

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION CHAPTER
CHAPTER 10 ELECTIONS AND ELECTED OFFICIALS
PART 38 EMERGENCY ELECTION PROCEDURES

1.10.38.1 ISSUING AGENCY: Office of the Secretary of State.
[1.10.38.1 NMAC – N, 10/7/2025]

1.10.38.2 SCOPE: This rule applies to election procedures during an emergency.
[1.10.38.2 NMAC – N, 10/7/2025]

1.10.38.3 STATUTORY AUTHORITY: Section 1-2-1 NMSA 1978.
[1.10.38.3 NMAC – N, 10/7/2025]

1.10.38.4 DURATION: Permanent.
[1.10.38.4 NMAC – N, 10/7/2025]

1.10.38.5 EFFECTIVE DATE: October 7, 2025, unless a later date is cited at the end of a section.
[1.10.38.5 NMAC – N, 10/7/2025]

1.10.38.6 OBJECTIVE: To establish emergency election procedures for the secretary of state and county clerks.
[1.10.38.6 NMAC – N, 10/7/2025]

1.10.38.7 DEFINITIONS: [RESERVED]

1.10.38.8 EMERGENCY DECLARATIONS: Upon issuance of an executive order declaring a state of emergency or an executive order for an impending emergency, the secretary of state shall authorize county clerks in impacted counties to evaluate and develop emergency contingency plans to ensure maximum participation in the electoral process and provide a safe and orderly procedure for impacted elections.
[1.10.38.8 NMAC – N, 10/7/2025]

1.10.38.9 POLLING LOCATIONS:

A. A county clerk shall notify the secretary of state in writing of any natural disasters impacting election operations. As soon as possible following the issuance of an executive order declaring an emergency, the county clerk shall identify the number of polling places that are functional and the number of polling places that are no longer functional.

B. A court order is required in order to change a designated polling location pursuant to Section 1-3-8 NMSA 1978. In addition, if a polling place is destroyed, inaccessible or unsafe, efforts should be made to work with federal, state and local emergency management agencies to permit the orderly establishment of a new polling place. An alternate emergency location shall be identified by the county clerk and authorized by the secretary of state prior to the clerk seeking a court order, provided that:

(1) a newly established voter convenience center shall meet the requirements for voter convenience centers in Section 1-3-4 NMSA 1978.

(2) a court may authorize the use of one county's voting location for use in another county.

(3) any contingency plans involving elimination or consolidation of a polling place or establishment of an alternative voting or mobile voting unit within an Indian nation, tribe or pueblo shall occur pursuant to Section 1-21A-9 NMSA 1978.

C. Upon receipt of a court order, the county clerk issue a press release and shall post any ordered changes to polling locations to the county clerk's website. The posting and press release shall include the address of the new location and its hours of operation.

[1.10.38.9 NMAC – N, 10/7/2025]

1.10.38.10 MAILED BALLOT DELIVERY:

A. The county clerk shall notify the secretary of state in writing of any impact to mailed ballot delivery.

B. Any delays, closures of secured monitored containers or additional changes to the ability of voters to receive or return a mailed ballot shall be posted as soon as practicable on the county clerk's website with information on how voters may participate in the election; and

C. If necessary, the secretary of state may authorize the county clerk to transmit ballot and balloting materials by secured electronic transmission available to the county clerk to voters who have submitted an emergency mailed ballot request on a form prescribed by the secretary of state.

[1.10.38.10 NMAC – N, 10/7/2025]

1.10.38.11 ELECTION TIMELINE: Nothing in this rule shall be interpreted as extending or as an extension of the time period for an election.

[1.10.38.11 NMAC – N, 10/7/2025]

History of 1.10.38 NMAC: [RESERVED]