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## PERMANENT ADMINISTRATIVE ORDER

### ELECT 5-2022

CHAPTER 165  
SECRETARY OF STATE  
ELECTIONS DIVISION

**FILED**

01/14/2022 4:52 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Amends deadlines for conducting administrative recounts.

EFFECTIVE DATE: 01/15/2022

AGENCY APPROVED DATE: 01/13/2022

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Filed By:  
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AMEND: 165-007-0270

RULE TITLE: Administrative Recounts

NOTICE FILED DATE: 11/16/2021

RULE SUMMARY: This rule is amended to incorporate legislative changes set out in House Bill 3291 (2021) which, in conjunction with other administrative rules, update election related processes and deadlines to accommodate the extended period during which ballots may be received and counted.

RULE TEXT:

(1) The purpose of this rule is to establish a procedure for the conduct of administrative recounts of selected ballots following an election conducted in this state. The Secretary of State, as the chief elections officer for the State of Oregon, has the responsibility to adopt rules that the Secretary considers necessary to facilitate and assist in achieving a maximum degree of correctness, impartiality and efficiency in administration of the election laws. This rule is intended to carry out that responsibility by providing a mechanism for selective recounts to confirm the accuracy of the automated vote tally systems used to count ballots.

(2) The Elections Division may, between the 27th and 30th day after the election, direct the county elections official to conduct a recount of an office or measure, or portions of the votes cast for an office or measure, as selected by the Division. Administrative recounts ordered under this subsection shall be directed only when unanticipated circumstances at the election put the accuracy of the vote tally equipment used in the county in question. Any such recount shall be conducted in accordance with applicable procedures in ORS Chapter 258 and as stated by the Division in the order directing the recount. All recounts conducted under this rule shall be conducted by hand. Administrative recounts of tally machines ordered under this subsection shall be limited to no more than 1,000 ballots in any one county. A Division order to conduct an administrative recount shall include a procedure for counties that process ballots by batch, rather than precinct. The procedure for "batch counties" shall avoid requiring the county to conduct an administrative recount of a specific precinct. Counties that process ballots by hand will be required to conduct a hand count and a machine count of randomly selected ballots and compare the results. Notwithstanding 258.161, 258.280 and 258.290, the cost of conducting a recount under this rule shall be borne by the county in which the recount is conducted.

(3) Upon completion of the recount, and not later than 37 days after the election, the county elections official shall

report on the results of the recount to the Division, together with any other information requested by the Division.

(4) A county elections official may choose to conduct an administrative recount of a selected office or measure and notify the Division of that decision in writing not later than the 30th day after the election. In this event, the Division will not direct the county to conduct an administrative recount under the procedures of this rule. If the county elections official chooses to conduct an administrative recount under this section, the results of the recount must be reported to the Division not later than the 35th day after the election.

(5) The procedures described in this rule may be implemented only if a county is not required to conduct either an automatic recount under ORS 258.280 and 258.290 or a partial or full demand recount under 258.161. In the event that a recount under either of these procedures is commenced, any administrative recount is terminated.

(6) Recounts conducted under this rule shall not be used to alter the results obtained by the official tally of ballots, unless the procedures in ORS 258.161 are followed to make a demand for recount, either by a qualified person or the county elections official.

(7) For purposes of this rule, an "administrative recount" is a hand recount of selected offices or measures by hand to verify the accuracy of the vote tally equipment. It is not intended to provide a basis for changing the outcome of the results determined by the vote tally equipment, or to substitute for the procedures in state law for the conduct of automatic or demand recounts. Persons interested in challenging the vote tallies in particular races or measures must utilize the procedures in ORS 258.161 and 258.171 in order to have the results of the recount become the official returns.

STATUTORY/OTHER AUTHORITY: ORS 246.150

STATUTES/OTHER IMPLEMENTED: ORS 258.150, HB 3291 (2021)