECTION OFFICIAL MAY APPOINT AS THE AUDIT BOARD MEMBERS OF STAFF OF DIFFERENT PARTY AFFILIATIONS TO CONDUCT AND SIGN OFF ON THE AUDIT ROUND IN QUESTION. THE DESIGNATED ELECTION OFFICIAL MUST GET APPROVAL FROM THE SECRETARY OF STATE BEFORE APPOINTING STAFF AS THE AUDIT BOARD. THE DESIGNATED ELECTION OFFICIAL MAY NOT APPOINT THEMSELVES TO CONDUCT ANY AUDIT ROUND.

[Not shown: temporary re-adoption of renumbering former Rules 25.2.2(c)-(k) to 25.2.2(d)-(l)]

New Rule 27:

RULE 27. CONDUCTING ELECTIONS DURING PUBLIC HEALTH EMERGENCY

27.1 IN ADDITION TO OTHER REQUIREMENTS STATED IN THESE RULES, THE FOLLOWING REQUIREMENTS MUST BE FOLLOWED WHEN CONDUCTING AN ELECTION DURING A PUBLIC HEALTH EMERGENCY.

27.1.1 DEFINITIONS

- (A) "PERSONAL PROTECTIVE EQUIPMENT" MEANS EQUIPMENT DESIGNED TO PROTECT THE WEARER FROM INJURY, OR TO PREVENT THE SPREAD OF INFECTION OR ILLNESS, INCLUDING FACEMASKS, PROTECTIVE CLOTHING, OR GLOVES.
- (B) "PUBLIC HEALTH EMERGENCY" MEANS A STATE OF DISASTER EMERGENCY DECLARED BY THE GOVERNOR UNDER SECTION 24-33.5-704, C.R.S., INVOLVING A PUBLIC HEALTH EMERGENCY INCLUDING THE CURRENT COVID-19 PANDEMIC.
- (C) "PUBLIC HEALTH GUIDELINES" MEAN GUIDELINES FROM FEDERAL, STATE, OR LOCAL GOVERNMENTS OR THE SECRETARY OF STATE'S OFFICE WHICH DIRECT MEMBERS OF THE PUBLIC ABOUT HOW TO PROTECT THEIR HEALTH AND SAFETY DURING THE COVID-19 PANDEMIC.

27.1.2 UNLESS INFEASIBLE, COUNTIES, ELECTION JUDGES, ELECTION WORKERS, WATCHERS, AND MEDIA OBSERVERS MUST FOLLOW PUBLIC HEALTH GUIDELINES THAT THEY COULD REASONABLY BE AWARE OF, INCLUDING GUIDANCE FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH, THE COLORADO GOVERNOR'S OFFICE, AND OTHER LOCAL HEALTH AUTHORITIES. IN THE EVENT THAT THERE IS A CONFLICT IN PUBLIC HEALTH GUIDELINES, COUNTIES MUST FOLLOW THOSE GUIDELINES THAT REQUIRE MORE PROTECTIVE MEASURES BE TAKEN.

27.2 VOTER SERVICE AND POLLING CENTERS OPEN

27.2.1 UNLESS INFEASIBLE, IF A VOTER SERVICE AND POLLING CENTER IS LOCATED IN THE MAIN COUNTY CLERK'S OFFICE, THE COUNTY MUST CONDUCT VOTER SERVICE AND POLLING CENTER OPERATIONS IN A SEPARATE ROOM OR AREA FROM OTHER ELECTION ACTIVITIES, OR RELOCATE THE VOTER SERVICE AND POLLING CENTER TO A DIFFERENT LOCATION.

27.2.2 IF A COUNTY CLERK OPENS ONLY THE MINIMUM NUMBER OF VOTER SERVICE AND POLLING CENTERS REQUIRED UNDER SECTION 1-7.5-107 (4.5), C.R.S., THEN THE COUNTY CLERK MUST ALSO IDENTIFY AT LEAST ONE BACK-UP VOTER SERVICE AND POLLING CENTER LOCATION, ALONG WITH A LIST OF ESSENTIAL VOTING EQUIPMENT, TO WHICH THE COUNTY CAN MOVE THE

OPERATIONS OF A DESIGNATED VOTER SERVICE AND POLLING CENTER TO IF A CENTER HAS TO CLOSE UNDER RULE 27.2.3. THE COUNTY SHOULD HAVE A PLAN TO MAKE THE TRANSITION TO THE BACK-UP LOCATION AS EXPEDITIOUSLY AS POSSIBLE. ON ELECTION DAY THE COUNTY MUST MAKE THE TRANSITION TO THE NEW LOCATION AS EXPEDITIOUSLY AS POSSIBLE AND NOT LONGER THAN TWO HOURS. THE COUNTY MUST SHARE THIS PLAN WITH THE SECRETARY OF STATE'S OFFICE IN THE MANNER DIRECTED BY THE SECRETARY OF STATE. ELECTION JUDGES MUST STILL FOLLOW THE REQUIREMENTS OF SECTION 1-5-108, C.R.S. IN THE EVENT THAT A CHANGE IN LOCATION IS NECESSARY.

