



STATE OF MINNESOTA
Office of Minnesota Secretary of State
Steve Simon

VIA EFILING

November 6, 2025

The Honorable Judge Eric Lipman
Administrative Law Judge
Court of Administrative Hearings

**In the Matter of the Proposed Permanent Rules Relating to Elections Administration;
Revisor's ID Number R-4824; CAH Docket No. 8-9019-39440; Minnesota Rules
Chapter 8200-8250**

Dear Judge Lipman:

This letter contains the Office of the Secretary of State's final responses to the comments that were received after the October 10, 2025, hearing in the above-captioned rule docket. A summary of the changes that this Office is proposing to make as a result of the notice and comment process is attached to this letter as Exhibit A.

This letter organizes responses by either issue or commentator. If a number of commentators addressed a particular issue, responses are grouped under an issue heading. If an issue was raised primarily raised by a single commentator, responses can be found under that commentator's name. Therefore, issues raised by one commentator may be addressed in multiple locations throughout this letter; however, the Office has responded to all issues raised by all commentators.

I. The Office has met its burden to show the proposed rules are needed and reasonable.

Minnesota Statutes section 14.14, subdivision 2, requires the Office to "make an affirmative presentation of facts establishing the need for and reasonableness of the

proposed rules” In making its affirmative presentation, the Department must show that its action has a rational basis. *See* Beck, G., and M. Konar-Steenberg, section 22.1, Minnesota Administrative Procedure, Third Edition, available at <https://mitchellhamline.edu/minnesota-administrative-procedure/>. (2014). The Office has stated its affirmative presentation in its Statement of Need and Reasonableness (SONAR), as well as its October 16 and 29 responses to prehearing and hearing comments, which the Office relies on to establish the need for and reasonableness of the proposed rules. The Office’s evidence clearly meets the rational basis standard and compels one to conclude that the proposed rules are needed and reasonable.

II. The Office has responded to the comments made and issues raised during the hearing and comment period.¹

The proposed rules generated a great deal of interest as shown by the attendance at the public hearing and the written submissions made before and after the hearing. Many comments were made and many issues were raised during this time. The Office has summarized these comments and issues and its respective responses in its October 16 and 29 responses, as well as in its responses to the comments submitted after the hearing below.

III. Comments in response to the rules as a whole.

Several commentators (John Billo, Sal Jane, Miriam Arnold, Erik van Mechelen, Kathleen Hagen, Sandy Klocker, Linda Lonn, Jodi Welsh, and Phillip Parrish) objected to the rules as a whole, stating that the rules alter established procedures that could affect voter participation and confidence in the election system or that the Office did not provide adequate notice of its rulemaking activities. The Office respectfully submits the information contained in the SONAR, its October 16 and 29 letters, the information provided in this letter; and the notice plan previously approved by the Court of Administrative Hearings establish that the proposed rules are reasonable and necessary, and that the public notice met or exceeded legal requirements.

¹ Kathleen Hagen, Tom Lopac, Richard Klabecek, and Sue Holman-Sutich submitted comments that were identical to comments that they and others provided in advance of the October 10 hearing. The Office responded to those comments in its October 16 letter and submits those comments adequately address the issues identified there. In addition, Brenda Miller indicated she submitted an attachment with comments, but no attachment could be located.

The Office further acknowledges that many of the commentors raised specific issues they observed with their respective precincts or election officials. The Office has reviewed each of these comments carefully and submits that those matters have never been directly reported to the Office and do not impact the validity of the Office’s proposed rules, which relate primarily to statutory changes that have occurred during the 2023, 2024, and 2025 legislative sessions.²

IV. Witness Requirements

Several commentors (Jerry Ewing, Daniel Passer, Kathleen Hagen, and Linda Lonn) objected to changes the Office proposed that would eliminate the requirement that witnesses for those voting by absentee and mail ballot provide a residential address. As the Office previously provided in the SONAR and its response to the prehearing comments, Minnesota Statutes section 203B.07 was amended in 2024 to allow for any United States citizen at least 18 years or older to be an eligible witness. The previous statute required the person to be a registered Minnesota voter and the address requirement helped reinforce that point. Because witnesses no longer need to be registered voters under Minnesota law, it is not necessary for them to provide their address to verify their registration.

Moreover, as the Office previously stated, it has never been a requirement under law or rule for absentee ballot boards or local election officials to use an address to verify a witness’s identity. The address only served to affirm the witness’ residence in Minnesota. Instead, witnesses will continue to be required to certify under oath and penalty of perjury that they meet all the requirements necessary to serve as a witness, none of which include residency in specific location.

V. Residential Facilities

Several commentors (the Minnesota Council on Disability, the Minnesota Disability Law Center, ARC Minnesota, Rev Up Minnesota, Senators Jim Carlson, Bonnie Westlin, Liz Boldon, Steve Cwodzinski, John Marty, Lindsey Port, John Hoffman, and Erin Maye Quade, and Representatives Mohamed Noor, Mike Freiberg, Heather Keeler, Liz Lee, and Kim Hicks) expressed concern with the exclusion of the term “group home” from lines

² The Office invites commentors and all members of the public to report specific election-related issues and complaints using the information on the Office’s website so they can be investigated or forwarded to the appropriate jurisdiction: <https://www.sos.mn.gov/elections-voting/secure-and-fair-elections/election-law-complaints/>.

17.22 through 17.27 of Rule 8210.0500. They indicate this exclusion makes it unclear what individuals are eligible to use vouching because they reside in a residential facility.

Minnesota Statutes section 201.061, subdivision 3(c) lists approximately a dozen different types of entities that qualify as “residential facilities.” For voter readability purposes, it is not reasonable to include all of those different facilities in the instructions. Accordingly, the instructions have always contained a non-exhaustive list of the different types of residential facilities whose residents may use vouching. The Office proposed removing one example in that list, “group home,” because it was not a term defined in statute, and replacing it with “assisted living facility” because it was a term used in statute. *See* Minn. Stat. Ch. 144G.

The Office appreciates the comments submitted on this issue, particularly since many come from organizations with extensive experience working with individuals who live in residential facilities. While Office does not believe it appropriate to include every type of residential facility listed in Section 201.061, subdivision 3(c) or to use the term group home since it is not a term that is well defined in statute, the Office will instead modify the instructions to clarify where a voter can obtain more information about what facilities constitute residential facilities under law. The Office proposes modifying lines 17.22 through 17.27 of Rule 8210.0500 to read:

Vouching for residents of certain residential facilities: the signature of an employee of your residential facility. The employee must complete and sign the voucher form on the back of the voter registration application.~~, including nursing homes, group homes assisted living facilities, battered women's domestic abuse victim shelters, homeless shelters, etc.~~ A comprehensive list of residential facilities eligible for this form of vouching is located in Minnesota Statutes section 201.061, subdivision 3 and is available at mnvotes.gov/residentialfacility. If you are not sure if the residential facility where you live is eligible, call your local election official. ~~The employee must complete and sign the voucher form on the back of the voter registration application.~~

This change does not make the rule substantially different. The instructions continue to make clear that those residing in eligible residential facilities may use vouching for purposes of establishing their address, but simply eliminates the non-exhaustive list of eligible residential facilities that commentators indicate could pose confusion to residents of those facilities. The reference to the Office’s website in these instructions is consistent with Minnesota Statutes section 201.061, subdivision 3(b), which requires the office to publish

guidance for residential facilities and their employees on the vouching process. This approach provides the most assistance to voters because it directs them to resources that can provide a comprehensive list of all facilities, eliminating confusion over which types of facilities are included. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter. Clarification of the rules consistent with feedback from those with particular experience in this area is a logical outgrowth of the notice and the comments made in response.³

VI. Daniel Passer

Daniel Passer submitted comments on the following rules:

a. Rule 8200.3000

Mr. Passer (along with Susan Baker) suggests the language “from a person whose” be reinserted to this rule, raising concerns that this would open the door to voter registration applications generated by artificial intelligence or bots, or created by other artificial means. The Office respectfully submits that the language in its proposed rule is reasonable and not ambiguous, and the Minnesota law already prohibits the submission of voter applications that misrepresent the identity of the person attempting to register to vote. *See* Minn. Stat. §201.054, subd. 2.

