STATE OF COLORADO
Department of State
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Notice of Permanent Adoption

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

August 26, 2021

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 Elections Rules[3] are adopted on a permanent basis.

The rules were considered at the August 3, 2021 webinar 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

Amendments to 8 CCR 1505-1 follow:

Amendments to Rule 1, concerning definitions, including repeal of Rules 1.1.19, 1.1.25(b), 1.1.48 and necessary renumbering:

[No changes to current Rules 1.1 through 1.1.18]

> 1.1.19   ~~"Direct Recording Electronic voting device" (DRE) means a voting device that visually displays or audibly presents a ballot and records an elector's votes directly into electronic storage media.~~

[Not shown: renumbering current Rules 1.1.20 through 1.1.25 to Rules 1.1.19 through 1.1.24]

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[1] Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2020).
[2] Section 24-4-103, C.R.S. (2020).
[3] 8 CCR 1505-1.
[4] Section 24-4-103(3)(a), C.R.S. (2020).

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1.1.26 1.1.25 "Electronic ballot" means a non-paper ballot such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter's choices must be~~.~~:

(a)   ~~M~~Marked and printed on a paper ballot for subsequent counting by a ballot scanner.~~; or~~

(b)   ~~Digitally recorded and counted by the touch screen device, commonly referred to as a Direct Recording Electronic (DRE) device.~~

[Not shown: renumbering current Rules 1.1.27 through 1.1.34 to Rules 1.1.26 through 1.1.33]

1.1.35 1.1.34   "Qualified political organization" means an organization that has placed a candidate for congressional or state office on the ballot in a congressional vacancy or general election, whose officers have filed proof of organization with the Secretary of State, and that continues to meet the requirements of Rules 3.3 and 3.4. [~~*Baer v. Meyer*, 728 F.2d 471 (10th Cir. 1984)~~]

[Not shown: renumbering current Rules 1.1.36 through 1.1.47 to Rules 1.1.35 through 1.1.46]

~~1.1.48   "VVPAT" has the same meaning as in section 1-1-104(50.6), C.R.S.~~

[Not shown: renumbering current Rules 1.1.49 through 1.1.51 to Rules 1.1.47 through 1.1.49]

Amendments to Rules 2.12 concerning voter registration confidentiality including New Rule 2.12.3, and technical edits:

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

[No changes to Rule 2.12.2]

2.12.3   BEFORE PRECINCT CAUCUSES, THE SECRETARY OF STATE WILL PROVIDE TO EACH MAJOR STATE POLITICAL PARTY A LIST OF CONFIDENTIAL VOTERS, WHICH INCLUDES ONLY THE INFORMATION NECESSARY TO DETERMINE ELIGIBILITY. THE LIST WILL ONLY BE PROVIDED IF THE MAJOR PARTY AGREES IN WRITING TO LIMIT AND PROTECT THAT DATA IN ACCORDANCE WITH SECRETARY OF STATE REQUIREMENTS. THIS RULE DOES NOT APPLY TO RECORDS HELD CONFIDENTIAL AS PART OF THE ADDRESS CONFIDENTIALITY PROGRAM.

[Not shown, renumbering Rule 2.12.3 to Rule 2.12.4]

Amendments to Rule 2.13.2 concerning list maintenance under section 8 of the National Voter Registration Act of 1993:

2.13.2   In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General Election, the ~~county clerk in each county must~~ DEPARTMENT OF STATE, WORKING IN CONJUNCTION WITH COUNTY CLERKS, WILL cancel the registrations of electors:

(a)   Whose records have been marked "Inactive – returned mail", "Inactive – undeliverable ballot", or "Inactive – NCOA"; AND

(b)   Who have been mailed a confirmation card; and

(c)   Who have ~~since~~ THEREAFTER failed to vote in two consecutive general elections.

New Rule 2.13.3, amendments to current Rule 2.13.3, repeal of 2.13.5, and necessary renumbering:

    2.13.3   THE SECRETARY OF STATE WILL NOTIFY EACH COUNTY OF THE RECORDS CANCELLED IN THAT COUNTY UNDER SECTION 1-2-605(7), C.R.S. ONCE THE CANCELLATION IS COMPLETE.