27.2.3 A COUNTY CLERK MUST ~~REQUEST AND RECEIVE APPROVAL FROM~~ PROVIDE NOTICE TO THE SECRETARY OF STATE'S OFFICE ~~TO AS EXPEDITIOUSLY AS POSSIBLE WHEN THEY~~ CLOSE A VOTER SERVICE AND POLLING CENTER IF THERE IS A REASONABLE BASIS TO EXPECT COVID-19 CONTAMINATION. THE COUNTY SHOULD FOLLOW THE SECRETARY OF STATE GUIDANCE REGARDING CONTAMINATION.

27.3 RECEIPT AND PROCESSING OF BALLOTS

27.3.1 A COUNTY CLERK MUST ENSURE THAT ALL ELECTION JUDGES AND STAFF WEAR MASKS, AND ANY OTHER PERSONAL PROTECTIVE EQUIPMENT REQUIRED BY THE COUNTY OR LOCATION, WHILE RECEIVING AND PROCESSING BALLOTS.

27.3.2 THE SECRETARY OF STATE MAY ALTER RULE 7.5.4 AND REQUIRE COUNTIES TO WAIT A MINIMUM NUMBER OF HOURS BEFORE DATE-STAMPING AND PROCESSING RETURNED BALLOT ENVELOPES IN SCORE.

~~27.3.3 NOTWITHSTANDING RULE 20.11.3(B), A COUNTY MUST TAKE REASONABLE PRECAUTIONS DURING THE BALLOT TRANSPORT PROCESS TO ENSURE THE SAFETY AND WELL-BEING OF JUDGES AND THE SECURITY OF BALLOT TRANSIT. UNLESS THOSE JUDGES OTHERWISE COHABITATE, JUDGES MUST TRAVEL IN SEPARATE VEHICLES BUT STAY WITHIN SIGHT OF EACH OTHER, MUST WEAR A MASK AND ANY OTHER PERSONAL PROTECTIVE EQUIPMENT REQUIRED BY THE COUNTY WHEN INTERACTING WITH OTHERS, AND FOLLOW ANY PROCEDURES OUTLINED BY THE COUNTY TO ENSURE SECURE BALLOT TRANSPORT AND THE HEALTH AND SAFETY OF JUDGES. ELECTION JUDGES SHOULD CONTINUE TO SEAL BALLOT TRANSPORTATION BOXES OR BAGS AND DOCUMENT THE TRANSMISSION OF BALLOTS USING CHAIN-OF-CUSTODY LOGS.~~

27.4 PROTECTING THE HEALTH OF ELECTION JUDGES, STAFF, AND VOTERS

27.4.1 UNLESS INFEASIBLE, COUNTIES MUST HAVE INFRARED THERMOMETERS AND TAKE THE TEMPERATURE OF ALL COUNTY STAFF AND ELECTION JUDGES AS THEY REPORT AT ALL LOCATIONS.

27.4.2 UNLESS INFEASIBLE, COUNTIES SHOULD ENCOURAGE ELECTION JUDGES AND STAFF TO TAKE THEIR OWN TEMPERATURE BEFORE REPORTING TO WORK. JUDGES EXHIBITING A FEVER OR OTHER COVID-19 SYMPTOMS MUST REPORT THAT INFORMATION TO THEIR SUPERVISOR OR OTHER APPROPRIATE COUNTY OFFICIAL BEFORE REPORTING TO WORK.

27.4.3 CLERKS MUST ALLOW ELECTION JUDGES AND STAFF MEMBER(S) TO STAY HOME IF THEY HAVE ANY COVID-19 RELATED SYMPTOMS, CONCERNS, ILLNESS OR ARE QUARANTINED WITHOUT LOSING PAY.

27.4.4 ELECTION JUDGES AND STAFF MEMBERS MUST WEAR MASKS, AND ANY OTHER PERSONAL PROTECTIVE EQUIPMENT REQUIRED BY THE COUNTY OR LOCATION, AT ALL TIMES WHILE PERFORMING DUTIES.