Mr. Passer also suggests the language “residential address” is ambiguous because people may have more than one residential address. Minnesota Statutes section 200.031 already provides a process by which a person’s residence is determined for purposes of voter registration and this rule does not modify that process.

b. Rule 8200.5100

Mr. Passer objects to the removal of the definition of residential facility in Rule 8200.5100. As the Office explained in the SONAR, the definition of residential facility contained in Minnesota Statutes section 201.061, subdivision 3, was changed in recent years, meaning the rule needed to be modified as a result. Rather than continue to modify the rule anytime this definition changed, the Office believes it is more efficient for the rule to simply refer

³ Because of the final change to this rule, the Office will not proceed with modifying the phrase “domestic abuse victim shelters” to “domestic violence victim shelters” in line 17.24 of this rule, as was suggested in the Office’s October 16 letter because Office is proposing removing this language entirely in its final rule.

to the citation of the statutory definition, so that additional rulemaking is not needed in the event this definition changes again. Local election officials have access to Minnesota statutes and guidance from this Office and will be easily able to reference the definition referenced in this rule.

c. Section 8200.9300

Mr. Passer expressed concern that the elimination of the language in line 4.18 would remove an important control to the processing of absentee ballots. The Office submits that the SONAR adequately justifies the need for this rule change.

d. Section 8210.2400

Mr. Passer opposes the proposed changes to this rule, alleging that they weaken safeguards intended to protect absentee ballots. The amendments to the rule incorporate new safeguards imposed by the legislation via 2025 amendments to Minnesota Statutes section 203B.121, subdivision 4, which include (1) segregating accepted signature envelopes by precinct; (2) ensuring the number of signature envelopes matches the number provided by the official responsible for the ballot board or the number of envelopes accepted that day; (3) requiring two members of the ballot to remove the ballots and to preserve all envelopes until at least 48 hours after the deadline for bringing a contest or 48 hours after the completion of the contest, whichever is later; and (4) counting the ballots after they have been removed from the envelopes to make sure the count matches the number of accepted signature envelopes, accounting for empty ballot envelopes or spoiled ballots. These safeguards provide additional clarity and ensure absentee ballots are properly counted and retained.

e. Section 8210.2200

Mr. Passer asks that the Office justify the change from 3:00 p.m. to 5:00 p.m. for in-person delivery of absentee ballots. As described in the SONAR, this change is a result of legislative amendments to Minnesota Statutes section 203B.08.

f. Section 8210.2700

Mr. Passer opposes the removal of the reference to Minnesota Statutes section 203B.24 from this rule because it is a statute that remains in effect and is referenced by Section 203B.23, a statute that the Office proposes adding a reference to in this rule. Mr. Passer is correct; Section 203B.24 should remain as a reference in this rule. The Office proposes changing subpart 1 of the rule to read:

If Federal Post Card Application was received. If a voter submits a Federal Write-in Absentee Ballot for which a Federal Post Card Application was received, the county auditor must accept or reject the ballot in accordance with Minnesota Statutes, section 203B.24 and ~~203B.25~~ 203B.23.

This change does not make the rule substantially different. It ensures that the rule continues to reference Section 203B.24, which has always been and should remain the case. Interested parties received fair warning that this rule change could be a possibility because of Mr. Passer's comments. This is a logical response to those comments.

g. Section 8210.0710

Mr. Passer suggests that the word "nonregistered" be changed to "non-registered" and asks that the Office provide its rationale for the change. The Office submits the lack of hyphen is consistent with well-known style guides, *see* <https://www.chicagomanualofstyle.org/qanda/data/faq/topics/HyphensEnDashesEmDashes/faq0079.html>, which generally provide that the prefix "non" is used without a hyphen. The Office further submits that its rationale for the change is contained in its SONAR, which is to use consistent terms throughout the election rules.

VII. Phillip Parrish

Mr. Parrish submitted the following comments:

a. Voter List Maintenance and Security

Mr. Parrish submits that the State of Minnesota does not engage in adequate list maintenance as required by the National Voter Registration Act of 1993 and the Help America Vote Act. He also suggests that the Office is required to include a documentary proof of citizenship requirement under federal law. The Office respectfully submits that its October 29, 2025, response to Mr. Parrish's comments adequately addresses those issues (including the fact that the Office is exempt from the National Voter Registration Act of 1993's public disclosure requirement). Moreover, to the extent that Mr. Parrish objects to the vouching procedures for those who live in residential facilities, those requirements are mandated by Minnesota Statutes section 201.061, subdivision 3, and are outside the scope of this rulemaking process.

Mr. Parrish also suggests that the Office's decision not to ban overseas software in these rules also violates federal law and leaves the Office's statewide voter registration list vulnerable to cyberattack. The Office has robust procedures in place to protect its statewide

voter registration list from cyberattack, including a requirement that anybody who accesses the list must have a government-approved email address and use two-factor authentication. In addition, before any local election official can access the Statewide Voter Registration System, they must provide the OSS with the IP address they will be using to access the system. IP addresses that have not been approved in advance are blocked. Users are also subject to role-based access controls so that they can only access the data necessary to carry out their duties. Furthermore, audit logging is automatically enabled to track any changes made within the system. The OSS's security protocols also include firewalls, secondary and concurrent layer protection, ongoing intrusion protection, penetration testing, encryption of application traffic, and ongoing analysis of the system logs for abnormal activity. If abnormal activity is found, the source IP address is denied at the firewall. The Office respectfully submits these security measures address Mr. Parrish's concerns.

In addition, Mr. Parrish submits that election judge training should include education related to fraud detection at the registration stage. While election judges are trained on voter eligibility requirements and the registration procedures provided in federal and state law and state rule, they are not responsible for verifying and maintaining the statewide voter registration list. That is the responsibility of the Office and its county partners. And, for the reasons previously submitted, the Office has adequate procedures in place to maintain its voter registration lists.

b. Procedural Matters

Mr. Parrish also suggests the rules be rejected for several procedural reasons, including (1) failure to update the rulemaking docket; (2) outdated rulemaking information; (3) faulty hearing access; and (4) inadequate documentation of comments and requests for hearing. None of these comments justify rejection of the rules.

With regard to updating of the rulemaking docket, the Office submits that it has updated the docket each quarter when there is an update to report. In particular, as required by law, the Office updated the docket when the initial request for comments was published, when the dual notice was published, when the hearing was scheduled, when post-hearing comments could be accepted, and when rebuttal comments could be accepted. The Office did not update the docket in cases where there were no other updates to report. With regard to the outdated rulemaking information, the Office submits that it has always provided up-to-date information about the hearing and publication of the notice. The Office further submits this notice has been effective, as reflected by the extensive comments received and participation at the rulemaking hearing. As to the allegations of faulty hearing access, this Court has already addressed those issues, ruling that the hearing would be held via WebEx

without an in-person option. The Office notes that several dozen people attended the hearing electronically and that not a single person reported they were unable to access the WebEx link. Indeed, Mr. Parrish attended via WebEx and spoke at the hearing. Finally with regard to the documentation of comments and requests for hearings, the Office submits that it has updated its rulemaking docket to include a list of all comments and requests for hearings when appropriate and has also included information about how individuals may obtain information about those comments and requests both from the Court of Administrative Hearings and the Office itself. In short, the Office has complied with all procedural requirements related to publication and approval of the proposed rules.

c. Testimony of Hana Abdelhamid

Mr. Parrish spends extensive time discussing the testimony of Hana Abdelhamid, criticizing her for prioritizing “policy goals over legal compliance.” As the Office explained in its October 29 letter, Mr. Parrish’s characterization of federal and state law is inaccurate and misleading. The Court should disregard these unwarranted attacks.