    ~~2.13.3~~ 2.13.4   The county must process all records designated for ~~cancelation~~ CANCELLATION by the Secretary of State:

        (A)   ~~within~~ WITHIN 21 days of receipt; AND

        (B)   BEFORE THE COUNTY MAILS BALLOTS THROUGHOUT THE ELECTION.

    ~~2.13.4~~ 2.13.5   The county must process and mail all confirmation cards using SCORE so that the elector's voter registration record audit log shows the date on which the county printed or extracted the confirmation card.

    ~~2.13.5   To the extent a county has records of confirmation cards it has generated and sent outside of SCORE, the county must retain those records as election records under section 1-7-802, C.R.S.~~

[No changes to current Rules 2.14 through 2.15.6]

New Rule 2.15.7 concerning voter registration records and data:

    2.15.7   IF A COUNTY RECEIVES INFORMATION FROM A JURISDICTION OUTSIDE OF COLORADO INDICATING THAT A COLORADO VOTER MAY HAVE VOTED IN MORE THAN ONE STATE IN THE SAME ELECTION, THE COUNTY MUST SEND THAT INFORMATION TO THE SECRETARY OF STATE'S OFFICE FOR POTENTIAL INVESTIGATION AND PROSECUTION.

[No changes to current Rules 2.16 and 2.17]

Amendments to Rules 2.18 and 2.19:

2.18   If an unaffiliated elector indicates a political party ballot preference at any time up to and including the ~~twenty-ninth~~ TWENTY-SECOND day before a primary election, the county clerk must record the selection in SCORE and mail only the ballot of that political party to the elector in the upcoming primary election. An elector's political party ballot preference is only effective for a single primary election even if there is more than one primary election in a single year.

~~2.19   Registration of electors who are confined in a county jail or detention facility~~

    ~~2.19.1   Before each election, the county clerk must make efforts to coordinate with the sheriff or his or her designee at each county jail or detention center in the county to provide confined eligible individuals an opportunity to register to vote.~~ TO ASSIST STATE INSTITUTIONS OF HIGHER EDUCATION COMPLY WITH THE REQUIREMENTS OF SECTION 1-2-213.5(1)(C), C.R.S., THE DEPARTMENT OF STATE WILL PROVIDE THE COLORADO DEPARTMENT OF HIGHER EDUCATION WITH A TEMPLATE COMMUNICATION FOR ENROLLED STUDENTS.

Amendments to Rule 6.1.3 concerning appointment of election judges:

6.1.3   If a major political party fails to provide an adequate list of election judges by the 60th day before election day, the county clerk ~~must notify the Secretary of State. The county clerk~~ may consider a supplemental list from a major political party ~~after the 60-day deadline~~.

Amendments to Rule 6.8 concerning signature verification judge training:

6.8   A signature verification judge must complete a training course conducted by the county clerk at least once per election cycle. The COUNTY CLERK MUST USE THE Secretary of State ~~must provide or approve the training content~~ PROVIDED TRAINING OR PROVIDE THEIR OWN TRAINING. IF THE COUNTY CLERK PROVIDES THEIR OWN TRAINING, IT MUST BE APPROVED BY THE SECRETARY OF STATE BEFORE ITS FIRST USE.

Amendments to Rule 7.1.1 concerning election plans:

7.1.1   The county clerk must submit an election plan to the Secretary of State no later than ~~120~~ 110 days before every election. The county clerk must submit with the election plan all information required by section 1-7.5-105 (1.3), C.R.S.

Amendments to Rules 7.2.6 and 7.2.7:

7.2.6   Each mail ballot return envelope may include the following statement: "I am voluntarily giving my ballot to (name and address) for delivery on my behalf." IF THE COUNTY CLERK INCLUDES THIS STATEMENT ON THEIR RETURN ENVELOPES THEY MUST INCLUDE AN EXPLANATION IN THEIR VOTER INSTRUCTIONS THAT THE VOTER IS NOT REQUIRED TO FILL THIS STATEMENT OUT TO RETURN THEIR BALLOT. If the voter leaves the fillable portion of the statement blank, the county clerk must accept the ballot for counting if it is otherwise valid.