- 27.4.5 AN ELECTION JUDGE AND STAFF MEMBER MUST IMMEDIATELY REPORT ANY COVID-19 LIKE SYMPTOMS THEY EXPERIENCE DURING WORKING HOURS TO THEIR SUPERVISOR OR OTHER APPROPRIATE COUNTY OFFICIAL.
 - 27.4.6 UNLESS INFEASIBLE, COUNTIES MUST PREPARE A PLAN AND IDENTIFY ON-CALL ELECTION JUDGES WHO ARE ABLE TO REPORT WITHIN TWO HOURS AND SHALL BE COMPENSATED FOR THEIR ON-CALL SERVICE.
- 27.5 PROTECTING THE HEALTH OF WATCHERS, MEDIA OBSERVERS, AND THE PUBLIC
- 27.5.1 WATCHERS AND MEDIA OBSERVERS MUST WEAR MASKS, AND ANY OTHER PERSONAL PROTECTIVE EQUIPMENT REQUIRED BY THE COUNTY OR LOCATION, WHILE AT A VOTER SERVICE AND POLLING CENTER OR LOCATION WHERE OTHER ELECTION ACTIVITIES ARE OCCURRING AND SHOULD MAINTAIN STRICT SOCIAL DISTANCING GUIDELINES WITH A MINIMUM OF SIX FEET BETWEEN EACH PERSON, UNLESS MAINTAINING SIX FEET DISTANCE WOULD NOT ALLOW THE WATCHER TO OBSERVE ANY ACTIVITY LISTED IN RULE 8.10.2.
 - 27.5.2 UNLESS INFEASIBLE, IF WATCHERS AND MEDIA OBSERVERS PLAN TO BE, OR ARE, AT A LOCATION FOR ONE HOUR OR MORE, COUNTIES MUST USE INFRARED THERMOMETERS TO TAKE THEIR TEMPERATURE.
 - 27.5.3 ANYONE EXPERIENCING COVID-19 SYMPTOMS WHILE AT A VOTER SERVICE AND POLLING CENTER OR LOCATION WHERE OTHER ELECTION ACTIVITIES ARE OCCURRING MUST IMMEDIATELY REPORT THAT TO AN APPROPRIATE COUNTY OFFICIAL AND LEAVE THE LOCATION.
- 27.6 CONDITIONS AT VOTER SERVICE AND POLLING CENTERS
- 27.6.1 COUNTIES MUST USE BEST EFFORTS TO MAINTAIN HYGIENIC CONDITIONS WITHIN VOTER SERVICE AND POLLING CENTERS, INCLUDING:
 - (A) CLEANING ALL VOTING EQUIPMENT WITH NON-BLEACH CLEANERS AFTER EACH USE OR OTHERWISE ENSURING THAT THE VOTING EQUIPMENT IS CLEAN AFTER EACH USE; AND
 - (B) CLEANING ALL VOTING BOOTHS AND NON-BALLOT MARKING DEVICES AFTER EACH USE WITH BLEACH-BASED OR NON-BLEACH BASED CLEANERS.
 - 27.6.2 TO THE EXTENT POSSIBLE, COUNTIES MUST WORK TO MAINTAIN STRICT SOCIAL DISTANCING GUIDELINES WITH A MINIMUM OF SIX FEET BETWEEN EACH PERSON PRESENT AT THE VOTER SERVICE AND POLLING CENTER.
- 27.7 UNANTICIPATED EVENTS
- 27.7.1 IF A COUNTY CLERK NEEDS TO MODIFY THEIR ELECTION OR LOCATIONS IN A WAY NOT CONTEMPLATED BY THIS RULE DUE TO THE PRESENCE OF A PUBLIC HEALTH EMERGENCY, THE CLERK MUST CONTACT THE SECRETARY OF STATE FOR ASSISTANCE AND APPROVAL.
- 27.8 DEADLINES FOR EMERGENCY CHANGES TO POLITICAL PARTY BYLAWS AND RULES
- 27.8.1 NO LATER THAN 60 DAYS AFTER THE DATE OF EXECUTIVE ORDER D 2020 005, ALL MAJOR POLITICAL PARTIES MUST ADOPT ANY NEW OR AMENDED BYLAWS OR RULES NECESSARY TO PROVIDE REMOTE ACCESS TO AND PARTICIPATION IN PARTY ASSEMBLIES AND CONVENTIONS, TO FILL VACANCIES, AND TO COMPLY WITH ANY EMERGENCY ORDER ISSUED PURSUANT TO EXECUTIVE ORDER D 2020 003.
 - 27.8.2 EACH STATE CENTRAL COMMITTEE MUST FILE ITS PARTY'S AMENDED OR NEW BYLAWS OR RULES ADOPTED TO PROVIDE REMOTE ACCESS TO AND PARTICIPATION IN PARTY ASSEMBLIES AND

