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## PERMANENT ADMINISTRATIVE ORDER

### ELECT 31-2022

CHAPTER 165  
SECRETARY OF STATE  
ELECTIONS DIVISION

**FILED**

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FILING CAPTION: Rule related to reporting the tally of ballots received on and after election day.

EFFECTIVE DATE: 09/02/2022

AGENCY APPROVED DATE: 09/01/2022

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AMEND: 165-007-0550

RULE TITLE: Procedure for Reporting Elections Results

NOTICE FILED DATE: 07/11/2022

RULE SUMMARY: The proposed rule outlines the procedure for reporting the status of the tally of ballots received on and after election day. The rule sets forth the method and timeline by which county elections officials must report information to the Secretary of State and the public.

RULE TEXT:

(1) This rule governs the procedure for announcing the status of the tally of ballots received on and after the date of the election. This rule is intended to encourage frequent reporting.

(a) Nothing in this rule shall be construed to require a county to publish unofficial elections results less frequently than the county has historically published unofficial elections results.

(b) Nothing in this rule shall be construed to prevent a county from publishing unofficial elections results more frequently than this rule specifies.

(2) For purposes of this rule, these terms are defined as follows:

(a) "Election Day" is the day of any statewide general, primary, or special election, including all special district elections. For purposes of this rule, this includes all local and statewide elections.

(b) The "Election Day Deadline" is 8 p.m. on Election Day.

(c) "Election Day Public Reports" are reports published after the Election Day Deadline and before midnight on Election Day.

(3) For all statewide elections, county elections officials shall make the reports described in this rule directly to the Elections Division through the designated website for unofficial results in addition to a county's own public reporting, if any. For all other elections, county elections officials may use either the Elections Division designated website for unofficial results or a county's own public reporting process. In any election in which a county elections official acts as a filing officer for a contest that spans multiple counties, that county elections official shall determine the method by which all affected county elections officials shall report the results for that contest under this rule.

(4) At least 45 days before each Election Day, county elections officials must provide to the Secretary of State Elections Division an official report of contests (including unexpired term lengths and any vote for number exceeding one),

candidates and measures in the order these are to appear on the ballot. Within 24 hours of making any changes to the official county ballot, county elections officials must provide notice and an updated official report to the Elections Division.

(5) At least 30 days before each Election Day, filing county elections officials must provide notice of intent to use the Elections Division designated website for unofficial results unless the election is statewide and website use is required. County elections officials must export a test results file from the tally system and upload, or manually enter test results to the designated website for unofficial results and provide a test results report from the tally system to the Elections Division. County elections officials shall publish on their official website, and provide a web address to the Elections Division, a schedule describing when they intend to make available the reports described in this rule.

(a) The schedule shall describe the estimated reporting frequency from the Election Day Deadline to certification of results.

(b) The schedule shall include at least the minimum required reporting described in this rule and any additional reporting that counties intend to provide.

(c) In determining the schedule for reporting, county elections officials may consider their own business practices, available resources, the size of the election, and public interest.

(6) At least seven days before each Election Day, county elections officials must export final test results from the public certification test of the tally system and upload test results to the designated website for unofficial results and complete final reviews of the designated website for unofficial results.

(7) At least five days before each Election Day, county elections officials must clear all test results data from the designated website for unofficial results to confirm election night readiness.

(8) At least four days before each Election Day, the designated website for unofficial results web address becomes active.

(9) On each Election Day, county elections officials must publish results to the designated website for unofficial results after 8 p.m. and before midnight, at least once.

(10) After each Election Day, county elections officials must publish results to the designated website for unofficial results in accordance with the county reporting schedule. County elections officials may publish additional results, but current results must be published to the designated website for unofficial results within one hour of being released publicly. The designated website for unofficial results must show the final certified results totals.

(11) County elections officials shall collect all returned ballots from official drop sites as soon as possible after the Election Day Deadline. Nothing in this rule prohibits county elections officials from also collecting batches of returned ballots before the Election Day Deadline.

(a) County elections officials shall conduct initial public reporting of unofficial elections results as soon as possible after the Election Day Deadline and provide as many additional updated Election Day Public Reports thereafter as possible.

(b) County elections officials shall report at least the following minimum information in Election Day Public Reports:

(A) The number of ballots accepted at the time of the report; and

(B) Unofficial results of all contests at the time of the report.

(12) Beginning on the day after the Election Day, county elections officials shall report the minimum information described in subsection (11)(b) as frequently as possible in the schedule and method described in section (3) and (5) above.

(a) County elections officials shall make reasonable efforts to report information according to the published schedule described in section (5). If county elections officials are not able to report information at a time specified in the schedule, they shall report publicly through their official elections website with an explanation for the delay. For example, unforeseen technical, staffing, or internal resource issues may be reported as a reason for delay.

(b) In determining how often and what results to report in this section, county elections officials shall consider, in the following order of priority:

(A) The number of ballots remaining in comparison to the total county voter registration population and the overall protection of voter anonymity, and

(B) Timeliness of providing unofficial elections results to the public.

(13) In addition to required reporting in ORS 254.074(3), on a form provided by and completed to the Elections Division, elections officials shall track and report the following information to the Elections Division:

(a) Total number of ballot envelopes accepted by the reporting county after the Election Day Deadline with present and legible postmarks;

(b) Total number of ballot envelopes accepted by the reporting county after the Election Day Deadline without present and legible postmarks; and

(c) The total number of ballot envelopes rejected after the Election Day Deadline because of an untimely postmark.

STATUTORY/OTHER AUTHORITY: ORS 246.110, ORS 246.150, ORS 254.470, ORS 254.485

STATUTES/OTHER IMPLEMENTED: ORS 254.470, ORS 254.485