Mr. Parrish also suggests that Ms. Abdelhamid has violated Minnesota lobbying laws regarding her testimony. Ms. Abdelhamid identified herself and her position with We Choose Us, and offered a short statement expressing both support for a portion of the rules and comments submitted by Senator Liz Boldon. She did not mislead the Court regarding federal or state election law, nor take any steps to conceal her employment. The Court should disregard these comments.

VIII. Joe Richardson and Scott Coggins

Joe Richardson and Scott Coggins submitted similar comments on the following rules:

a. Section 8200.3000

The commentators (along with Kathleen Hagen) ask that the proposed changes be rejected, stating that the new language requires county auditors to accept applications without giving auditors the authority to reject applications. They suggest the rule be modified so that the determination of whether to accept or reject the application is left to the county auditor of the county where the applicant resides. The Office respectfully submits that its proposed rule accomplishes this purpose. Under the proposed rule, the county auditor who receives the application must accept it only for the purpose of forwarding it to the correct county, who will take appropriate steps to verify the application and, if appropriate, reject it. The

proposed rule does not require the county auditor who initially received the application to take any further steps.

b. Section 8200.5100

The commentors ask that the proposed addition of subpart 5 be rejected because the language requires the voter to submit a new application at their new precinct on election day, rather than have their record updated, stating that this process results in the incorrect registration remaining active. They suggest a process in which election judges can update a voter's information in real time when a person updates their registration at a precinct. As the Office described in the SONAR, this change is needed in light of 2025 amendments to Minnesota Statutes section 201.061, subdivision 3, which clarified that already-registered voters could update their applications without re-registering by filling out a new voter registration application, making an oath, and providing proof of residency. The change in this rule is consistent with the changes made by the legislature and will not result in any incorrect registrations remaining active.

c. Section 8200.9320

The commentors ask that repeal of this rule be rejected because there is no proposed rule change in the body of the rule draft. The language describing the repealer is located in line 55.14.

d. Section 8215.0200

The commentors ask that the phrase "for each office" be removed because the ballots described in this rule relate only to the presidential nominating primary, which contains a single office. The Office agrees this change is reasonable and suggests removing that phrase so that the first sentence of subpart five reads:

If a party chair has requested that its party ballot contain a place for write-in candidates, below the name of the last candidate ~~for each office~~ shall be placed a blank line, and on the blank line the voter may write the name of persons not printed on the ballot for whom the voter desires to vote.

This change does not make the rule substantially different. It simply clarifies the fact that only one office appears on the ballot in the presidential nominating primary (as has always been the case) and so avoids any confusion about what other office might also appear there. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted. This is a logical response to those comments.

e. Section 8215.0400

The commentors object to the changes to subpart 7, stating that the reference to an absentee ballot should remain in the rule. As a result of 2023 changes to this statute, Minnesota Statutes section 203B.081 now includes procedures regarding both absentee and early voting, which are separate from one another and so it is appropriate not to limit the language of the rule to absentee voting. The commentors also ask that the specific reference to “subdivision 3” of Section 203B.081 remain in the rule. The Office does not believe it is necessary to leave this portion of the rule in as it is apparent from the text of the statute what the alternative procedure is in the statute. Eliminating unnecessarily specific statutory references in rules is appropriate because it reduces situations in which a rule becomes inaccurate simply due to a renumbering or recodification of statutes.

f. Section 8220.1150

The commentors ask that the requirement that the word “TEST” remain on all test ballots be retained and that additional clarity be provided as to how the test ballot should be folded and what type of different pen should be used. As the Office described in the SONAR, vendors that create test decks use a variety of means to identify test ballots and it is more efficient for the Office to provide them the flexibility to do so. The Office further submits that its remaining requirements as described in the rules are adequate. As to the folding of the ballot, the Office has provided for in its proposed rule that the ballot should be folded as if it were mailed, which is a sufficient description for local election officials, who understand how ballots delivered by mail are folded. As to the type of pen, the Office believes it appropriate to provide local election officials with the discretion to determine what type of alternate pen is most appropriate to test. Different jurisdictions have different experiences with voters using alternate pens and so local election officials should have the flexibility to determine what test is most appropriate in their jurisdiction. The proposed rule language describes the required procedures in sufficient detail to ensure ballots are tested appropriately, while eliminating specific requirements that create an unnecessary burden on election officials.

g. Section 8230.2040

The commentors ask that this rule be modified to limit it only to jurisdictions that use optical scan voting machines. Kathleen Hagen also asks what authority the Office has to enact the changes to this rule, which requires that a write-in vote be counted if the ballot is marked in the oval or target shape opposite the blank space where the voter writes an individual’s name. All ballot tabulators approved for use in Minnesota are optical scan.

While there are a small number of jurisdictions that do not use tabulators, Minnesota Rule 8230.0050 states that the rules in this chapter only apply to optical scan voting systems. It is therefore not necessary to clarify this rule to make clear it does not apply to jurisdictions that do not use optical scan voting systems.

As to the Office's authority to adopt the proposed changes in this rule, the Office submits that the information contained in its SONAR, which indicates the proposed changes are the result of 2023 legislative amendments to Sections 204B.09 and 206.90, are adequate to justify the proposed changes.

h. Section 8230.3850

The commentors suggest this proposed rule be rejected because the alternative ballot authorized by Minnesota Statutes section 206.80 does not need to be duplicated. As described in the SONAR, there are situations where the ballots produced by electronic voting systems may require duplication (e.g., the ballot is damaged or cannot be read by the tabulator). It is therefore necessary to have a process in place by which those ballots can be duplicated similar to any other ballot.

i. Section 8235.0700

The commentors suggest there is no justification for this change. As the Office indicated in its SONAR and its October 16 response to the prehearing comments, this rule change is justified by 2023 amendments to Minnesota Statutes sections 206.80 and 206.86. Because the amendments to Section 206.80 authorized the use of an alternative ballot format that looks significantly different than traditional ballots, Minnesota Statutes section 206.86 was modified to add a subdivision 5a, which prohibits election judges (who could be aware what voters used the alternative ballot format) from serving as recount officials in cases where a small number of alternative ballots were submitted in order to protect voter privacy.

j. Section 8240.1600

The commentors suggest that training on the use of paper rosters should be included with the addition of electronic pollbook training. Because Minnesota Statutes section 201.225 requires that precincts using electronic rosters also be prepared to use backup paper rosters, this topic would be included in election judge training related to electronic pollbooks.

k. Section 8250.1810

The commentors, along with Kathleen Hagen, raise concerns about this rule change because it does not address the order of candidates nominated by major political parties. As Mr. Richardson includes in his comment, Minnesota Statutes section 204D.13, subdivision 2, provides a process by which the order of major political party candidates is determined and requires those names to be placed ahead of those candidates nominated by petition. As described in the SONAR, the purpose of changing this rule was to address legislative changes made that distinguished the manner in which the order of presidential candidates was determined versus other partisan offices. The new rule clearly is limited to presidential candidates nominated by petition, as line 54.14 and 54.15 state that it requires the secretary of state to draw by lots “for the candidates for president and vice president nominated by petition.” Read in concert with Section 204D.13, subdivision 2, the rule governs the order in which candidates nominated by petition appear after the major party candidates are listed.