CONVENTIONS, TO FILL VACANCIES, AND TO COMPLY WITH ANY EMERGENCY ORDER ISSUED PURSUANT TO EXECUTIVE ORDER D 2020 003 WITH THE SECRETARY OF STATE NO LATER THAN 65 DAYS AFTER THE DATE THE EXECUTIVE ORDER D 2020 005. IF FILED BEFORE THAT DATE, BYLAWS AND RULES MAY BE AMENDED UNTIL THAT DATE. NO BYLAW OR RULE MAY BE AMENDED FILED OR AMENDED AFTER 65 DAYS AFTER THE DATE OF EXECUTIVE ORDER D 2020 005.

27.9 CIRCULATION OF UNAFFILIATED PETITIONS

27.9.1 IN ACCORDANCE WITH EXECUTIVE ORDER D 2020 053, UNAFFILIATED AND INDEPENDENT CANDIDATES MAY CIRCULATE PETITIONS BEGINNING JUNE 1, 2020, AND MUST FILE THOSE PETITIONS WITH THE DESIGNATED ELECTION OFFICIAL NO LATER THAN JULY 27, 2020.

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.⁴

IV. Effective Date of Adopted Rules

These rule amendments are effective immediately.

Dated this 21st day of May, 2020,

Ian Rayder
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State

⁴ Section 24-4-103(6), C.R.S. (2019).



Statement of Basis, Purpose, and Specific Statutory Authority

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

May 8, 2020

I. Basis and Purpose

This statement explains proposed 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,¹ improve elections administration in Colorado, and increase the transparency and security of the election process. This statement includes temporary re-adoption of the rule amendments initially adopted on a temporary basis on February 3, 2020. Extension of the temporary rules is necessary to allow the Secretary of State time to consider and adopt amendments on a permanent basis.

Specific changes include:

- New Rule 1.1.17 defines “de minimis change” to establish minimum standards for the certification of electronic voting systems in the state.
- Temporary re-adoption of amendments to Rule 7.2.3 to ensure proper administration of mail ballot elections statewide, initially temporarily adopted on February 3, 2020. Additional amendments concerning deadlines for processing and delivering ballots.
- Temporary re-adoption of New Rule 7.2.17 to ensure proper administration of mail ballot elections statewide, initially temporarily adopted on February 3, 2020.
- Temporary re-adoption of New Rule 7.9.11 to implement and ensure proper administration of HB 19-1278 and mail ballot elections statewide, initially temporarily adopted on February 3, 2020.
- Temporary re-adoption of New Rule 7.17 to ensure proper administration of mail ballot elections statewide, specifically in regards to the operation of voter service and polling centers, initially temporarily adopted on February 3, 2020. Additional amendments that

¹ 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.

require permission from the Secretary of State to close a voter service and polling center beginning 7 days before an election.

- Temporary re-adoption of amendments to Rule 11.3.2 further prescribing the manner of performing logic and accuracy testing, initially temporarily adopted on February 3, 2020.
- New Rule 21.1.1(c) clarifies standards for certification of changes to voting systems that are de minimis in nature.
- Temporary re-adoption of amendments to Rule 25.2.2 further prescribing the manner of performing risk-limiting audits statewide, initially temporarily adopted on February 3, 2020.
- New Rule 27: On March 10, 2020, the Colorado Governor declared a disaster emergency due to the COVID-19 contagion. On March 16th and 18th, 2020, the Colorado Governor issued Executive Orders D 2020 003, D 2020 005, D 2020 008, and D 2020 036 directing the Secretary of State to amend rules to limit in-person contact during elections to allow the 2020 Primary Election to proceed without interruption. Accordingly, New Rule 27 provides necessary guidance for conducting elections during a public health emergency.
 - New Rule 27.8: House Bill 20-1359 amended section 1-3-103, C.R.S. to allow state parties to amend their bylaws after the statutory deadline to provide for remote access to assemblies and conventions. On March 16th and 18th, 2020, the Colorado Governor issued Executive Order D 2020 005 directing major parties to amend their bylaws and rules as necessary and directing the Secretary of State to set deadlines by which the State parties must file a certified copy of any amended rules and bylaws. Accordingly, New Rule 27.8 sets those dates.
 - New Rule 27.9: On April 30, 2020, the Colorado Governor issued Executive Order D 2020 053 directing the Secretary of State to promulgate emergency rules establishing a time period for unaffiliated and independent candidates to circulate petitions to appear on the 2020 general election ballot. Accordingly, new Rule 27.9 sets those dates.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

- Section 1-1-107(2)(a), C.R.S., (2019), 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.”

