Notice of Permanent Adoption

Office of the Secretary of State
Election Rules
8 CCR 1505-1

August 11, 2016

I.   Adopted Rule Amendments

As authorized by Colorado Elections Law[1] and the State Administrative Procedure Act[2], the Colorado Secretary of State gives notice that the following amendments to the Election Rules[3] are adopted on a permanent basis.

The Secretary of State considered the amendments at the July 25, 2016 rulemaking hearing in accordance with the State Administrative Procedure Act[4].

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
~~Strikethrough~~	Deletions
[Italic blue font text]	Annotations and publication notes

[Current 8 CCR 1505-1 is amended as follows:]

Amendments to Rule 1 concerning definitions:

1.1.8   "BALLOTS CAST" MEANS THE TOTAL NUMBER OF BALLOTS RECEIVED BY THE COUNTY CLERK IN AN ELECTION. "BALLOTS CAST" DOES NOT INCLUDE MAIL BALLOT ENVELOPES RETURNED TO THE COUNTY CLERK BY THE U.S. POSTAL SERVICE AS UNDELIVERABLE.

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[1] Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2015).
[2] Section 24-4-103(3)(a), C.R.S. (2015).
[3] 8 CCR 1505-1.
[4] Section 24-4-103(3)(a), C.R.S. (2015).

Main Number	(303) 894-2200		TDD	(303) 869-4867
Administration	(303) 860-6900		Web Site	www.sos.state.co.us
Fax	(303) 869-4860		E-mail	administration@sos.state.co.us

[Current Rules 1.1.8 through 1.1.11 are renumbered accordingly as Rules 1.1.9 through 1.1.12]

1.1.12 1.1.13   "Damaged ballot" means a ballot that is torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the ~~optical scanner ballot reader~~ BALLOT SCANNER. Damaged ballots include:

(a)   All ballots that contain a foreign substance that could interfere with the ~~optical~~ BALLOT scanner (e.g. food, drink, etc.).

(b)   Ballots that are marked in a medium or manner ~~other than indicated in the ballot instructions~~ THAT CANNOT BE DETECTED BY A BALLOT SCANNER.

~~(c)   Ballots that the elector marked in a way that would disclose his or her identity.~~

[Current Rules 1.1.13 through 1.1.28 are renumbered accordingly as Rules 1.1.14 through 1.1.29]

1.1.29 1.1.30   "Optical scanner OR BALLOT SCANNER" means an optical or digital ballot scanner.

[Current Rules 1.1.30 through 1.1.48 are renumbered accordingly as Rules 1.1.31 through 1.1.49]

Amendments to Rule 2.3 concerning voter registration:

2.3   ~~If an elector has a driver's license number or state identification number, he or she must provide it when registering to vote. If the elector has neither, he or she may provide the last four digits of his or her social security number. If the elector states that he or she does not have a driver's license, state identification card number, or social security number, or if the clerk cannot verify the elector's information in SCORE, the county clerk must register the elector and mark the registration record "ID required".~~ WHEN PROCESSING A NEW VOTER REGISTRATION APPLICATION, THE COUNTY CLERK MUST MARK THE REGISTRATION RECORD "ID REQUIRED" UNLESS THE ELECTOR PROVIDES HIS OR HER VERIFIABLE DRIVER'S LICENSE NUMBER OR STATE IDENTIFICATION NUMBER, OR THE ELECTOR IS OTHERWISE EXEMPT UNDER LAW. [SECTION 1-2-204(2)(F.5), C.R.S.]

Repeal of Rule 2.3.4:

2.3.4   ~~Documents issued under section 42-2-505, C.R.S., are not acceptable forms of identification for any purpose under the Uniform Election Code of 1992 and these rules.~~

Repeal of Rule 2.10.2:

2.10   New voter notification under section 1-2-509(3), C.R.S. ~~2.10.1~~ During the 22 days before an election, the county clerk must defer processing undeliverable new voter notifications. After the election is closed, the clerk must determine an applicant "not registered" under section 1-2-509(3), C.R.S., only if the applicant did not vote in the election.

2.10.2 ~~If after the 20-day period outlined in section 1-2-509(3), C.R.S, the United States Postal Service returns a new voter notification to the county clerk as undeliverable, the county clerk must mark the voter's record "Inactive" and mail a confirmation card.~~

Amendments to Rule 2.11.1 concerning voter registration confidentiality:

2.11.1 Information about an agency's name and location for an application completed at a voter registration agency or driver's license office is confidential. [~~42 USC §§ 1973gg-3(c)(2)(D)(iii)~~ 52 USC § 20504(C)(2)(D)(III)]

Amendments to Rule 2.12.1 concerning list maintenance under section 8 of the National Voter Registration Act of 1993:

2.12.1 The Secretary of State will provide monthly National Change of Address (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk by the fifth of each month.

    (a)   The county must process the data to update registration records and send notifications in accordance with section 1-2-302.5, C.R.S., by the end of each month.

        ~~(1)~~ (B)   The county may not change a residential address to a non-residential address, like a post office box, based on the information in the NCOA data.

        (2)   ~~If the county clerk has previously mailed a confirmation card to an elector whose record is marked inactive for any reason, the county clerk is not required to mail another confirmation card to the elector at the same address.~~

        (3)   ~~If an elector moves within a county, the county may not mark the elector's record "active" based on the NCOA data if the record is incomplete, pending, or canceled.~~

    ~~(b)~~ (C)   When the county updates a voter registration record using NCOA data, the county must use the NCOA transaction source.

Amendments to Rule 2.14.1 concerning voter registration records and data:

2.14.1 ~~Notwithstanding the retention timelines specified in section 1-2-227, C.R.S., the county clerk may destroy paper voter registration records as soon as they have been digitally recorded in SCORE.~~ The SCORE system must retain digital images of voter registration applications in perpetuity in accordance with section 1-5-301, C.R.S.

Amendments to Rule 3.3.3 concerning qualified political organizations:

3.3.3 To qualify for the ballot, a candidate must have been affiliated with the qualified political organization ~~for one year or~~ BY THE FIRST BUSINESS DAY IN JANUARY OF THE ELECTION YEAR, OR if the organization has not been qualified ~~for one year~~, the candidate must have been registered as unaffiliated ~~for one year~~ BY THE FIRST BUSINESS DAY IN JANUARY OF THE ELECTION YEAR.

New Rule 6.9 concerning election judges:

6.9 THE COUNTY CLERK MUST ARRANGE FOR A CRIMINAL BACKGROUND CHECK ON EACH SUPERVISOR JUDGE AND EACH STAFF MEMBER WITH ACCESS TO SCORE OR ELECTORS' CONFIDENTIAL OR PERSONALLY IDENTIFIABLE INFORMATION.

6.9.1 THE CRIMINAL BACKGROUND CHECK MUST BE CONDUCTED BY OR THROUGH THE COLORADO BUREAU OF INVESTIGATION, THE COUNTY SHERIFF'S DEPARTMENT IN ACCORDANCE WITH SECTION 24-72-305.6(3), C.R.S., OR SIMILAR STATE OR FEDERAL AGENCY.

6.9.2 A PERSON CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE CONTAINING AN ELEMENT OF FRAUD MAY NOT HANDLE VOTER REGISTRATION APPLICATIONS OR CONDUCT VOTER REGISTRATION AND LIST MAINTENANCE ACTIVITIES.

New Rule 7.5.1(e) concerning receipt and processing of ballots:

7.5.1 The county clerk must adequately light all stand-alone drop-off locations and use either an election official or a video security surveillance recording system as defined in Rule ~~1.1.42~~ 1.1.43 to monitor each location.

(a) Freestanding drop-off locations must be monitored ~~at all times~~ WHEN THEY ARE OPEN TO RECEIVE BALLOTS.

