

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments are necessary to clarify that a separate heading is required to distinguish the judicial ballot as a separate ballot; to add a requirement to provide additional notice to absentee voters about absentee ballot return deadlines; to clarify the deadline for electronic return of voted balloting materials by UOCAVA voters; and to adopt procedures for maintaining voter records of UOCAVA voters submitting election-related materials electronically.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because these amendments address very technical election administration practices and procedures which must be in place before the June 2012 primary election.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments should be made effective upon filing on March 30, 2012. The normal effective date should be waived because these amendments are necessary components of preparations for the upcoming primary election. In addition, these amendments confer a benefit on the voting public and county commissioners by ensuring that election administration practices are uniform throughout the state.

These amendments are also published herein under Notice of Intended Action as **ARC 0106C** to allow for public comment.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 46, 48A, 49, and 53.

These amendments became effective March 30, 2012.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 21.203(8):

21.203(8) Separate judicial ballot. The judicial ballot shall be separate from the rest of the ballot and shall be conspicuously distinguished by headings and lines.

ITEM 2. Amend rule 721—21.303(53) as follows:

721—21.303(53) Mailing absentee ballots. The commissioner shall mail the following materials to each person who has requested an absentee ballot:

1. Ballot. The ballot that corresponds to the voter's residence, as indicated by the residential address on the absentee ballot application.

2. Public measure text. The full text of any public measures that are summarized on the ballot, but not printed in full.

3. Secrecy envelope. Secrecy envelope, if the ballot cannot be folded to cover all of the voting ovals, as required by Iowa Code section 53.8(1).

4. Affidavit envelope. The affidavit envelope, which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner's records.

5. Return ~~carrier~~ envelope. The return ~~carrier~~ envelope, which shall be addressed to the commissioner's office and bear appropriate return postage or a postal permit guaranteeing that the commissioner will pay the return postage and which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner's records. All domestic and UOCAVA return envelope flaps or backs shall also be printed or stamped with a notice in substantially the following form: "This ballot will only be eligible for counting if it is received by the auditor's office before the polls close on election day or postmarked before election day and received by the deadline listed in the voting instructions included with this ballot. **Postmarks are not guaranteed!**"

Mail the ballot early to make sure it is received on time. Track the status of your absentee ballot at www.sos.iowa.gov.”

6. Delivery envelope. The delivery envelope, which shall be addressed to the voter and bear the I-Voters-assigned sequence number used to identify the absentee request in the commissioner’s records. All other materials shall be enclosed in the delivery envelope.

7. Instructions. Absentee voting instructions, which shall be in ~~substantially~~ the form ~~prescribed by the state commissioner of elections required by rule 721—22.250(52).~~

8. Receipt. The receipt form required by ~~2007 Iowa Acts, Senate File 601, section 227 Iowa Code section 53.3,~~ which may be printed on the instructions required by numbered paragraph “7” above.

This rule is intended to implement Iowa Code sections 53.8 and 53.17 ~~as amended by 2009 Iowa Acts, House File 475.~~

ITEM 3. Amend subparagraph **21.320(2)“c”(4)** as follows:

(4) Scanned application form or letter transmitted by E-mail. Requests by E-mail that do not include ~~either~~ an image of the ~~physical voter’s written signature or a digital signature~~ as defined by Iowa Code section 39.3, subsection 17, shall not be accepted.

ITEM 4. Adopt the following **new** paragraph **21.320(4)“d”**:

d. The deadline for returning an absentee ballot pursuant to this subrule is the close of polls on election day, Central Standard Time.

ITEM 5. Adopt the following **new** subrule 21.320(5):

21.320(5) Original signature for voter registration record. Voters must submit original signatures on voter registration applications unless otherwise provided by this subrule.

a. *UOCAVA voters ineligible to return voted balloting materials electronically.* UOCAVA voters who are not currently registered to vote in a county and are not eligible to return voted ballot materials electronically pursuant to this rule shall submit an original, signed application for voter registration. The application may be the Iowa voter registration application, the National Mail Voter Registration Form, a Federal Post Card Application, a declaration/affirmation accompanying a federal write-in absentee ballot or a signature on a voted UOCAVA absentee ballot affidavit. Ballots transmitted to UOCAVA voters who do not submit an original voter registration application shall not be counted, and the voter who requested the ballot shall be assigned a status of “Incomplete” with a status reason “No Signature” following the election for which the ballot was requested.

b. *UOCAVA voters eligible to return voted balloting materials electronically.* UOCAVA voters who are not currently registered to vote and are eligible to return voted ballot materials electronically pursuant to this rule shall submit a signed, scanned application for voter registration. The application may be the Iowa voter registration application, the National Mail Voter Registration Form, a Federal Post Card Application, a declaration/affirmation accompanying a federal write-in absentee ballot or a signature on a voted UOCAVA absentee ballot affidavit. Ballots transmitted to UOCAVA voters who do not submit signed, scanned voter registration applications shall not be counted, and the voter who requested the ballot shall be assigned a status of “Incomplete” with a status reason “No Signature” following the election for which the ballot was requested.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/18/12.