- Section 1-1.5-104(1)(e), C.R.S., (2019), which gives the Secretary of State the power to “[p]romulgate rules...as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA.”
- Section 1-5-601.5, C.R.S., (2019), which allows the Secretary of State to “require by rule that voting systems and voting equipment satisfy voting systems standards promulgated after January 1, 2008, by the federal election assistance commission as long as such standards meet or exceed those promulgated in 2002.”
- Section 1-5-616, C.R.S., (2019), which requires the Secretary of State to adopt rules “that establish minimum standards for electronic and electromechanical voting systems.”
- Section 1-7-510(6), C.R.S., (2019), which requires the Secretary of State to promulgate rules to implement the section regarding election setup records.
- Section 1-7-515 (4), C.R.S., (2019), which requires the Secretary of State to promulgate rules “necessary to implement and administer,” risk-limiting audits.
- Section 1-7.5-106(2), C.R.S., (2019), which allows the Secretary of State to adopt rules governing procedures and forms necessary to implement” mail ballot elections.
- Executive Orders D 2020 005, D 2020 008, and D 2020 036 directing the Secretary of State to amend rules to limit in-person contact during elections to allow the 2020 Primary Election to proceed without interruption and to set deadlines for parties to adopt and file any amended rules and bylaws.
- Executive Order D 2020 053 directing the Secretary of State to promulgate emergency rules establishing a time period for unaffiliated and independent candidates to circulate petitions to appear on the 2020 general election ballot.



Statement of Justification and Reasons for Adoption of Temporary Rules

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

May 8, 2020

Amended Rules: 7.2.3, 7.2.3(b), 7.2.3(c), 11.3.2(e), 25.2.2 (includes renumbering 25.2.2(c)-(k)).
Cross-reference amendments: Rules 7.5.1 and 8.7.4.

New Rules: 1.1.17, 7.2.3(d), 7.2.17, 7.9.11, 7.17, 11.3.2(e)(2), 21.1.1(c), 25.2.2(b) and (c)(2), 27.

In accordance with Colorado election law,¹ 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.

Adoption of these rules on a temporary basis is necessary given the approaching June 30, 2020, Primary Election. On March 10, 2020, the Colorado Governor declared a disaster emergency due to the COVID-19 contagion. On March 16th and 18th, 2020, the Colorado Governor issued Executive Orders D 2020 005, D 2020 008, and D 2020 036 directing the Secretary of State to amend rules to limit in-person contact during elections to allow the 2020 Primary Election to proceed without interruption. Accordingly, New Rule 27 provides necessary guidance for conducting elections during a public health emergency. On April 30, 2020, the Colorado Governor issued Executive Order D 2020 053 directing the Secretary of State to promulgate emergency rules establishing a time period for unaffiliated and independent candidates to circulate petitions to appear on the 2020 general election ballot. Accordingly, new Rule 27.9 sets those dates.

Additionally, the Secretary of State adopted temporary rules on February 3, 2020. The Secretary issued a notice of proposed permanent rulemaking on February 14, 2020; however, the Secretary terminated the rulemaking and the associated hearing due to the COVID-19 public health emergency. This temporary adoption includes re-adoption of the previous temporary rules as necessary to allow the Secretary time to issue a new notice of permanent rulemaking to consider and adopt rules on a permanent basis before any temporary rules expire. The rules address specific issues identified during the 2019 coordinated election that must be addressed prior to the Primary Election. Rule 7.9.11 ensures that the rights of tribal nations under Colorado law are protected for the upcoming general election. The rules are immediately effective as is necessary

¹ Sections 1-1-107 (1) (c), 1-1-107(2) (a), 1-7.5-104, C.R.S. (2019).

to provide clear guidance to interested parties, including, but not limited to: county clerks, major political parties, candidates for public office, and the general public.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that temporary adoption of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.²

² Section 24-4-103(3) (6), C.R.S. (2019).