(b) If the drop-off location utilizes a drop-slot into a building, the ballots must be collected in a locked container, and both the drop-slot and container must be monitored ~~at all times~~.

(c) Signage at each drop-off location must inform voters that it is a violation of law for any person to collect more than ten ballots for mailing or delivery in any election, and that electioneering is prohibited within 100 feet of any drop-box.

(d) The minimum number of drop-off locations must be open during reasonable business hours as defined in Rule 7.9.1(a) and from 7:00 a.m. through 7:00 p.m. on election day.

(E) VIDEO SECURITY SURVEILLANCE IS AN ELECTION RECORD UNDER SECTION 1-1-104(11), C.R.S. AND MUST BE RETAINED BY THE COUNTY CLERK IN ACCORDANCE WITH SECTION 1-7-802, C.R.S.

Amendments to Rule 8.1.5 concerning watchers:

8.1.5 A watcher must complete a training provided by or approved by the Secretary of State before observing election activities where confidential or personally identifiable information may be within view. TO VERIFY COMPLETION OF THE TRAINING, A WATCHER MUST PROVIDE HIS OR HER TRAINING CERTIFICATE OF COMPLETION WITH THE CERTIFICATE OF APPOINTMENT.

Amendments to numbering in Rule 8.7.4:

8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in Rule 1.1.26 1.1.27 applies only to voting.

Amendments to Rule 9.2 regarding mail ballot challenge:

9.2 CHALLENGING A MAIL BALLOT VOTER

9.2.1 If an individual challenges a mail ballot under section 1-9-207, C.R.S., the election judge must forward the ballot to two other election judges of different political party affiliations who must review the elector's eligibility to vote.

9.2.1 (A) If both election judges determine the elector is not eligible under section 1-9-207, C.R.S., the judges must follow the procedures in section 1-7.5-107.3(2), C.R.S.

9.2.2 (B) If both election judges determine the elector is eligible and that elector's signature is valid, the election judges must count the elector's ballot.

9.2.2 UNLESS THE CHALLENGE IS WITHDRAWN, THE COUNTY CLERK MUST NOTIFY A VOTER WHOSE BALLOT WAS CHALLENGED. THE NOTIFICATION MUST INCLUDE A COPY OF THE CHALLENGE FORM, THE DISPOSITION OF THE BALLOT, AND A STATEMENT THAT THE MATTER WILL BE REFERRED TO THE DISTRICT ATTORNEY UNDER SECTION 1-9-209, C.R.S. THE COUNTY CLERK MUST PROVIDE A COPY OF THE NOTIFICATION TO THE CHALLENGER UPON REQUEST.

Amendments to Rule 10.5.2 regarding the state portion of the abstract:

10.5.2 A county must submit the state portion of the abstract and the ENR upload required by Rule 11.10.5 to the Secretary of State in the format approved by the Secretary of State. The state portion of the abstract must include:

(a) The summary of votes cast for each state race and each ballot question or issue; and

(b) The total number of ballots cast COUNTED in the election.

Amendments to Rule 10.11.2 regarding testing recount equipment:

10.11.2   The county clerk must test all optical scanners that will be used in the recount. The purpose of the test is to ensure that the tabulation machines are counting properly.

(a)   The test deck must include 50 ballots or 1% of the total number of ballots ~~cast~~ COUNTED in the election, whichever is greater, except that the total number of ballots tested may not exceed the total number of ballots comprising the county's test deck for the Logic and Accuracy test before the election. The ballots must be marked to test every option for the race or measure that will be recounted.

Amendments to Rule 10.11.3 regarding testing recount equipment:

10.11.3   The county clerk must test the VVPAT records from 1% of the DREs that had votes cast ~~for~~ ON THE BALLOT STYLE CONTAINING the race or measure being recounted.

(a)   Sworn judges or staff must manually verify the results on the machines selected for the test.

(b)   The test is limited to the race or measure that is recounted.

Amendments to Rule 10.12.4(d) regarding recounting ballots using "Ballot Now":

10.12.4   To recount ballots using "Ballot Now":

(d)   Save all recount Cast Vote Records to the MBBs after verifying that the number of ballots processed matches the number of ~~ballots~~ VOTES cast in the recount contest.

Amendments to Rule 10.12.7 regarding recounting ballots by hand:

10.12.7   Tabulation of ballots ~~cast~~ must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next container begins.

Amendments to Rule 10.13.1 regarding canvass and reporting results for a recount:

10.13.1   Totals of recounted ballots must be reported in summary form as follows:

(a)   Sum total of votes ~~cast~~ for each race or measure recounted, under-votes, and over-votes for each location;

(b)   The totals must be a combined total, not totaled by individual precincts or location, unless the tabulation system allows.

Amendments to Rule 11.3.2(d) regarding Logic and Accuracy Test:

11.3.2 Logic and Accuracy Test

    (d)   Conducting the Test

        (4)   The Testing Board and designated election official must count the test ballots as follows, if applicable:

            (B)   DREs:

                (i)   The Testing Board must test at least one DRE.

                (ii)   The Testing Board must randomly select the machines to test.

                (iii)   Each member of the Testing Board must separately cast his or her test ballots on the selected DREs. Each Testing Board member must cast at least one of his or her test ballots using the audio ballot playback and accessible input devices.

                (iv)   Each Testing Board member must examine the tabulation tape or report and verify that the DRE ~~tabulated the ballots and votes cast in the same manner that~~ RESULTS MATCH WHAT the Testing Board member manually marked ON his or her test ballots.

Amendments to Rule 11.3.3 regarding post-election audit:

11.3.3 Post-Election Audit. THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT THE POST-ELECTION AUDIT MANDATED BY SECTIONS 1-7-509(1)(B) AND 1-7-514, C.R.S., IN ACCORDANCE WITH THIS RULE.

    (a)   SELECTED VOTING DEVICES

        (1)   No later than 48 hours after the close of polls on election night, the Secretary of State must notify the designated election official ~~which~~ OF THE voting devices ~~and which race or races on the ballots will be audited~~ RANDOMLY SELECTED FOR AUDIT, based on the submitted hardware inventory list referred to in Rule 11.2.

        ~~(b)~~(2)   The Secretary of State will randomly select, FROM THE VOTING DEVICES USED IN THE ELECTION, AT LEAST five percent of THE CENTRAL COUNT ballot scanners; AT LEAST ONE BALLOT SCANNER USED AT A POLLING LOCATION~~,~~; and five percent of ~~DRE voting devices~~ DREs.

(1) ~~If the county used a scanner in any voter service and polling center, the county must also audit at least one of the scanners.~~

(2) ~~If the Secretary of State receives a report of equipment malfunction, the Secretary may select additional equipment for inclusion in the audit.~~

(c) ~~In accordance with section 1-7-514, C.R.S., the Secretary of State may only select devices used in the election.~~

(d) ~~The Secretary of State must randomly select at least two races per device for verification to ensure that each race or measure on the ballot is audited in accordance with section 1-7-514, C.R.S.~~

(e) ~~For optical scanners the designated election official must randomly select either of the following amounts based upon the total number of ballots counted:~~

(1) ~~If fewer than 500 ballots were counted, then a minimum of 20 percent of the ballots counted on the device.~~

(2) ~~If 500 or more ballots were counted, then a minimum of 100 ballots plus five percent of the difference between the number of ballots counted and 500, but not more than 500.~~

(f) ~~The designated election official must reset the public counter of the voting device selected for audit to zero and tabulate the ballots on that device.~~

(g) ~~The designated election official must manually verify the new report from the electronic count.~~

(h) ~~The designated election official must seal the ballots and a copy of the report in a separate container.~~

(i) ~~For DREs without a VVPAT, the designated election official must manually verify the image of all the ballots in the ballot log or ballot audit that the device counted along with the report generated for that device at the close of polls.~~

(1) ~~For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-1) of the firmware or software, the designated election official must verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.~~

(j) ~~For DREs with a VVPAT, the designated election official must manually verify the entire VVPAT record with the report generated for that specific device.~~

(1) ~~For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-1) of the firmware or software, the designated election official must verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.~~

(k) (B) THE DESIGNATED ELECTION OFFICIAL MUST APPOINT AN AUDIT BOARD TO CONDUCT THE POST-ELECTION AUDIT IN ACCORDANCE WITH SECTION 1-7-509(1)(C), C.R.S. At least two canvass board members must observe the random audit. The designated election official, MEMBERS OF HIS OR HER STAFF, AND OTHER DULY APPOINTED ELECTION JUDGES, may assist with the audit.