7.2.7   ~~Where practicable, the~~ A county THAT USES A VENDOR TO MAIL BALLOTS must print the elector's full name under or near the self-affirmation signature line on each ballot return envelope. ~~If not practicable for some or all ballot return envelopes, the county must explain why in its election plan.~~

Amendments to Rule 7.2.9:

7.2.9   The mail ballot packet required under sections 1-4-101(2)(b) and 1-4-1203(4)(c), C.R.S. must contain only the ballots of each participating major political party unless a major party's presidential primary election has been ~~canceled~~ CANCELLED under section 1-4-1203(5), C.R.S.

Amendments to Rule 7.2.14 update a cross-reference:

7.2.14   The mail ballot return envelope for each unaffiliated voter in a primary election may provide a means for the county to determine, before opening the envelope, which party's primary election ballot the elector returned. If the mail ballot return envelope does not provide such a means, or the county cannot determine which party's ballot the elector returned before opening the envelope, the county must follow the process outlined in Rule ~~7.5.15~~ 7.4.15. The county's determination under this Rule may not rely solely on a voter's self-reported selection (for example, a checkbox).

New Rule 7.2.17:

7.2.17   PRINT VENDORS MAY OVERLAY A 2-D BARCODE FOR PURPOSES OF MAILING AND INSERTION PROVIDED THAT IT ONLY CONTAINS THE PRECINCT NUMBER AND BALLOT STYLE NAME AND THE INFORMATION IN THE BARCODE IS NOT TRACEABLE TO ANY INDIVIDUAL VOTER.

Rules 7.3.2 through 7.3.5 concerning emergency ballot transmission are repealed:

7.3.2   ~~Ballots sent by electronic transmission must include all races, ballot issues, and questions for which the elector is eligible to vote. The ballot must be legible to avoid possible misinterpretations of the elector's intended choice because of poor transmission of the document.~~

7.3.3   ~~The electronic transmission must include:~~

    (a)   ~~The county clerk's contact information including mailing address, email address, phone, and fax number;~~

    (b)   ~~A notice that the ballot may not be duplicated for any other elector;~~

    (c)   ~~Instructions for completing and returning the ballot;~~

    (d)   ~~A notice regarding the ballot return deadline;~~

    (e)   ~~Information regarding how the elector may verify that his or her ballot has been received by the county clerk;~~

    (f)   ~~Any other information deemed necessary by the Secretary of State or the county clerk; and~~

    (g)   ~~The ballot packet must be in text format on 8 ½" x 11" white paper and must include:~~

        (1)   ~~An electronic transmission coversheet to protect voter privacy;~~

        (2)   ~~The unvoted ballot;~~

        (3)   ~~The electronic transmission ballot instructions; and~~

        (4)   ~~The self-affirmation required by section 1-7.5-107(3)(b.5), C.R.S.~~

7.3.4   ~~The county clerk must maintain a log of each ballot sent by electronic transmission. The county clerk must retain the log as part of the official election record along with any other electronic transmission records. The log must include:~~

    (a)   ~~The name of the voter;~~

    (b)   ~~The fax number or email address to which the ballot was transmitted (as applicable);~~

    (c)   ~~The date the ballot packet was transmitted and received; and~~

    (d)   ~~The initials of the employee transmitting and receiving the ballot.~~

7.3.5   ~~If the county clerk transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk must attempt to fax the ballot at least two more times.~~

New Rule 7.3.2, 7.3.3 and subsequent renumbering:

7.3.2   VOTERS WHO REQUEST AN EMERGENCY BALLOT BE SENT TO THEM ELECTRONICALLY MUST BE DIRECTED BY THE COUNTY CLERK TO THE ONLINE BALLOT DELIVERY SYSTEM MAINTAINED BY THE SECRETARY OF STATE TO RECEIVE THEIR BALLOT ELECTRONICALLY. THE SECRETARY OF STATE WILL MAINTAIN INFORMATION REGARDING EMERGENCY BALLOTS ACCESSED USING THE ONLINE BALLOT DELIVERY SYSTEM.

7.3.3   THE COUNTY CLERK MAY SEND AN EMERGENCY BALLOT AND ALL MATERIALS PROVIDED IN THE ONLINE BALLOT DELIVERY SYSTEM BY OTHER MEANS, INCLUDING BY FAX OR BY IN-PERSON

THROUGH AN AUTHORIZED REPRESENTATIVE WHO PRESENTS A WRITTEN STATEMENT FROM THE VOTER, IF THE VOTER REQUESTS THAT METHOD OF DELIVERY.