The Office appreciates, however, that a slight modification would help clarify the scope of the rule. The Office therefore proposes amending the title of subpart 9 to read:

Order of candidates nominated by petition for ~~partisan-office~~ president and vice president in general election.

This change does not make the rule substantially different. It simply clarifies the title of the rule so that it matches the text of the subpart, which applies only to candidates nominated by petition for president and vice president, and thus eliminates any risk of confusion that could result from the originally drafted title. Interested parties received fair warning that this rule change could be a possibility because of the comments. This is a logical response to those comments.

IX. Members of the Senate Elections Committee and House Elections Finance and Government Operations Committee

Senators Mark Koran, Warren Limmer, Andrew Mathews, Cal Bahr, and Eric Lucero of the Senate Elections Committee submitted comments after the hearing on the rules below (as did Susan Baker). Representatives Duane Quam, Joe McDonald, Ben Davis, Pam Altendorf, Jimmy Gordon, and Drew Roach of the House Elections Finance and Government Operations Committee submitted rebuttal comments on the same rules as well.

a. Section 8200.9940

The committee members ask that this form be amended to include all relevant vouching requirements. As the Office indicated in the SONAR and its October 16 letter responding to prehearing comments, the purpose of this rule is to provide a form so that election judges may track the number of people an individual has vouched for on election day. The proposed rule amendments are necessary to clarify that all jurisdictions must use this form to track vouchers and to permit jurisdictions using electronic rosters to collect this information electronically. The rule was not intended to create a form that contains an exhaustive list of all the additional requirements related to vouching. That guidance is provided through additional training for election judges and local election officials. Indeed, Minnesota Statutes section 201.061, subdivision 3(a)(4) requires only that the form be available for “election judges to use in recording the number of individuals for whom a voter signs proof-of-residence oaths on election day.” The Office respectfully submits its proposed rules accomplish this purpose.

b. Section 8210.0500

Senate members asked that the rule be limited to “jurisdiction specific” instructions. The Office indicated in its October 16 letter that it would add the phrase “jurisdiction specific” before “instructions” so that the last sentence of subpart 1 reads as follows:

Jurisdictions may provide additional jurisdiction specific instructions to voters, provided the instructions comply with the typeface requirements of this part.

This change does not make the rule substantially different. It merely clarifies the intent of the Office in proposing the change. As described in the SONAR, the purpose of the proposed amendment was always to allow local election officials to add instructions that were specific to their respective jurisdictions and nothing else. Interested parties received fair warning that this could be an issue based on the comments submitted on this matter, as well as the Office’s October 16 letter indicating that it intended to make a change to the rules.

c. Section 8210.2500

Committee members, along with Kathleen Hagen, Sandy Klocker, and Susan Baker, raise concerns that the changes to this rule will imply that ballots could be accepted after polls close at 8:00 p.m. on election day. While the Office believes the rule in its current state is

acceptable for the reasons described in its October 16 letter responding to prehearing comments, the Office proposes adding “8:00 p.m. on” following the word “after” in line 33.4 of the current draft. This means that the last line of the rule will now read as follows:

Absentee ballots returned by mail delivery and received after 8:00 p.m. on election day shall be marked as received late by the county auditor or municipal clerk, and must not be delivered to the ballot board.

This change does not make the rule substantially different. The purpose of changing the proposed rule originally was to address changes in mail delivery processes since the rules had been previously amended. It has always been the law in Minnesota that ballots received by mail after 8:00 p.m. are considered late and cannot be counted, so the effect of this rule change is only to more clearly state the existing law. Minn. Stat. § 203B.08, subd. 3. In fact, the Office’s proposed change ensures the rule more precisely mirrors the language of Section 203B.08, subdivision 3. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter. Clarification of the rules consistent with long-standing interpretation is a logical outgrowth of the notice and the comments made in response.

X. Linda Nara

Linda Nara suggested that several of the proposed changes to the rules be withdrawn, but largely did not provide any rationale for her changes. As described above, the Office respectfully submits that the information provided in the SONAR demonstrates the need for and reasonableness of the proposed rules.

Ms. Nara did state (as did Kathleen Hagen and Sandy Klocker), in asking that the proposed changes to Rule 8210.0200 be repealed, that a permanent absentee ballot program could lead to election fraud. The safeguards that exist around absentee voting, such as requiring ballot board members match the ID number provided on the signature envelope with the ID numbers available in the voter’s record, apply to voters taking part in the permanent absentee ballot program. As the Office described in the SONAR, these amendments were necessary because of 2023 amendments made to Minnesota Statutes section 203B.04, subdivision 5, which created a permanent absentee voter program in place of the permanent absentee application program. It is therefore necessary for the Office to update this rule, so it is consistent with state law.

XI. Kathleen Hagen

Kathleen Hagen submitted comments on several proposed rules. To the extent that those comments were not responded to elsewhere in this letter, the Office provides the following responses:

a. Section 8200.9115

Ms. Hagen objects to the elimination of the requirement that a voter attest that they live at the address shown. That requirement has not been removed, but has been moved later in the certification, in line 3.17 of the proposed rule. As previously described in the SONAR and the Office's October 16 letter, the addition of "or location shown" is a result of changes made to Minnesota Statutes section 204C.10(a)(4).

b. Section 8200.9300

Ms. Hagen asks why local jurisdictions no longer need to keep absentee ballot return envelopes. As an initial point of clarification, the previous reference to "return envelopes" in this rule are what Minnesota election law now labels as "signature envelopes." The reason for the rule change here, as provided in the SONAR, is that because absentee ballots are now reviewed and accepted by absentee ballot boards pursuant to Minnesota Statutes section 203B.121, signature envelopes are no longer present in polling places and should not be included in the count. The purpose of this rule is to clarify the appropriate method to calculate the number of ballots to be counted in polling places and clarify the process by which absentee ballots are now accepted under Minnesota law. Regardless of the ballot, all election-related materials must still be retained for 22 months following an election, pursuant to Minnesota Statutes section 204B.40.

c. Section 8200.9400

Ms. Hagen objects to the use of electronic vouching forms for security purposes. The Office respectfully submits this change was made at the behest of local election officials, who indicate it is more efficient to collect this information electronically. The Office further submits the use of electronic rosters and other technology has been proven to be secure and effective.

d. Sections 8210.0500 and 8210.2200

Ms. Hagen questions what changes in law extended the time for ballots to be returned, as provided for in lines 12.26 through 13.1 and 16.15 to 16.16 of Rule 8210.0500 and lines

31.11-31.15 of Rule 8210.2200. The authority for these changes is provided in the SONAR, namely 2025 amendments to Minnesota Statutes section 203B.08, which extended the deadline for in person return of absentee ballots on election day, while leaving in place the deadline the legislature modified in 2023 to 8 p.m. for absentee voting conducted pursuant to Section 203B.11, subdivision 4.

e. Return Envelopes

Ms. Hagen asks what law justified replacing the phrase “sign the return envelope” with “sign the signature envelope” in Rules 8210.0500, 8210.0600, and 8215.0500. The Office’s rationale for these changes is described in the SONAR. In short, the changes are necessary because under Minnesota election law, voters are not required to sign the return envelope, they are required to sign the signature envelope. This change is reasonable because it more accurately reflects the procedures under existing law and clarifies the steps voters must take when returning an absentee or mail ballot.