(C) NUMBER OF BALLOTS TO AUDIT

(1) PAPER BALLOTS TABULATED ON BALLOT SCANNERS. THE BOARD MUST AUDIT AT LEAST 500 BALLOTS OR 20 PERCENT OF THE BALLOTS TABULATED ON EACH SELECTED BALLOT SCANNER, WHICHEVER IS LESS. THE BOARD MAY AUDIT MORE THAN THE MINIMUM NUMBER OF BALLOTS REQUIRED.

(2) ELECTRONIC BALLOTS TABULATED ON DRES. THE BOARD MUST AUDIT ALL BALLOTS TABULATED ON THE SELECTED DRES.

(D) CONDUCTING THE AUDIT

(1) PAPER BALLOTS TABULATED ON BALLOT SCANNERS

(A) IF THE VOTING SYSTEM IS CAPABLE OF GENERATING BATCH-LEVEL TABULATION REPORTS FOR A SELECTED BALLOT SCANNER, THE BOARD MUST RANDOMLY SELECT A NUMBER OF BALLOT BATCHES TABULATED ON THE BALLOT SCANNER THAT, IN THE AGGREGATE, CONTAIN THE MINIMUM NUMBER OF BALLOTS TO BE AUDITED. THE BOARD MUST MANUALLY VERIFY THAT THE VOTES ON THE BALLOTS CONTAINED IN EACH RANDOMLY SELECTED BATCH MATCH THE VOTING SYSTEM'S TABULATION OF VOTES FOR THAT BATCH.

(B) IF THE VOTING SYSTEM IS NOT CAPABLE OF GENERATING BATCH-LEVEL TABULATION REPORTS FOR A SELECTED BALLOT SCANNER, THE BOARD CAN CHOOSE TO AUDIT ALL OF THE BALLOTS THAT WERE TABULATED ON THE SELECTED SCANNER, OR RANDOMLY SELECT AND RESCAN THE MINIMUM NUMBER OF BALLOTS TO BE AUDITED. IF THE BOARD CHOOSES TO RESCAN THE MINIMUM NUMBER OF BALLOTS, THE BOARD ALSO MUST:

  (I) RESET THE SELECTED BALLOT SCANNER'S RESULTS TO ZERO AND GENERATE A ZERO REPORT;

  (II) RESCAN THE RANDOMLY SELECTED BALLOTS FOR AUDIT AND GENERATE A TABULATION REPORT FROM THE SELECTED BALLOT SCANNER; AND

  (III) MANUALLY VERIFY THAT THE VOTES ON THE RANDOMLY SELECTED BALLOTS MATCH THE TABULATION REPORT FOR THOSE BALLOTS GENERATED FROM THE SELECTED BALLOT SCANNER.

 (2) BALLOTS TABULATED ON DREs. THE BOARD MUST EXAMINE THE VVPAT RECORD OF EACH SELECTED DRE AND MANUALLY VERIFY THAT THE VOTES REFLECTED ON THE VVPAT MATCH THE TABULATION REPORT.

(l)(E) If ~~there are~~ THE BOARD DISCOVERS discrepancies ~~in~~ DURING the audit, the ~~canvass board or the designated election official~~ BOARD must:

 (1) Confirm that ~~there is no discrepancy in~~ the manual count OF THE VOTES CONTAINED IN THE AUDITED BALLOTS IS CORRECT;

 (2) ~~Take any steps necessary to check for voter error, which must include but is not limited to:~~ CONFIRM THAT THE MANUAL COUNT OF THE VOTES CONTAINED IN THE AUDITED BALLOTS PROPERLY REFLECTS overvotes, stray marks on the ballot, ~~or~~ AND other ~~voter intent indicia~~ INDICATIONS OF VOTER INTENT; ~~and~~

 (3) DETERMINE WHETHER ANY DISCREPANCY IS ATTRIBUTABLE TO A DAMAGED BALLOT; AND

 (3)(4) Take any OTHER action necessary in accordance with the canvass board's powers as described in Part 1, Article 10 of Title 1, C.R.S.

(m)(F) ~~After the audit, the~~ THE designated election official must ~~promptly~~ report the results OF THE AUDIT IN WRITING to the Secretary of ~~State's Office~~ STATE by 5:00 p.m. on the last day to canvass. THE AUDIT REPORT MAY BE SUBMITTED BY MAIL, FAX, OR EMAIL. The AUDIT report must contain:

 (1) The make, model, and serial number of the voting devices audited;

 (2) The number of ballots originally counted ~~by~~ ON each device or the number of ballots audited ~~as identified in paragraph (4) of this section~~;

 (3) The count of the specific races on the summary report printed at the close of polls or the report generated for the audit;

(4)   The count of the specific races as manually verified;

(5)   Any other information required by section 1-7-514, C.R.S.; and

(6)   ~~The canvass board members'~~ THE SIGNATURES OF THE AUDIT BOARD, THE CANVASS BOARD MEMBERS WHO OBSERVED THE AUDIT, and THE designated election ~~official's signatures~~ OFFICIAL.

~~(n)   The designated election official may send the report by regular mail, email, or fax.~~

(G)   THE DESIGNATED ELECTION OFFICIAL MUST SEGREGATE AND SEAL THE MATERIALS USED DURING THE POST-ELECTION AUDIT, INCLUDING ALL TABULATION REPORTS, THE AUDITED BALLOTS, AND THE AUDIT REPORT.

Amendments to Rule 11.10.1 concerning election night reporting:

11.10   Election Night Reporting ~~(ENR)~~. The county must USE THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING (ENR) SYSTEM TO report ~~election night~~ results for all primary, general, coordinated, and recall elections IN ACCORDANCE WITH THIS RULE.

11.10.1   A data entry county must ~~program the election to support the exporting of election night~~ UPLOAD A RESULTS DATA FILE TO ENR CONTAINING THE ELECTION results ON THE DATES AND TIMES SPECIFIED IN RULES 11.10.3 THROUGH 11.10.5. THE COUNTY MUST PROGRAM ITS ELECTION DATABASE SO THAT THE RESULTS FILE EXPORTED FROM THE VOTING SYSTEM IS FORMATTED in accordance with the following ~~upload~~ requirements:

(a)   ~~List contest names and candidate names exactly as provided on the certified list.~~ CONTEST NAMES: EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (1) – (3) OF THIS RULE, THE RESULTS FILE MUST CONTAIN THE CONTEST NAMES AS THEY ARE CERTIFIED FOR THE BALLOT.

(1)   FOR PRIMARY ELECTIONS, THE COUNTY MUST APPEND TO THE END OF THE CERTIFIED CONTEST NAME THE SCORE ABBREVIATION OF THE POLITICAL PARTY AFFILIATION OF THE CANDIDATES IN THE CONTEST (E.G., "UNITED STATES SENATOR – DEM," "STATE SENATOR – DISTRICT 21 – REP," "COUNTY TREASURER – LIB,").