7.3.6 7.3.4   Upon receipt of the ballot, election judges must verify the signature on the affidavit under Rule 7.8 7.7. After the signature on the affidavit has been verified, a bipartisan team of election judges must duplicate the ballot following the procedures outlined in Rule 18. Duplicating judges must not reveal how the elector has cast his or her ballot.

Rule 7.4 is repealed:

7.4   ~~The county clerk must make efforts to coordinate with the sheriff or his or her designee at each county jail or detention center to facilitate voting for all confined eligible electors.~~

7.4.1   ~~The county clerk must describe the following in its election plan:~~

(a)   ~~How the county clerk will provide each county jail or detention center voter information materials consistent with materials provided to non-confined eligible electors, including at a minimum a list of acceptable forms of identification under section 1-1-104(19.5), C.R.S., and the information required by sections 1-40-124.5 and 1-40-125, C.R.S.~~

(b)   ~~The process by which the county clerk and the sheriff or his or her designee will facilitate voter registration, and delivery and retrieval of mail ballots for confined eligible electors.~~

Rule 7.5 is renumbered and amended as follows:

7.5 7.4 Receipt and processing of ballots

7.5.1 7.4.1   The county clerk must adequately light all drop box locations and use a video security surveillance recording system as defined in Rule 1.1.45 1.1.44 to monitor each location.

[No changes to (a) through (e)]

[Not shown: renumbering Current Rules 7.5.2 through 7.5.9 to Rules 7.4.2 through 7.4.9]

Amendments to Rule 7.5.10:

7.5.10 7.4.10   If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S., prohibiting any person from receiving more than 10 ballots in addition to his or her own in any election, the county clerk must refer the information to the District Attorney AND RECEIVE THE BALLOTS DELIVERED BY THAT PERSON.

[Not shown: renumbering Current Rules 7.5.11 through 7.5.14 to Rules 7.4.11 through 7.4.14]

Amendments to Rules 7.5.15 and 7.5.16:

7.5.15 7.4.15   ~~Unaffiliated voters in a primary election.~~ If an election judge is unable to determine, before opening the envelope, which party's ballot ~~the~~ AN UNAFFILIATED elector returned as outlined in Rule 7.2.9, the county must separate the elector's ballot from the envelope in the following manner:

(a)   An election judge must remove the ballot from the mail ballot return envelope and pass it to a bipartisan team of judges without allowing the team of judges to determine the identity of the elector.

(b)   The bipartisan team of election judges must review the ballot and audibly report to the first election judge which political party's election the elector voted in.

(c)   The first election judge must record in SCORE which political party's election the elector voted in, or document the proper party information for later recording in SCORE.

7.5.16 7.4.16   If an unaffiliated elector returns more than one ballot in a primary election, a bipartisan team of election judges must review the ballots to determine the elector's intent in accordance with the Secretary of State's Voter Intent Guide.

(a)   If the bipartisan team determines the elector voted in only one party's primary election, the election judge with access to the envelope must record the party chosen in SCORE under Rule 7.5.15(c) 7.4.5(C) and the ballot must be counted. The county must retain any unvoted ballot as an election record.

(b)   If the bipartisan team determines the elector voted in more than one party's primary election, or returned only blank ballots, the county must reject the ballots, not count them, and retain them in the mail ballot return envelope as an election record.

Rule 7.6 is renumbered and condensed to remove standalone sub-rule:

7.6 7.5 Ballot returned in unofficial envelope. 7.6.1   If the county timely receives a mail ballot from an eligible elector in an envelope that is missing or lacks the correct self-affirmation, the county must contact the elector by mail and by electronic mail, if available, within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record. If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot. A county that receives a ballot from a voter with a disability covered under section 1-5-706, C.R.S., in an unofficial envelope must accept the ballot for processing if the envelope also contains a signed application from the voter.