Ms. Hagen also questions the removal of the reference to return envelopes in subpart D of Rule 8210.2400. The Office’s rationale for these changes is described in the SONAR and its October 16 letter, which describes the need to change this rule to account for the procedures related to the safeguarding of absentee ballots that were passed by the legislature in 2025.

f. Print Disability Language

Ms. Hagen objects to the inclusion of instructions describing what voters with print disabilities may do to obtain an accessible ballot. These instructions are contained in Rules (1) 8210.0500, lines 13.22 through 13.27, 18.12 through 18.17, 21.2 through 21.7, and 25.26 through 26.3; (2) 8210.3000, lines 37.9 through 37.14; and (3) 8215.0500, lines 42.20 through 42.25. As described in the SONAR, the reason for these instructions is the result of the 2023 enactment of Minnesota Statutes section 203B.29, subdivision 2, which authorizes the creation and distribution of accessible ballots.

g. Sections 8210.2450, 8215.0400, and 8215.0500

Ms. Hagen also asks what law justified changes in these rules regarding the return of absentee ballots after the close of business on the 19th day before the election. As described in the SONAR, this change was necessary to conform this rule language with 2023 amendments to Minnesota Statutes sections 203B.121, which moved the deadline from which absentee ballots could be separated from signature envelopes, removed from ballot

envelopes, duplicated if needed, and deposited in the appropriate ballot box from seven days before the election to 19 days before the election. The changes to these rules were necessary to conform the rule with the statutory change, though as described below, the Office will propose tweaking the language in Rule 8215.0400 to clarify the deadline.

h. Sections 8215.0300 and 8215.0500

Ms. Hagen asks what law authorized the major political party chairs to receive information about what voters selected their party in the presidential nominating primary. That change is the result of 2019 and 2023 amendments to Minnesota Statutes section 201.091, subdivision 4a.

i. Section 8220.1550

Ms. Hagen (along with Sandy Klocker) asks what law justified the change in the public accuracy test having to be held within 14 days prior to the election to three days before voting equipment is used. As described in the SONAR and the Office's October 16 letter, this is the result of 2023 amendments to Minnesota Statutes section 206.83.

Ms. Hagen also objects to the addition of the language "The precincts must be tested on at least one of each unique model of voting equipment used by the election jurisdiction" in this rule, stating that each piece of equipment should be tested. As the Office explained in its October 29 letter, all equipment is subject to preliminary testing under Minnesota Rule 8220.1350. The purpose of the public accuracy test, however, is to allow the public, press, political parties, and candidates the option to observe how each unique model works and confirm it is working accurately. As the Office explained in its SONAR, the previous language was ambiguous and could be interpreted to not require public testing of each unique model. It has never been the case that every single piece of equipment is tested at the public accuracy test. However, to reiterate, every piece of equipment is tested before it is used for voting.

j. Section 8230.2040

Ms. Hagen suggests that ballot boards should be used to ascertain voter intent, as opposed to election judges. This comment is outside the scope of the Office's proposed changes to the rules, which focus on the need for the voter to fill out an oval or target shape in order for a write-in vote to be counted.

k. Section 8230.3850

Ms. Hagen suggests these rules be modified to require that ballot duplication be done in public and recorded on video. These proposals are outside the scope of the Office's proposed changes to this rule, which is meant to create a new duplication process for the alternative ballots authorized by 2023 amendments to Minnesota Statutes section 206.80.

l. Section 8230.4355

Ms. Hagen suggests that these rules be modified to require that ballot boxes and absentee drop boxes be observed at all times. These proposals are outside the scope of the Office's proposed changes to this rule, which eliminate language related to a particular piece of voting equipment no longer used in Minnesota. Other areas in law, including Minnesota Statutes section 203B.121 and Minnesota Statutes section 203B.082 govern the chain of custody and security of absentee ballots and drop boxes.

m. Section 8230.4365

Ms. Hagen asks for the justification for this change. That information is contained in the Office's SONAR. This language applies only to voting equipment that contains a compartment that receives only ballots that do not contain write-in votes, and this type of equipment is no longer used in Minnesota.

n. Recounts

Ms. Hagen suggests, citing Rules 8235.0300 (notice of recount) and 8235.0700 (general procedures for recounts), that new rules be imposed that prohibit the blending of ballots voted in person on election day with ballots received by mail for purposes of recounts. These proposed changes are outside the scope of the Office's proposed rulemaking, which focuses primarily on technical changes required as a result of changes to Minnesota's election laws.

o. Sections 8240.1600 and 8240.2700

Ms. Hagen that additional training be imposed for problem reporting, investigation, root cause analysis, correction, and corrective preventive actions. The Office respectfully submits that its proposed topics for training, developed in consultation with local election officials, are adequate and reflect the needs of election judges and municipal clerks.

p. Section 8250.1810

Ms. Hagen asks why the alternative ballot described in subpart 19 is permitted. As described in the SONAR, the creation of these ballots was authorized by 2023 amendments to Minnesota Statutes section 206.80 and the proposed rule is reasonable and necessary to establish what information those ballots must contain.

XII. Sandy Klocker

Sandy Klocker submitted comments on several proposed rules. To the extent that those comments were not responded to elsewhere in this letter, the Office provides the following responses:

a. Section 8200.3200

Ms. Klocker expressed concern that the rule did not limit the forwarding of applications to other states and applications sent electronically could be delayed if there was a cyberattack. The purpose of this rule, as was the case in its previous format, and has been the practice among county election officials since its inception, is to require that Minnesota voter registration applications be forwarded to the appropriate county. The Office respectfully submits that the rule in its current format is sufficient to provide guidance to local election officials.

With regard to cyberattacks, voter registration applications can only be submitted electronically through the Secretary of State's website and that process would not be affected by this rule change.

b. Section 8200.3550

Ms. Klocker submits there would be a reduction in crime if individuals knew they faced the potential loss of their right to vote. This comment is outside the scope of the rulemaking proceedings.

c. Sections 8200.5100 and 8200.9940

Ms. Klocker submits that vouching for purposes of election day registration should not be permitted. She further alleges that employees of residential facilities should not be allowed to vouch if they are not citizens. These comments are outside the scope of rulemaking, as the requirements to serve as voucher are governed by Minnesota Statutes section 201.061, subdivision 3.

d. Section 8200.9115

Ms. Klocker submits that polling place rosters should be paper only. This comment is outside the scope of the rulemaking as electronic rosters are authorized under Minnesota Statutes section 201.225.

e. Section 8200.9300

Ms. Klocker suggests that changes be made to make clear it is mandatory that ballots be counted in machines and that absentee ballots be delivered to precincts to confirm the paper roster is complete. Again, these changes are outside the scope of the rulemaking, as Minnesota Statutes section 203B.121 governs the process by which absentee ballots are counted and recorded.

f. Section 8210.0100

Ms. Klocker states that she has neither a driver's license, state identification card, or Social Security number, and that instead of requiring those pieces of information to register to vote, voters should be required to provide documentation showing they are a U.S. citizen. The documentation required to register to vote is governed by Minnesota Statutes section 201.071 and the Help America Vote Act.

g. Section 8210.0200 and 8215.0500

Ms. Klocker suggests that absentee and mail voting be abolished. Again, these changes are outside the scope of the rulemaking, as Minnesota Statutes chapter 203B and Minnesota Statutes section 204B.45 expressly authorize absentee and mail voting respectively in Minnesota.

h. Section 8210.0225

Ms. Klocker suggests this rule be rewritten so that the person receiving the application has a duty to investigate the person's identity and why they are challenged. These changes are outside the scope of rulemaking as the purpose of this change was to remove references to processes by which voters who submit incomplete voter registrations applications are challenged. That process is governed by Minnesota Statutes sections 201.121 and 201.061.

i. Section 8210.0500, 8210.0600, and 8210.0710

Ms. Klocker states that these sections are confusing and should be deleted in their entirety, noting that only military personnel stationed outside their precinct should be allowed to

vote absentee and all others should be required to vote in person. These changes are outside the scope of the rulemaking, as Minnesota Statutes chapter 203B expressly authorizes no-excuse absentee voting in Minnesota. Furthermore, the updates to the instructions were developed based on input from election administrators in the Office, many of whom have also worked at the local level. The Office respectfully submits the instructions are appropriate and clearly spell out the applicable requirements to vote absentee under Minnesota law.

j. Section 8215.0200

Ms. Klocker suggests that it should not be the party chair's decision as to whether write-in votes should be allowed in presidential nominating primaries. That comment is outside the scope of this rulemaking, as Minnesota Statutes section 207A.13 vests that authority in the party chair.

k. Sections 8230.2250 and 8230.4365

Ms. Klocker asks if school district races need a balanced party representation and, if not, how local election officials can comply with this rule. School district elections are exempt from this requirement pursuant to Minnesota Statutes section 205A.10, subdivision 2.

l. Section 8235.0700

Ms. Klocker suggests that the phrase "public view" is too vague. This comment is outside the scope of this rulemaking proceeding, as the Office is not proposing to modify this language, but only to provide new procedures regarding the recount of the alternative ballots authorized by 2023 amendments to Minnesota Statutes section 206.80.