(2)   FOR BALLOT MEASURES OTHER THAN JUDICIAL RETENTION QUESTIONS, THE CONTEST NAME MUST INCLUDE THE POLITICAL SUBDIVISION THAT REFERRED THE MEASURE TO THE BALLOT, THE BALLOT MEASURE TYPE, AND THE NUMBER OR LETTER AS IT APPEARS ON THE BALLOT (E.G., "ADAMS COUNTY BALLOT ISSUE 200," "CITY OF BRIGHTON BALLOT QUESTION 5A,").

(3)   FOR JUDICIAL RETENTION QUESTIONS, THE CONTEST NAME MUST INCLUDE THE COURT AND THE TITLE AND LAST NAME OF THE JUSTICE

OR JUDGE STANDING FOR RETENTION (E.G., "SUPREME COURT – JUSTICE ERICKSON," "COURT OF APPEALS – JUDGE JONES," "1ST JUDICIAL DISTRICT– JUDGE SMITH," "ADAMS COUNTY COURT – JUDGE DOE,").

(b)   ~~For counties that use the ES&S and Premier voting systems, arrange the contests in the order prescribed by section 1-5-403(5), C.R.S.~~ CONTEST ORDER: EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (1) – (4) OF THIS RULE, THE RESULTS FILE MUST LIST THE CONTESTS IN THE SAME ORDER AS THEY ARE CERTIFIED FOR THE BALLOT.

  (1)   FOR PRIMARY ELECTIONS, THE RESULTS FILE MUST LIST THE CONTESTS IN THE ORDER PRESCRIBED BY SECTION 1-5-403(5), C.R.S., GROUPED IN ASCENDING ALPHABETICAL ORDER OF THE ABBREVIATED NAMES OF THE PARTICIPATING MAJOR POLITICAL PARTIES, FOLLOWED BY THE ABBREVIATED NAMES OF PARTICIPATING MINOR POLITICAL PARTIES AND QUALIFIED POLITICAL ORGANIZATIONS (E.G., "UNITED STATES SENATOR – DEM," "UNITED STATES SENATOR – REP," "UNITED STATES SENATOR – GRN," "UNITED STATES SENATOR – LIB," "UNITED STATES SENATOR – UNI,").

  (2)   THE RESULTS FILE MUST LIST BALLOT MEASURES IN THE ORDER CERTIFIED BY THE SECRETARY OF STATE, FOLLOWED BY THE BALLOT MEASURES CERTIFIED BY OTHER PARTICIPATING POLITICAL SUBDIVISIONS IN THE ORDER AND USING THE NUMBERING CONVENTIONS SPECIFIED IN RULE 4.5.2(F).

  (3)   A COUNTY USING THE DOMINION, HART, OR SEQUOIA VOTING SYSTEM MUST INCLUDE AND POPULATE THE CONTEST SEQUENCE NUMBER FIELD IN ITS RESULTS FILES TO DEFINE THE ORDER OF CONTESTS ON THE BALLOT AS REQUIRED BY THIS RULE.

  (4)   A COUNTY USING THE ES&S OR PREMIER VOTING SYSTEM MUST INCLUDE AND POPULATE THE CONTEST ID FIELD IN ITS RESULTS FILE TO DEFINE THE ORDER OF CONTESTS AS REQUIRED BY THIS RULE.

(c)   ~~Capitalize candidate names (e.g., John A. Smith).~~ CANDIDATE NAMES: THE RESULTS FILE MUST INCLUDE CANDIDATES' NAMES IN PROPER CASE AND INCLUDE PERIODS FOLLOWING INITIALS (E.G., "JOHN A. SMITH"), AND MAY NOT INCLUDE THE NAME OR ABBREVIATION OF THE CANDIDATE'S POLITICAL PARTY.

(d)   ~~Present a precinct name as a ten-digit precinct number.~~ PRECINCT NAMES: IF A COUNTY REPORTS RESULTS BY PRECINCT, ITS RESULTS FILE MAY ONLY INCLUDE THE TEN-DIGIT PRECINCT NUMBER FROM SCORE.

(e)   For counties that use the Hart voting systems, use the "Split_name" field for split precinct naming purposes.

(f) (E)   Create a "Provisional" precinct. PROVISIONAL RESULTS: THE RESULTS FILE MUST INCLUDE A "PROVISIONAL" PRECINCT OR COUNTING GROUP AS A PLACEHOLDER FOR SEPARATELY REPORTED PROVISIONAL BALLOT RESULTS IF REQUIRED BY SECTION 1-8.5-110(2), C.R.S.

(g)   Use only the party codes certified by the Secretary of State.

(h)   Do not include the party name or code in the candidate name field.

(i)   For a primary election, contest names must include, at a minimum, party abbreviation.

Amendments to Rule 11.10.3:

11.10.3   No later than 14 days before the election, a data entry county must upload the LAT results file to ENR. AT A MINIMUM, THE LAT RESULTS FILE MUST CONTAIN THE RESULTS OF THE COMPLETE COUNTY TEST DECK REQUIRED UNDER RULE 11.3.2(C)(1). THE COUNTY MUST ALSO PROVIDE THE SECRETARY OF STATE WITH A SUMMARY RESULTS REPORT FOR THE LAT RESULTS FILE.

Amendments to Rule 14.2 concerning voter registration drive training:

14.2   Training

14.2.1   To receive a VRD number, the VRD organizer must successfully complete the online training and test provided by the Secretary of State and submit a Statement of Intent and Training Acknowledgment form to the Secretary of State.

14.2.2   The mandatory training provided by the Secretary of State will include:

(a)   The use of the VRD Application;

(b)   Information on where to obtain the VRD Application;

(c)   Information on how to ensure that a VRD Application is filled out completely, including which fields are optional and which are required;

(d)   Notice of statutory deadlines relating to Voter Registration Applications and VRDs;

(e)   The requirements for delivering the completed Voter Registration Applications;

(f)   Penalties for violating statutory prohibitions including fraud, intimidation, mishandling Applications, failing to turn in Applications and other penalties relevant to VRDs;

(g) ~~The handling and treatment of confidential information on the Voter Registration Applications;~~

(h) ~~Notice that circulators cannot be paid per Voter Registration Application, but if compensated, they must be paid by the hour or day; and~~

(i) ~~A brief training video that the organizer must show to the circulators as part of the VRD's training program.~~

14.2.2 BEFORE CIRCULATING, A VRD CIRCULATOR MUST COMPLETE A TRAINING PROVIDED BY THE VRD ORGANIZER AND SUBMIT A TRAINING ACKNOWLEDGMENT FORM TO THE VRD ORGANIZER. THE TRAINING MUST INCLUDE, AT A MINIMUM, THE CONTENT CONTAINED IN THE SECRETARY OF STATE'S CIRCULATOR TRAINING.

14.2.3 The VRD ORGANIZER training is provided online, but a VRD organizer ~~or circulator~~ may schedule a time to view the training at the Secretary of State's office.

14.2.4 After completing the VRD ORGANIZER training, the VRD organizer must complete the training test and answer the questions 100% correctly before the Secretary of State will issue a VRD number.

14.2.5 After completing the VRD ORGANIZER training and test, the VRD organizer must sign a Statement of Intent and Training Acknowledgment Form confirming that the training and test have been completed and that he or she was informed of rules, laws and penalties relating to voter registration drives.

14.2.6 A VRD organizer must complete the training and test every calendar year in which he or she intends to conduct a VRD.

14.3   Number Assigned

14.3.1 After successful completion of the required training and test, and submission of the Statement of Intent and Training Acknowledgment Form, the Secretary of State will assign a unique number to the VRD. After issuing a unique number to the VRD, the Secretary of State will:

(a)   Advise the VRD organizer of their unique number;

(b)   Notify the county clerks within 24 hours after each VRD number has been issued by the Secretary of State; and

(c)   Post the agent and the name of the group conducting the drive on the Secretary of State website.