Amendments to Rule 7.7 including renumbering:

7.7 7.6 Mail ballot cure procedures

7.7.1 7.6.1   ~~If a mail or provisional ballot return envelope lacks a signature, or a ballot from a voter with a disability covered under section 1-5-706, C.R.S. is returned without an application, or is returned with an application that is not signed, the county clerk must follow the procedures for discrepant signatures outlined in section 1-7.5-107.3(2)(a), C.R.S., except~~ EXCEPT as provided in Rule 7.7.4 7.6.4, THE COUNTY CLERK MUST FOLLOW THE PROCEDURES FOR DISCREPANT SIGNATURES OUTLINED IN SECTION 1-7.5-107.3(2)(A), C.R.S., IF:

(A)   A MAIL BALLOT RETURN ENVELOPE LACKS A SIGNATURE;

(B)   A PROVISIONAL BALLOT RETURN ENVELOPE LACKS A SIGNATURE;

(C)   A BALLOT FROM A VOTER WITH A DISABILITY COVERED UNDER SECTION 1-5-706, C.R.S., IS RETURNED WITHOUT AN APPLICATION; OR

(D)   A BALLOT FROM A VOTER WITH A DISABILITY COVERED UNDER SECTION 1-5-706, C.R.S., IS RETURNED WITH AN APPLICATION THAT IS NOT SIGNED AND DOES NOT INCLUDE A COPY OF AN ACCEPTABLE FORM OF IDENTIFICATION AS DEFINED BY SECTION 1-1-104(19.5), C.R.S.

7.7.2 7.6.2   The county clerk must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record.

7.7.3 7.6.3   If the county clerk uses any means in addition to mail or electronic mail to contact any elector regarding a missing or discrepant signature or missing ID, he or she must attempt to contact all similarly situated electors whose registration records have the same type of contact information.

7.7.4 7.6.4   If an elector fails to cure a missing signature, the county clerk need not send a copy of the mail ballot return envelope to the district attorney for investigation.

[Sections 1-7.5-107.3 and 1-8.5-105(3)(a), C.R.S.]

7.7.5 7.6.5   The county clerk must accept any completed cure form for a missing or discrepant signature, or a missing ID, that the county receives by 11:59 pm MT on the eighth day after the election.

Amendments to Rule 7.8 including renumbering:

7.8 7.7 Signature verification procedures

7.8.1 7.7.1   WHEN REVIEWING SIGNATURES THROUGH THE USE OF SIGNATURE VERIFICATION JUDGES, A A single election judge may MUST conduct the first level of signature verification.

[Not shown: renumbering Current Rules 7.8.2 through 7.8.8 to Rules 7.7.2 through 7.7.8]

Amendment to Rule 7.8.9, including renumbering:

7.8.9 7.7.9   The election official must use the letter and the signature verification form approved by the Secretary of State. (Section 1-7.5-107.3(2)(a), C.R.S.)

[Not shown: renumbering Current Rule 7.8.10 to Rule 7.7.10]

Amendments to Rule 7.8.11 including renumbering and New Rules 7.7.11(a)(2)(b) and 7.7.11(b)(5):

7.8.11 7.7.11   Use of automated Signature Verification Devices under section 1-7.5-107.3(5)(b), C.R.S.

(a)   The county clerk must test Signature Verification Devices before use in an election BY FOLLOWING THE PROCEDURES IN THIS RULE.

(1)   The testing must verify the accuracy of the device and ensure that the device will not accept a signature that a reasonably trained election judge would reject.

(2)   The county must pull and test a minimum of AT LEAST THE FIRST 150 ballot envelopes received in the election and conduct an audit of the machine-verified signatures.

       (A)   A team of bipartisan election officials must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.

       (B)   IF BOTH ELECTION JUDGES AGREE THAT A SIGNATURE ACCEPTED BY THE DEVICE WOULD NOT HAVE BEEN ACCEPTED IF REVIEWED BY ELECTION JUDGES, THE COUNTY MUST IMMEDIATELY CEASE USE OF AUTOMATED SIGNATURE VERIFICATION AND NOTIFY THE SECRETARY OF STATE. THE COUNTY CLERK MUST NOT RESUME USE UNTIL THE SECRETARY OF STATE AND THE COUNTY HAVE WORKED IN COORDINATION TO IDENTIFY THE ISSUE AND IMPLEMENT A SOLUTION.

       (B) (C)   The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.

(b)   The county must conduct a regular audit of each Signature Verification Device during its use.