XIII. Linda Lonn

Linda Lonn submitted comments on the following rules:

a. Section 8200.3550

Ms. Lonn states that the language is unclear because it does not address what happens if the notice of challenge removal is returned as undeliverable. That process is governed by Minnesota Statutes section 201.12, which addresses the steps that local election officials must take if any election-related mail is returned as undeliverable.

b. Section 8200.5100

Ms. Lonn suggests that subpart 1 be modified to include a reference to proof of identity. Minnesota Statutes section 201.061 permits a person to register on election day by appearing “at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence.” The rule language is therefore consistent with the statutory requirements for election day registration.

c. Section 8200.9115

Ms. Lonn suggests the certification at the top of the polling place roster be modified to require the person to also certify that the address or location they provide is in the precinct at which they are voting. The information that must be contained in the polling roster certification is governed by Minnesota Statute section 204C.10, which does not require a person to certify their address or location provided is in the relevant precinct. Consequently, this comment is outside the scope of the rulemaking proceeding. In any event, pursuant to the system established by the Office under Minnesota Statutes section 201.221, it is only possible for a person to appear on a polling place roster if the address where they are registered is located within the precinct served by the polling place.

Ms. Lonn also suggests that any person who registers to vote at a location, rather than a residential address, be automatically inactivated after the election. This proposal is outside the scope of this rule, which governs certifications in the polling places.

d. Section 8200.9300

Ms. Lonn suggests that the last sentence of this rule, “[t]he election jurisdiction may require that the election judges number or initial each voter's receipt as it is issued,” be deleted because it is unclear what election judge needs to number or sign the receipt. This proposed change is outside the scope of this rulemaking proceeding, as no change is being proposed to the last sentence of this rule. In any event, the last sentence of this rule is a permissive statement that gives flexibility to local election officials while also making clear that any numbering or initialing is done *as the receipt is issued*, meaning the election judge responsible for this is the person handing the receipt to the voter.

e. Section 8200.9940

Ms. Lonn opposes the changes to this rule because she writes that one county removed the vouching form requirement last year, in violation of state law. The Office is not familiar

with the situation described by Ms. Lonn, but respectfully submits that it is not a reason to not make the changes proposed by the Office, which are reasonable and necessary for the reasons described in the SONAR.

f. Section 8210.2200

Ms. Lonn suggests that the deadlines in this rule be consistent with one another to avoid confusion. The deadlines in this rule are mandated by statute, in particular, Minnesota Statutes section 203B.11, subdivision 4, which provides for an 8:00 p.m. deadline for ballots returned by agent for certain voters, and Minnesota Statutes section 203B.08, which provides for a 5:00 p.m. in person return deadline for other voters. As the Office described in the SONAR, the deadline for ballots returned under Section 203B.08 was modified both in 2023 and 2025, making changes to this rule reasonable and necessary.

g. Section 8215.0300

Ms. Lonn suggests that there be a change to this rule in order to provide a process by which new party leadership can obtain data on which voters selected their party for the presidential nominating primary in the event there is a change in leadership. This change is outside the scope of the Office's rulemaking authority, as Minnesota Statutes section 201.091, subdivision 4a governs disclosure to the current party chair.

h. Section 8220.1550

Ms. Lonn proposes that there be additional requirements for jurisdictions to publicize their public accuracy tests. The Office submits this change is outside the scope of the rulemaking process, as the changes to this rule are necessary as a result of legislative amendments to Minnesota Statutes section 206.83 and to clarify ambiguities in the previous language. In any event, the Office notes that the standards provided for notice in this rule are a floor and not a ceiling. Jurisdictions are free to provide whatever notice they feel is appropriate beyond what is stated in this rule.

i. Section 8240.1600

Ms. Lonn suggests that election judges also be trained in de-escalation techniques and emergency procedures. The Office appreciates this suggestion and will consider it in future rulemaking proceedings. The Office submits that its current proposed training materials, which were developed in consultation with state and local election officials, adequately address election judge needs. For example, the Office has proposed that head election judges receive training in "security and emergency plans." In addition, county election

officials are required to have emergency elections plans and the Office regularly provides guidance as to the contents of those plans. See <https://www.sos.mn.gov/media/ukxlp5k0/county-election-administration-guide.pdf>.

XIV. Susan Baker

Susan Baker commented on several rules. Where those comments have overlapped with other comments, the Office has addressed them above. The Office addresses Ms. Baker's other comments here.

a. Section 8200.3550

Ms. Baker expressed concern that this change would create additional work for local election officials. The Office addressed a similar comment from members of the House Elections Finance and Government Operations Committee in its October 16 response and submits that response adequately addresses Ms. Baker's comment here.

b. Section 8210.0500

Ms. Baker expressed concern with lines 10.21 and 10.22 of this rule, which gave jurisdictions the authority to provide additional instructions to absentee voters, stating that there should be limits on the type of instructions that could be given. The Office submits that the changes proposed to this rule, which will limit it to "jurisdiction specific" instructions, adequately address this concern.

XV. League of Women Voters

Paul Huffman submitted several comments on behalf of the League of Women Voters (LWV) regarding Rules 8200.9115, 8200.9300, 8200.9950, and 8210.0100. The Office has addressed the comments to all but Rule 8200.9300 above.

With regard to rule 8200.9300, the LWV suggests adding a reference to Minnesota Statutes section 204C.20, subdivision 1 or clarifying whether this requirement applies to voting centers before election day. It is the Office's intent that this rule apply only to the tabulation of ballots at polling places on election day. To clarify this, the Office proposes modifying the first sentence of Rule 8200.9300 language as follows:

With regard to ballots cast at polling places on election day, the election judges shall determine the number of ballots to be counted by adding the number of return envelopes from accepted absentee ballots to comparing the

number of ballots with the number of voter's receipts issued pursuant to Minnesota Statutes, section 204C.10, ~~subdivision 2~~, or to the number of names signed on the polling place roster.

This change does not make the rule substantially different. The purpose of changing the proposed rule, as described in the SONAR, was to clarify how ballots were counted in polling places while acknowledging the fact that a separate statute (Section 203B.121) now governed the process by which absentee ballots were accepted and counted. This new language just reinforces that change. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter. Clarification of the rules consistent with the Office's proposed interpretation is a logical outgrowth of the notice and the comments made in response.

XVI. Senators Jim Carlson, Bonnie Westlin, Liz Boldon, Steve Cwodzinski, John Marty, and Lindsey Port

The above-listed Senators, all members of the Senate Elections Committee, submitted comments on the following rules:

a. Section 8200.9950

The Senators ask that the Office reconsider Senator Boldon's suggestion to make two changes to the challenge form contained within this rule. First, they ask that the Office add a line to the form requiring the challenger to describe how they personally verified the information supporting the challenge. The Office respectfully submits that its October 16 letter adequately addresses this comment. To briefly summarize, the 2023 amendments to Section 201.195, which authorize the creation of this form, require that the filer state that they "exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge." The Office's proposed changes mirror this language.