14.3.2 All assigned VRD numbers are valid through December 31 of the year that the number is assigned.

14.3.3 THE VRD MUST ASSIGN EACH CIRCULATOR A UNIQUE CIRCULATOR IDENTIFICATION NUMBER AND MAINTAIN A RECORD OF EACH NUMBER ISSUED. THE CIRCULATOR IDENTIFICATION NUMBER MUST BEGIN WITH THE VRD'S FIVE-DIGIT IDENTIFICATION NUMBER (E.G., 16-999-0001).

Amendments to Rule 14.4 concerning Voter Registration Drive voter application forms:

14.4   Voter Registration Drive Voter Application Forms

14.4.1 The Secretary of State will approve a standard Colorado Voter Registration Drive Application Form. The VRD may also use the National Mail Voter Registration Form.

14.4.2 A VRD organizer can obtain Colorado Voter Registration Drive Application Forms from County Clerks and the Secretary of State.

14.4.3 The organizer is responsible for placing the VRD number on the application form.

14.4.4 The VRD organizer must receive a VRD number before he or she can receive the approved Colorado Voter Registration Drive Application Forms.

14.4.5 THE CIRCULATOR MUST INCLUDE HIS OR HER UNIQUE CIRCULATOR IDENTIFICATION NUMBER ON EACH VOTER REGISTRATION FORM HE OR SHE SUBMITS.

~~14.4.5~~ 14.4.6 Any voter registration drive that provides a voter registration application on its website or a link to such voter registration form must direct the applicant to return the completed form directly to the county clerk of the applicant's legal residence. No VRD may provide a voter registration form on its website or a link to such voter registration form which instructs or directs, in any way, the applicant to return the completed form to anyone or any group other than directly to the county clerk of the applicant's legal residence or, in the case of overseas electors or UOCAVA electors, the county clerk or the Secretary of State.

~~14.4.6~~ 14.4.7 A VRD organizer or circulator MUST PROVIDE THE APPLICANT A BLUE OR BLACK INK PEN TO COMPLETE THE APPLICATION, AND may not highlight or otherwise mark the approved voter registration drive application form other than to write the VRD number and circulator information.

Amendments to Rule 18 concerning uniform ballot counting standards:

Rule 18.   Uniform ~~Ballot~~ Counting Standards FOR PAPER BALLOTS

18.1   In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who returns at least one page of a multiple page printed ballot will be considered to have voted and the county clerk or designated election official must count the votes on the submitted pages. The county clerk must not count votes on additional pages returned at a later time. The county clerk must appropriately mark, set aside, and preserve the ballots as election records in accordance with section 1-7-802, C.R.S.

18.2 ~~Uniform Counting~~ Standards for hand-~~counted Paper Ballots~~ COUNTING PAPER BALLOTS

18.2.1 In accordance with section 1-7-309, C.R.S., and Rule ~~18.6~~ 18.5, judges counting ballots ~~on election day~~ must consider the intent of the voter.

18.2.2 If a race or ballot measure is overvoted, the judges must not count any vote for that race or ballot measure.

18.2.3 If a race or ballot measure contains no markings by the voter, no tally will be made for that race or ballot measure. But all other candidate races or ballot measures properly marked by the voter on the ballot must be counted.

18.2.4 A ballot which has no markings for any candidate races or ballot measures must be tallied as a blank ballot.

18.3 ~~Uniform Counting~~ Standards for ~~Optical Scan Ballots~~ COUNTING PAPER BALLOTS ON BALLOT SCANNERS

18.3.1 ~~Optical Scan~~ Procedures FOR COUNTING PAPER BALLOTS ON BALLOT SCANNERS at ~~a voter service and polling center~~ POLLING LOCATIONS

(A) TO THE EXTENT PERMITTED BY ITS VOTING SYSTEM, THE COUNTY MUST PROGRAM BALLOT SCANNERS TO SORT BALLOTS WITH WRITE-IN VOTES TO A SEGREGATED BIN OF THE BALLOT BOX OR DIGITAL MEDIA AND TO INITIALLY REJECT BLANK BALLOTS AND BALLOTS WITH OVERVOTES.

~~(a)~~ (B) Voters whose ballots are INITIALLY rejected ~~or sorted by a voter service and polling center~~ BY A BALLOT scanner as a blank or overvoted ballot must be given the opportunity to REVIEW AND correct their ballot. IF AFTER REVIEW, A VOTER REQUESTS TO SUBMIT THE BLANK OR OVERVOTED BALLOT AS ORIGINALLY MARKED, AN ELECTION JUDGE MUST ASSIST THE VOTER BY OVERRIDING THE INITIAL REJECTION SETTING ON THE BALLOT SCANNER.

~~(b)~~ (C) ~~Ballots~~ AT THE CONCLUSION OF VOTING, BALLOTS ~~sorted to a write-in bin~~ WITH WRITE-IN VOTES must be ~~tallied at the conclusion of the voting and~~ delivered to the central ~~counting center~~ COUNT LOCATION in a secure container FOR RESOLUTION IN ACCORDANCE WITH RULE 18.5.3.

18.3.2 ~~Central Count Optical Scan~~ Procedures FOR COUNTING PAPER BALLOTS ON BALLOT SCANNERS AT CENTRAL COUNT LOCATIONS

(a) BEFORE TABULATION, A RESOLUTION BOARD MUST DUPLICATE DAMAGED BALLOTS, AND MAY DUPLICATE BALLOTS WITH MARKS THAT MAY IDENTIFY THE VOTER, IN ACCORDANCE WITH RULE 18.4. ~~Judges~~ ELECTION JUDGES may ~~complete a visual inspection of~~ VISUALLY INSPECT every ballot for the limited purpose of ~~separating~~ SEGREGATING damaged ballots ~~into a unique batch~~ AND BALLOTS WITH MARKS THAT MAY IDENTIFY THE VOTER.

(b) ~~Judges must resolve, and where applicable, duplicate, every damaged ballot and all ballots sorted by the optical scan machine in accordance with this Rule.~~ A COUNTY MUST SORT BALLOTS REQUIRING RESOLUTION ACCORDING TO THE CAPABILITIES OF ITS VOTING SYSTEM.

(1) IF A COUNTY'S VOTING SYSTEM SUPPORTS DIGITAL BALLOT RESOLUTION, THE COUNTY MUST PROGRAM THE VOTING SYSTEM TO DIGITALLY QUEUE FOR RESOLUTION BLANK BALLOTS, BALLOTS WITH WRITE-IN VOTES, AND BALLOTS WITH OVERVOTES. BALLOTS WITH MARGINAL OR AMBIGUOUS MARKINGS MUST BE SORTED ACCORDING TO THE SYSTEM PROVIDER'S SPECIFICATIONS, OR, IF DIFFERENT, THE APPLICABLE CONDITIONS OF USE ISSUED BY THE SECRETARY OF STATE. THE DIGITALLY QUEUED BALLOTS MUST BE RESOLVED BY ELECTION JUDGES IN ACCORDANCE WITH RULE 18.5.

(2) IF A COUNTY'S VOTING SYSTEM DOES NOT SUPPORT DIGITAL BALLOT RESOLUTION, THE COUNTY MUST PROGRAM THE CENTRAL COUNT BALLOT SCANNERS TO REJECT OR SORT BLANK BALLOTS AND BALLOTS WITH OVERVOTES, AND TO SORT BALLOTS WITH WRITE-IN VOTES. THE RESOLUTION BOARD MUST RESOLVE ALL BALLOTS INITIALLY REJECTED AND SORTED BY THE CENTRAL COUNT BALLOT SCANNERS IN ACCORDANCE WITH RULE 18.5.

(c) ~~A resolution board, consisting of a bipartisan team of two election judges for partisan elections or two qualified election judges for nonpartisan elections, must resolve all ballots sorted by the central count optical scan equipment.~~ A RESOLUTION BOARD MUST RESOLVE BALLOTS SORTED OR REJECTED FOR RESOLUTION.

(1) ~~The board must be observed by two additional election judges, who in any partisan election must be representatives of each major political party.~~ IN PARTISAN ELECTIONS, A RESOLUTION BOARD MUST CONSIST OF AT LEAST TWO ELECTION JUDGES AFFILIATED WITH DIFFERENT MAJOR POLITICAL PARTIES.

(2) ~~The resolution board must maintain a log for each step of verification, duplication, and counting.~~ IN NONPARTISAN ELECTIONS, A RESOLUTION BOARD MUST CONSIST OF AT LEAST TWO ELECTION JUDGES.

(3) IN COUNTIES WITH A VOTING SYSTEM THAT DOES NOT SUPPORT DIGITAL RESOLUTION, THE COUNTY MUST HAVE AT LEAST ONE RESOLUTION BOARD.

(4) IN COUNTIES WITH A VOTING SYSTEM THAT SUPPORTS DIGITAL RESOLUTION, A RESOLUTION BOARD MUST WORK AT EACH RESOLUTION WORKSTATION.

(5) THE MEMBERS OF A RESOLUTION BOARD FOR AN ELECTION MAY CHANGE, BUT ALL MEMBERS OF THE RESOLUTION BOARD AT ANY PARTICULAR TIME MUST SATISFY THE ELIGIBILITY REQUIREMENTS SPECIFIED IN THIS RULE 18.3.2(C).

(d) ~~Sequence of Resolution Procedures~~

(1) ~~The resolution board must run a zero tape, or similar report, indicating no votes cast or counted before the counting begins.~~

(2) ~~The board must review all ballots with overvotes, blank ballots, and write-in ballots sorted by the optical scanner. Ballots sorted by the optical scan equipment are subject to review by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option must not be utilized.~~

(3) ~~A voter's intent must be reviewed for every ballot that requires resolution.~~

(4) ~~All ballots sorted by the optical scanner and resolved by the resolution board by duplication must be marked as duplicated.~~

(5) ~~The resolution board must maintain an official audit log for all ballots resolved setting forth the duplicate ballot number where applicable, specific reason that the ballot was resolved, date of resolution, and the initials of the members of the duplication board responsible for resolving the ballot.~~

(6) ~~The county must separately log the seal number of each box containing one or more valid write-in votes.~~

(e) ~~Resolution of damaged ballots~~

(1) ~~The resolution board must duplicate damaged or defective ballots utilizing the ballot duplication procedures in Rule 18.5.~~

(2) ~~The resolution board must examine blank ballots to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures in Rule 18.5. If a ballot is truly blank, the board must rescan the ballot and tabulate it with no races or ballot measures voted.~~

(3) ~~The resolution board must inspect and resolve overvoted ballots in accordance with Rule 18.6.~~

(4) ~~Write-in votes sorted by the optical scan equipment must be delivered to the assigned write-in board for hand counting.~~

18

(A)   During the initial ballot count, the oval must be darkened or the arrow connected according to the appropriate voting instructions. The county may count only votes for legally qualified write-in candidates.

(B)   If, following the initial count, the number of undervotes in that race could change the outcome or force the election into a mandatory recount if attributed to a legally qualified write-in candidate, the county must count votes for that candidate whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office.

(5)   The resolution board must duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots must be separated from the duplicate ballots and placed in a sealable container clearly marked "ORIGINAL BALLOTS." The duplicate ballots must be counted in lieu of the original ballots.

(6)   The resolution board must maintain an official audit log setting forth the precinct number, duplicate ballot number, reason (with specificity) that the ballot was duplicated, date of duplication, and the initials of the members of the duplication board responsible for duplicating the ballot.

(f)   Recount Procedures for Optical Scan

(1)   Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested before the recount, and must be programmed to sort undervotes for the individual race(s) or ballot measure(s) being recounted.

(2)   The county will conduct a recount of a race with a write-in candidate as outlined in Rule 18.6.4.

18.4   Uniform Counting Standards for DREs. A vote that is properly recorded, as specified by the voting instructions, on the voting device for an office or ballot measure must be counted.

18.5 18.4   BALLOT Duplication of Ballots

18.5.1 Using the damaged ballot as the guide, the duplicating team must mark a blank ballot so that the votes recorded are identical to those indicated on the damaged

ballot. ~~The duplication must be proofed to ensure it is marked properly and accurately.~~

~~18.5.2 Every duplicated ballot must be subject to the process for determining voter intent outlined in Rule 18.6.~~

~~18.5.3 A unique number must be assigned to both the original and duplicated ballot. This will reference the two ballots together and provide an audit trail. (Example: the ballots may be marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers starting with the number one.)~~

18.4.1 A RESOLUTION BOARD MUST DUPLICATE A VOTER'S CHOICES OR SELECTIONS ON A DAMAGED BALLOT ONTO A BLANK BALLOT OF THE SAME BALLOT STYLE IN ACCORDANCE WITH RULE 18.4. DURING THE DUPLICATION PROCESS, AND TO THE EXTENT NECESSARY, THE RESOLUTION BOARD MUST ALSO RESOLVE OVERVOTES, WRITE-IN VOTES, AND AMBIGUOUS MARKINGS IN ACCORDANCE WITH RULE 18.5. DURING BALLOT DUPLICATION, TWO ADDITIONAL ELECTION JUDGES MUST OBSERVE OR REVIEW THE WORK OF EACH RESOLUTION BOARD. IN A PARTISAN ELECTION, THE OBSERVING ELECTION JUDGES MUST BE REPRESENTATIVES OF EACH MAJOR POLITICAL PARTY.

18.4.2 A RESOLUTION BOARD MUST REVIEW THE ORIGINAL BALLOT AND THE DUPLICATED BALLOT, AND CONSULT THE VOTER INTENT GUIDE IF NECESSARY, TO ENSURE THAT EACH DAMAGED BALLOT HAS BEEN PROPERLY AND ACCURATELY DUPLICATED.

18.4.3 IN ORDER TO MATCH EACH DAMAGED BALLOT TO ITS CORRESPONDING DUPLICATED BALLOT, THE RESOLUTION BOARD MUST IDENTIFY AND MARK EACH DAMAGED AND DUPLICATED BALLOT WITH THE TYPE OF BALLOT AND A UNIQUE NUMBER, SIMILAR TO THE FOLLOWING EXAMPLE: MARK THE DAMAGED BALLOT "ORIG 0001," AND THE COUNTERPART DUPLICATED BALLOT "DUPE 0001."

18.4.4 THE RESOLUTION BOARD MUST MAINTAIN A WRITTEN LOG ITEMIZING ALL DAMAGED BALLOTS THAT IT DUPLICATES. THE DUPLICATION LOG MUST INCLUDE AT LEAST EACH DAMAGED AND DUPLICATED BALLOT'S UNIQUE NUMBER, THE DATE ON WHICH IT WAS DUPLICATED, THE REASON FOR DUPLICATION, AND THE PRINTED NAMES AND SIGNATURES OF THE MEMBERS OF THE RESOLUTION BOARD.

~~18.5.4~~ 18.4.5 ~~The duplicated ballots must be counted~~ A COUNTY CLERK MUST COUNT DUPLICATED BALLOTS in the same manner as all other PAPER ballots ~~to be counted~~.