Second, the Senators ask that the form require an oath or affirmation and notarization. With regard to the oath or affirmation, the Office appreciates that the term affidavit typically refers to a set of facts that a person declares to be true. The Office further submits, however, that the rationale the Office provided in its October 16 letter adequately addresses why the affidavit is not required to be notarized. In particular, the affidavit requirement has been in place long before the 2023 amendments to Section 201.195 and has never been required to be notarized.

The Office believes, however, that the certification statement contained in lines 8.1 through 8.2 of this rule can be tweaked slightly to reinforce the importance that the statements made in this form must be truthful and accurate. The Office proposes modifying those lines to read as follows:

I swear or affirm that ~~T~~this challenge is based on my personal knowledge, and that I have exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge.

This change does not make the rule substantially different. It merely reinforces the requirement that the statements made on this form be truthful and accurate, without imposing any additional requirements on the person submitting the form. The language is still largely identical to the language provided for by Section 201.195. Interested parties received fair warning that this could be an issue based on the comments submitted on this matter. The proposed change is consistent to the changes made to Section 201.195 while still maintaining consistency with previous language left unchanged by the legislature.

a. Sections 8210.0500, 8210.0600, 8210.3000, and 8215.0500

The Senators also ask that the Office reconsider changes that Senator Boldon suggested to the instructions contained in these rules for voters who have a print disability. The Office respectfully submits that the proposed instructions are reasonable for the reasons described in its October 16 letter. The Office further submits that the term “print disability” is a commonly used term throughout the country and by Minnesota agencies who serve those individuals. For example, the State Services for the Blind Division of the Department of Employment and Economic Development states on its website that it “offer[s] Minnesotans with a print disability access to print through audio, braille, and e-text.”⁴ The remainder of the language contained in the proposed instructions otherwise clearly states that all materials needed to successfully cast a ballot will be provided to a voter with a print disability upon request.

The Senators also ask the Office to reconsider Senator Boldon’s proposed suggestions regarding absentee ballot witnesses and witness instructions. The Office respectfully submits that the proposed instructions are reasonable for the reasons described in its October 16 letter.

⁴ See <https://mn.gov/deed/ssb/>

XVII. Additional Changes in Response to Prehearing Comments

In its October 16 letter in response to prehearing comments, the Office stated it was likely to make certain changes to the rule. Now that the comment and hearing process is complete, the Office can confirm it is proposing changes to the following rules:

a. Sections 8200.5100 and 8200.9310

In response to comments from Senator Liz Boldon, the Office proposes amending lines 2.24 and 2.25 of Rule 8200.5100 to read as follows:

A registered voter may ~~change~~ update the information on record on election day at the polling place of the precinct in which the voter now resides.

The Office further proposes amending the word “change” to “update” so that lines 5.5 through 5.7 of Rule 8200.9310 read as follows:

A voter with an active voter registration may ~~change~~ update the information on record by submitting a voter registration application meeting all the requirements ~~for a new voter registration application~~ of Minnesota Statutes, section 201.071, subdivision 1.

As stated the Office’s October 16 letter, these changes are reasonable so that the language is consistent with the terms used in the 2025 amendments to Minnesota Statutes section 201.061, which use the term “update” as opposed to change. This change does not make the rule substantially different. It merely makes the text of the rule more consistent with Minnesota statute, but does not change the substantive process by which a person updates their application. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter and because the Office indicated in its October 16 letter that it was likely to make the change. Clarification of the rules to more precisely reflect legislative language is a logical outgrowth of the notice and the comments made in response.

b. Section 8200.9115

At the suggestion of Dakota County Elections Director Michelle Blue, the Office proposes modifying lines 3.11 through 3.13 of this rule to read:

A similar indicator must be printed on the line or included in the field provided for the voter's signature to note a voter's guardianship or felony incarceration status, if any.

This change is reasonable for the reasons described in the Office's October 16 letter; it removes any ambiguity as to what information is reflected in the polling place roster regarding a person's incarceration. Polling place rosters contain information on felony incarceration status because those currently incarcerated for a felony are ineligible to vote. *See* Minn. Stat. § 201.014, subd. 2a. This change does not make the rule substantially different. It merely clarifies the text of the rule to more accurately reflect Minnesota law. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter and because the Office indicated in its October 16 letter that it was likely to make the change. Clarification of the rules consistent with the Office's proposed interpretation is a logical outgrowth of the notice and the comments made in response.

c. Section 8210.0500

At the suggestion of Senator Boldon, the Office proposes modifying the following language contained in lines 10.8 and 10.9 of this rule:

The instructions shall be in the form in subparts 2, 3, or 4 or 5 and 6, except that jurisdictions may substitute the deadline for agent delivery of ballots from 5:00 p.m. to 8:00 p.m. for those individuals voting pursuant to Minnesota Statutes section 203B.11.

As the Office indicated in its October 16 letter, the change is reasonable and necessary because while the legislature modified the deadline for in-person delivery of absentee ballots for most voters from 8:00 p.m. to 5:00 p.m., it did not modify the 8:00 p.m. deadline for voters who are hospital patients or residents of health care facilities. It is therefore appropriate that instructions for those voters be modified to reflect the appropriate deliver time. This change does not make the rule substantially different. It merely clarifies the instructions to more accurately reflect Minnesota law. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter and because the Office indicated in its October 16 letter that it was likely to make the change. Clarification of the rules to more accurately reflect Minnesota law is a logical outgrowth of the notice and the comments made in response.

At the suggestion of Max Hailperin, the Office proposes modifying lines 19.23 and 24.10 of this rule to read:

You may provide ~~both~~ more than one numbers if you are unsure what you provided on your absentee ballot application.

This change is reasonable because overseas voters have the option of submitting three numbers: their driver's license/state identification card number, last four digits of their Social Security Number, or their passport number. This change does not make the rule substantially different. It has always been the case that overseas voters could submit their passport number on their application and so the change merely eliminates any risk of confusion that could result from a reference to "both numbers." Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter and because the Office indicated in its October 16 letter that it was likely to make the change. Clarification of the rules to remove ambiguity in the language is a logical outgrowth of the notice and the comments made in response.

d. Print Disability Language (Sections 8210.0500, 8210.3000, and 8215.0500)

In response to comments from Senator Boldon, the Office proposes modifying the location of the instructions for voters with a print disability who wish to request a ballot in an accessible format. These instructions are identical for (1) registered voters completing an absentee ballot (lines 13.22 through 13.27); (2) nonregistered voters completing an absentee ballot (lines 18.12 through 18.17); (3) military and overseas voters transmitting ballots by mail (lines 21.2 through 21.7); (4) military and overseas voters transmitting ballots electronically (lines 25.26 through 26.3); (5) voters completing mail ballots (lines 37.9 through 37.14); and (6) voters completing mail ballots in the presidential nomination primary (lines 42.20 through 42.25). The Office proposes moving these instructions up to after the word "you" on lines 13.12, 18.2, 20.19, 25.16, 36.23, and 42.10, so that the language in each of these sections reads:

If you have a disability or cannot mark your ballot, your witness may assist you by marking your ballot at your direction, assembling the materials, and filling out the forms for you. If you have a print disability, you may request that ballots, instructions, and a certificate of voter eligibility be transmitted electronically in an accessible format by contacting your county election office auditor. If you request a ballot be transmitted electronically in an accessible format, you may then complete your ballot electronically but must

print your voted ballot and return this ballot and completed certificate of voter eligibility to your local county election office.

This change is reasonable it places the print disability instructions in a more prominent location, right below the subheading “If you have a disability,” as opposed to the last point in a series of instructions related to signing of the envelope. This change does not make the rule substantially different. It does not change the instructions or options available to voters with print disabilities, but places them in a more voter-friendly spot. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter and because the Office indicated in its October 16 letter that it was likely to make the change. Clarification of the rules to improve placement of this language is a logical outgrowth of the notice and the comments made in response.

In addition, the Office proposes changing “county auditor” in the second line of this instruction to “county election office” and “local election office” to “county election office” in the last line of this instruction. It was the intent of the Office that “county auditor” and “local election office” mean the same thing: the county election office that administers voting in the voter’s respective jurisdiction. The Office believes it is easier to use the same term throughout this instruction as a result. This change does not make the rule substantially different. It does not change the instructions or options available to voters with print disabilities, but uses more consistent, voter-friendly language.

e. Section 8210.2400

In response to a comment from the Minnesota Association of County Officers, the Office proposes adding the language “between the absentee ballot signature envelopes and the record required by this rule” after the word “discrepancy” in line 32.2 of this rule so that subpart D of the proposed rule reads as follows:

When the ballot board opens accepted ~~return~~ signature envelopes pursuant to Minnesota Statutes, section 203B.121, subdivision 4, ~~all absentee ballot return envelopes retained by the county auditor or municipal clerk shall be removed from the place of safekeeping and compared with the record required by this rule to ensure that all envelopes are accounted for. Any discrepancy shall be reported to the secretary of state promptly~~ they must comply with the provisions of that subdivision and report any discrepancy between the absentee ballot signature envelopes and the record required by this rule to the secretary of state promptly.

The rationale for this change is contained in the Office's October 16 letter. It has always been the requirement of this rule that absentee ballot boards only need to report to the Office discrepancies between the number of signature envelopes and the number of absentee ballots that cannot be resolved by the ballot board. The language in the Office's original proposed rules could be read to have expanded those reporting requirements, which was not the Office's intent. The Office has therefore proposed modifying this rule to remove the ambiguity. It has also proposed modifying the term "return envelopes" used throughout this rule to "signature envelopes" as well, as signature envelopes are the envelope referred to in Section 203B.121. This change does not make the rule substantially different. It merely clarifies the rule to accurately reflect the Office's intent and maintain what has always been the standard reporting practice under this rule. Interested parties received fair warning that this rule change could be a possibility because of the comments submitted on this matter and because the Office indicated in its October 16 letter that it was likely to make the change. Clarification of the rules consistent with the Office's proposed interpretation is a logical outgrowth of the notice and the comments made in response.

f. Section 8215.0400

Upon additional review, the Office has proposed clarifying this rule so that the first part of subpart 7, on lines 39.17 through 39.22, reads as follows:

~~Until the close of business on the seventh 19th day before the election, a voter may change the voter's choice of which major political party ballot the voter wishes to receive by spoiling the voter's ballot and submitting an application indicating the major political party ballot the voter is requesting. A voter who has returned a ballot may change the voter's choice of which major political party ballot the voter wishes to receive by spoiling the voter's ballot and submitting a new application indicating the major political party ballot the voter is requesting until the close of business on the 19th day before the election.~~

The reason for this clarification is because after the close of business on the 19th day before the election, absentee ballot boards may open the accepted signature envelopes, remove the ballots, and deposit them in the appropriate ballot box. Minn. Stat. 203B.121, subd. 4. Once the ballot is deposited, it is not retrievable and cannot be spoiled. The voter is prohibited from casting another ballot as a result. *Id.*, subd. 3. Voters who have not returned their ballot, however, still retain the option of spoiling it and obtaining a new one. The original language could have been read to prohibit voters who had not returned their ballot from spoiling their ballot after the close of business on the 19th day before the election,

which was not the Office's intent. This change does not make the rule substantially different. It merely clarifies the rule to accurately reflect the Office's intent as to when voters would be prohibited from spoiling their ballots. Interested parties received fair warning that this rule change could be a possibility because the Office indicated in its October 16 letter that it was likely to make the change. Clarification of the rules consistent with the Office's proposed interpretation is a logical outgrowth of the notice and the comments process.

XVIII. Conclusion

The Office has addressed the many comments raised before, during, and after the hearing and comment period. The Office appreciates the thoughtfulness of these proposed suggestions and has incorporated feedback from them where appropriate. The Office has shown that the rules are needed and reasonable. The Office respectfully submits that the Administrative Law Judge should recommend adoption of these rules.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'J. Erickson', followed by a long horizontal flourish.

Justin R. Erickson
General Counsel

Exhibit A

Summary of Proposed Changes to Election Rules Following Notice and Comment Process

1. Line 2.24: replace “change” with “update”
2. Line 3.13: reinstate “felony” before “incarceration”
3. Line 4.17: add “With regard to ballots cast at polling places on election day,” before “the”
4. Line 5.5: replace “change” with “update”
5. Line 8.1: add “I swear or affirm that” before “this” and add “that” before “I”
6. Line 10.9: after “6” add “, except that jurisdictions may substitute the deadline for agent delivery of ballots from 5:00 p.m. to 8:00 p.m. for those individuals voting pursuant to Minnesota Statutes section 203B.11.”
7. Line 10.21: insert “jurisdiction specific” after the word “additional”
8. Lines 13.22 through 13.27: move to after the word “you” on line 13.12
9. Line 13.24: change “auditor” to “election office”
10. Line 13.27: change “local” to “county”
11. Lines 17.22 through 17.27: edit to read as follows: “Vouching for residents of certain residential facilities: the signature of an employee of your residential facility. The employee must complete and sign the voucher form on the back of the voter registration application. A comprehensive list of residential facilities eligible for this form of vouching is located in Minnesota Statutes section 201.061, subdivision 3 and is available at mnvotes.gov/residentialfacility. If you are not sure if the residential facility where you live is eligible, call your local election official.”
12. Lines 18.12 through 18.17: move to after the word “you” on line 18.2

13. Line 18.14: change “auditor” to “election office”
14. Line 18.17: change “local” to “county”
15. Line 19.23: replace “both numbers” with “more than one number”
16. Lines 21.2 through 21.7: move to after the word “you” on line 20.19
17. Line 21.4: change “auditor” to “election office”
18. Line 21.7: change “local” to “county”
19. Line 24.10: replace “both numbers” with “more than one number”
20. Lines 25.26 through 26.3: move to after the word “you” on line 25.16
21. Line 25.28: change “auditor” to “election office”
22. Line 26.3: change “local” to “county”
23. Line 32.2: add “between the absentee ballot return envelopes and the record required by this rule” after the word “discrepancy”
24. Line 33.4: add “8:00 p.m. on” following the word “after”
25. Line 33.10: reinstate “203B.24 and”
26. Lines 37.9 through 37.14: move to after the word “you” on line 36.23
27. Line 37.11: change “auditor” to “election office”
28. Line 37.14: change “local” to “county”
29. Line 38.22: remove “for each office”
30. Lines 39.17 through 39.20: replace the first sentence (beginning with “Until” on line 39.17 and ending with the word “requesting” on line 39.20) with the following: “A

voter who has returned a ballot may change the voter's choice of which major political party ballot the voter wishes to receive by spoiling the voter's ballot and submitting a new application indicating the major political party ballot the voter is requesting until the close of business on the 19th day before the election."

31. Lines 42.20 through 42.25: move to after the word "you" on line 42.10

32. Line 42.22: change "auditor" to "election office"

33. Line 42.25: change "local" to "county"

34. Line 54.5: add "nominated by petition" after "candidates"