~~18.5.5 The damaged or unreadable original ballot must be marked "DUPLICATED" to indicate that the ballot has been duplicated and the duplication is completed. All duplicated original ballots for a precinct along with any applicable printed material must be placed in a sealable container and clearly marked "ORIGINAL BALLOTS."~~

18.4.6 BEFORE RETENTION FOR STORAGE, THE RESOLUTION BOARD MUST DEPOSIT ALL DUPLICATED BALLOTS AND DUPLICATION LOGS IN A SEALABLE CONTAINER THAT IS

CLEARLY MARKED TO IDENTIFY ITS CONTENTS (E.G., "DAMAGED BALLOTS"). THE COUNTY MUST MAINTAIN CHAIN-OF-CUSTODY AND SEAL LOGS FOR THE DAMAGED BALLOT CONTAINER AT ALL TIMES DURING THE STATUTORY ELECTION RECORDS RETENTION PERIOD.

18.6 18.5   ~~Determination of Voter Intent~~ BALLOT RESOLUTION

18.5.1   A RESOLUTION BOARD MUST RESOLVE ALL BLANK BALLOTS AND BALLOTS WITH OVERVOTES, WRITE-IN VOTES, AND AMBIGUOUS MARKINGS IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT GUIDE.

18.5.2   RESOLUTION OF BLANK BALLOTS. A RESOLUTION BOARD MUST EXAMINE BLANK BALLOTS TO DETERMINE IF THE BALLOT IS A TRUE BLANK BALLOT OR ONE THAT HAS BEEN MARKED IN A MANNER OR MEDIUM THAT WAS NOT DETECTED BY THE VOTING SYSTEM.

(A)   COUNTIES WITHOUT DIGITAL RESOLUTION CAPABILITY. IF THE BALLOT IS TRULY BLANK, THE RESOLUTION BOARD MUST RE-SCAN THE BALLOT AND OVERRIDE THE INITIAL REJECTION SETTING. IF THE BALLOT IS MARKED IN A MANNER OR MEDIUM THAT CAN BE DISCERNED BY THE RESOLUTION BOARD BUT CANNOT BE TABULATED BY THE VOTING SYSTEM, THE RESOLUTION BOARD MUST DUPLICATE THE BALLOT IN ACCORDANCE WITH RULE 18.4 AND, TO THE EXTENT NECESSARY, RESOLVE THE BALLOT IN ACCORDANCE WITH RULE 18.5.

(B)   COUNTIES WITH DIGITAL RESOLUTION CAPABILITY. IF THE BALLOT IS TRULY BLANK, THE RESOLUTION BOARD MUST RECORD THE BALLOT AS A BLANK BALLOT IN THE VOTING SYSTEM'S RESOLUTION APPLICATION. IF THE BALLOT IS MARKED IN A MANNER OR MEDIUM THAT CAN BE DISCERNED BY THE RESOLUTION BOARD BUT CANNOT BE TABULATED BY THE VOTING SYSTEM, THE RESOLUTION BOARD MUST RESOLVE THE BALLOT IN THE VOTING SYSTEM'S RESOLUTION APPLICATION IN ACCORDANCE WITH RULES 18.5.2(B) AND 18.5.3.

~~18.6.1   If a voter uses a consistent alternate ballot marking method that deviates from the method specified by the voting instructions (such as circling or placing a check mark behind a candidate's name or ballot response) and does not place an "X", check or other appropriate mark in the target area, the voter will be considered to have voted for the appropriate candidates and or ballot responses and the ballot must be duplicated. But if a voter marks any of his or her choices by placing an "X", check or other appropriate mark in any target area on the voter's ballot, only those choices where the target area is marked may be counted.~~

~~18.6.2   A ballot that has a mark correctly in the target area that partially extends into another target area must be counted as a vote for the candidate or ballot response so marked.~~

18.6.3 ~~When resolving an overvoted race, marks indicating the voter's intent include, circling the candidate's name and strike-outs or corrections of choices.~~

~~18.6.4~~ 18.5.3 ~~Write-in~~ RESOLUTION OF WRITE-IN votes

(a)   If a voter designates a vote for a named candidate on the ballot and writes in the name of the same candidate in the write-in area, the vote FOR THE NAMED CANDIDATE must be counted.

(b)   If a voter ~~designates~~ VOTES FOR a named candidate ~~on the~~ IN A ballot CONTEST and writes in the name of a different candidate in the write-in area, ~~it must be considered~~ THE RESOLUTION BOARD MUST RESOLVE THE MARKINGS AS an overvote ~~for that office~~ if the number of chosen candidates exceeds the MAXIMUM number ~~permitted to be voted for in that office and no vote may be counted~~ OF CHOICES FOR THAT BALLOT CONTEST.

(c)   During any recount ~~of votes~~, if the number of undervotes in ~~that race~~ A BALLOT CONTEST could change the outcome if attributed to ~~a legally qualified write-in candidate~~ AN ELIGIBLE WRITE-IN CANDIDATE, votes for that candidate must be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office.

Amendments and numbering corrections to Rule 21.4.12(d)(5):

(d)   The VVPAT must meet the following design requirements:

(5)   Print and store paper record copies ~~for~~ OF at least 75 VOTED ballots ~~cast~~ without requiring the paper supply source, ink or toner supply, or any other similar consumable supply to be changed, assuming a fully printed double sided 18 inch ballot with a minimum of 20 contests.

Numbering corrections to Rule 21.4.14:

21.4.14   Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary of State for use in Colorado on or after January 1, 2016 must meet the following requirements for ballot-level cast vote records and exports on or before December 31, 2016:

(a)   The voting system must capture a ballot-level cast vote record (CVR) consisting of a single record for each ballot tabulated, showing the manner in which the voting system interpreted and tabulated the voter's markings on the ballot, as adjudicated and resolved by election judges, if applicable.

(b)   The voting system must be able to aggregate in a single file and export all CVRs in comma-separated value (CSV) text format.

(c)   The CVR export must contain the following fields, with values or data populated by the voting system:

  (1)   CVR Number. A sequential number from one to the number of CVRs in the export file. This can be used as an alternate method to identify each CVR.

  (2)   Batch ID. Identifies the batch in which the paper ballot corresponding to the CVR is located.

  (3)   Ballot Position. Identifies the position of the paper ballot corresponding to the CVR within the batch. ~~Target cards scanned to identify the batch must not be included in this count.~~

  (4)   Imprinted ID. If the scanner model supports imprinting a unique character string on the ballot during the scanning process, the voting system must populate this field with the unique character string.

  (5)   Ballot Style. Indicates the ballot style of the paper ballot corresponding to the CVR.

  (6)   Device ID. Identifies the scanning device by model, serial number, and/or scanning station identifier.

  (7)   Contest and Choice Names. Each contest and choice on any ballot in the election must have its own field so that voters' choices in all contests can be easily and independently tabulated after the CVR export is imported into a spreadsheet application.

~~(a)~~(D) The header or field names in the CVR export must unambiguously correspond to names of the contests and choices on the paper ballots. ~~The use of choice ID and contest ID to identify each choice must be avoided because they require cross-referencing to other sources to determine the choice and contest names.~~

~~(b)~~(E) The contests and choices must be listed in the same order as they appear on the ballots.

~~(c)~~(F) A vote for a choice must be indicated by a "1". No vote for a choice or an overvoted condition must be indicated by a "0". Choices that are not applicable to the CVR must be left blank.

Numbering corrections and amendments to Rule 21.4.15(d):

(d)   The ENR export file must include the following items or fields:

(1) Precinct Name. If the county defines the election to report results by precinct, an alphanumeric string consisting of a 10-digit precinct code.

(2) Ballot Style Name. If the county defines the election to report results by ballot style or district, a unique, alphanumeric string for each ballot style.

(2)(3) Precinct ID. If the county defines the election to report results by precinct, a unique integer for each precinct or precinct split.

(3)(4) Registered Voters. The number of registered voters eligible to vote each unique ballot style, or in each precinct or precinct split, as applicable.

(4)(5) Ballots Cast COUNTED. The number of ballots cast of COUNTED FOR each unique ballot style, or in each precinct or precinct split, as applicable.

(5)(6) Contest Name. The contest name as it appears on the ballots. If the contest name contains carriage return(s) for ballot formatting purposes, then the carriage return(s) must not appear in the export.

(6)(7) Contest ID. A unique integer for each contest.

(7)(8) Contest Sequence Number. A unique integer that defines the sequence of contests as they appear on the ballots.

(8)(9) Votes Allowed. The maximum number of choices that a voter may select in each contest (e.g., "Vote for 2").

(9)(10) Choice Name. The choice name as it appears on the ballots. Party affiliation may not be included in the choice name.

10)(11) Choice ID. A unique integer for each choice within a contest.

(11)(12) Party Code. An indicator of party affiliation for each choice, if applicable.

(12)(13) Vote Count. The total number of votes cast for each choice.

(13)(14) Reporting Flag. The reporting flag field must contain a value of "0".

(15) PRECINCT SEQUENCE NUMBER. A UNIQUE INTEGER THAT DEFINES THE SEQUENCE OF PRECINCTS.

(16)   CHOICE SEQUENCE NUMBER. A UNIQUE INTEGER THAT DEFINES THE SEQUENCE OF CANDIDATES AS THEY APPEAR ON THE BALLOT.

Amendments to Rule 21.5.2(e) regarding testing preparation procedures:

21.5.2 General testing procedures and instructions

(e)   Ballots must be cast and counted in all applicable counter types (or counter groups) as necessary based on the parts included in the voting system. These are, at a minimum, in-person, mail, and provisional ballots. Ballots may be run through components more than one time depending on components and counter group being tested to achieve a minimum number of ballots ~~cast~~ COUNTED as follows for each group:

(1)   Polling location / OS = 1,000;

(2)   Polling location / DRE or BMD = 500;

(3)   Mail = 1, 500; and
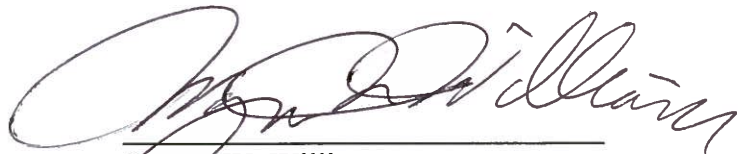
(4)   Provisional = 500.

II.   Basis, Purpose, and Specific Statutory Authority
A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III.   Effective Date of Adopted Rules
These new and amended rules will become permanently effective twenty days after publication in the Colorado Register.[5]

Dated this 11th day of August, 2016,

Wayne W. Williams
Colorado Secretary of State

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[5] Section 24-4-103(5), C.R.S. (2015).

Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State
Election Rules
8 CCR 1505-1

August 11, 2016

I.   Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,[1] improve elections administration in Colorado, and increase the transparency and security of the election process as follows:

- New Rule 1.1.8 to clarify and define the term "ballots cast".

- Amendments to Rule 1.1.13 (formerly Rule 1.1.12) to simplify the language of existing rule.

- Amendments to Rule 1.1.30 (formerly Rule 1.1.29) to simplify the language of existing rule.

- Amendments to Rule 2.3 to clarify the language of existing rule.

- Repeal of Rule 2.3.4 as a result of the enactment of Senate Bill 16-142.

- Repeal of Rule 2.10.2 as a result of the enactment of House Bill 16-1093.

- Amendments to Rule 2.11.1 to update the citation to federal law.

- Amendments to Rule 2.12.1 as a result of the enactment of House Bill 16-1093.

- Amendments to Rule 2.14.1 as a result of the enactment of Senate Bill 16-142.

- Amendments to Rule 3.3.3 to align the affiliation deadline for qualified political organizations with the affiliation deadline for other political parties.

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[1] Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

Main Number	(303) 894-2200	TDD	(303) 869-4867
Administration	(303) 860-6900	Web Site	www.sos.state.co.us
Fax	(303) 869-4860	E-mail	administration@sos.state.co.us

- New Rule 6.9 to ensure proper administration of Senate Bill 16-142.

- Amendments to Rule 7.5.1 to establish uniformity in the administration of current law.

- Amendments to Rule 8.1.5 to establish uniformity in the administration of current law.

- Amendments to correct numbering in Rule 8.7.4.

- Amendments to Rule 9.2 to establish uniformity in the administration of current law.

- Amendments to Rule 10.5.2 to organize existing rules for clarity.

- Amendments to Rules 10.11.2 and 10.11.3 to establish uniformity in the administration of current law.

- Amendments to 10.12.4(d) to establish uniformity in the administration of current law.

- Amendments to Rule 10.12.7 to establish uniformity in the administration of current law.

- Amendments to Rule 10.13.1 to establish uniformity in the administration of current law.

- Amendments to Rule 11.3.2 to organize existing rules for clarity.

- Amendments to Rule 11.3.3 to establish uniformity in the administration of current laws and organize existing rules for clarity.

- Amendments to Rule 11.10 to establish uniformity in the administration of the election night reporting system and organize the existing rule for clarity.

- Amendments to Rules 14.2, 14.3, and 14.4 as a result of Senate Bill 16-107 and to establish uniformity in the administration of current law.

- Amendments to Rule 18 to eliminate obsolete provisions, establish uniformity in the administration of current law, and organize existing rules for clarity.

- Amendments to Rule 21.4.12 to organize existing rules for clarity.

- Amendments to Rule 21.4.14 to correct numbering errors.

- Amendments to Rule 21.4.15(d) to correct numbering errors and to establish uniformity in the administration of current law.

- Amendments to Rule 21.5.2(e) to establish uniformity in the administration of current law.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

On June 1, 2016, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: http://www.sos.state.co.us/pubs/rule_making/ruleComments.html. Additional comments received during the formal rulemaking are available online at: http://www.sos.state.co.us/pubs/rule_making/hearings/2016/ElectionsRulesHearing20160725.html. All comments are incorporated into the official rulemaking record.

II.   Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2015), which authorizes the Secretary of State "[t]o promulgate, publish and distribute…such rules as the secretary finds necessary for the proper administration and enforcement of the election laws."

2. Section 1-1-109, C.R.S., (2015), which authorizes the Secretary of State to "promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms."

3. Section 1-1.5-104(1)(b), C.R.S., (2015), which authorizes the Secretary of State to "[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title."

4. Section 1-1.5-104(1)(e), C.R.S., (2015), which authorizes the Secretary of State to "[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the "Help America Vote Act of 2002", 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1]."

5. Section 1-2-701(1) and (2), C.R.S., (2015), which authorizes the Secretary of State to promulgate rules in accordance with article 4 of title 24, C.R.S. for commencing and conducting voter registration drives, and for fulfilling training requirements.

6. Section 1-2-217.7(7), C.R.S., (2015), which states that "[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section" concerning registration on or immediately before election day.

7. Section 1-7.5-104, C.R.S. (2015), which requires the county clerk and recorder to conduct a mail ballot election "under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state."

8. Section 1-7.5-105, C.R.S. (2015), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in

accordance with "rules promulgated by the secretary of state as provided in section 1-7.5-106(2)."

9. Section 1-7.5-106, C.R.S., (2015), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting "rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]."

10. Section 1-7.5-107(6), C.R.S., (2015), which requires all deposited ballots be counted as provided "by rules promulgated by the secretary of state."

11. Section 24-72-305.6, C.R.S., (2016), which authorizes the Secretary of State to promulgate rules to "require that certain duties may be performed only by those election judges for whom a county clerk and recorder has requested criminal history records."