    (1)   The county must pull a random sampling of at least ~~one~~ FIVE in every ~~fifty~~ ONE HUNDRED machine-verified signatures daily.

    (2)   A team of bipartisan election judges must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.

    (3)   The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.

    (4)   If ~~the device fails the audit~~ BOTH ELECTION JUDGES AGREE THAT A SIGNATURE ACCEPTED BY THE DEVICE WOULD NOT HAVE BEEN ACCEPTED IF REVIEWED BY ELECTION JUDGES, the county must immediately cease use of automated signature verification and notify the Secretary of State. The Secretary of State and the county must work in coordination to identify the issue and implement a solution.

    (5)   NO LATER THAN 90 DAYS AFTER ELECTION DAY, THE COUNTY CLERK MUST PROVIDE TO THE SECRETARY OF STATE A REPORT OF THE BALLOTS AUDITED UNDER THIS RULE ON THE FORM APPROVED BY THE SECRETARY OF STATE.

(c)   The county must operate the device on a secure network.

    (1)   The county may connect the device to the county network only for maintenance and support.

    (2)   The device must be secured by the county firewall.

    (3)   The county must maintain a maintenance and support log that includes the name of the person providing maintenance or support, the date and time the device was accessed, and the specific reason for access.

[Not shown: renumbering Current Rules 7.8.12 and 7.8.13 as Rules 7.7.12 and 7.7.13]

~~7.9~~ 7.8   Voter service and polling centers

~~7.9.1~~ 7.8.1   The county clerk must designate and open the minimum number of voter service and polling centers as required in section 1-5-102.9, C.R.S., for a general election and section 1-7.5-107(4.5), C.R.S., for all other elections.

(a)   For a general election, the minimum number of voter service and polling centers must be open beginning 15 days before election day during the following hours:

(1)   In a county described in section 1-5-102.9 (1)(a)(I) or (1)(a)(II), C.R.S., voter service and polling centers must be open from 8 A.M, to 5 P.M. Monday through Friday, and the second Saturday.

(2)   In all other counties, voter service and polling centers must be open during normal business hours, which means at least eight hours per day Monday through Friday, and at least four hours continuously on the second Saturday.

(b)   For any primary or November coordinated election, the minimum number of voter service and polling centers must be open beginning 8 days before election day during normal business hours, which means at least eight hours Monday through Friday, and at least four hours continuously on Saturday.

(c)   All voter service and polling centers must be open from 7:00 a.m. through 7:00 p.m. on election day.

(d)   ~~The county clerk must provide all services outlined in section 1-5-102.9, C.R.S., at every designated voter service and polling center.~~

~~(e)~~(D)   Signage at each voter service and polling center must indicate that it is a violation of law for any person to collect more than ten ballots for delivery in any election.

~~7.9.2~~ 7.8.2   Voter service and polling center materials include sufficient computer stations for SCORE access, HAVA information, ~~a voting demonstration display, a signature card table,~~ signature cards, paper ballots, voting booths ~~or DREs,~~ ~~a provisional voting area,~~ and a ballot box.

~~7.9.3~~ 7.8.3   In order to assist applicants and electors efficiently, a county clerk must configure voter service and polling centers with sufficient election judges, WebSCORE work stations, voting equipment, and sufficient numbers of mail and in-person ballots that can be tabulated by the county's voting system without further duplication, and other supplies. A county may satisfy this Rule by providing a sufficient number of ballot marking devices or ballot on demand printers.

~~7.9.4~~ 7.8.4   Except for voters with disabilities, the maximum allowable time in a voting booth is 15 minutes if there are voters waiting. The Secretary of State may order additional time based on the length of the ballot. ~~[Section 1-7-115, C.R.S.]~~

~~7.9.9~~ 7.8.9   Each county must report its WAIT TIME DATA results to the Secretary of State no later than 30 days after the election.

Amendments to Rule 7.12:

~~7.12~~ 7.11   At each Voter Service and Polling Center, election judges and, if appropriate, election staff, must:

   ~~7.12.1~~ 7.11.1   Provide all services outlined in 1-5-102.9, C.R.S., INCLUDING PROVIDING BLANK CURE FORMS AND COLLECTING COMPLETED CURE FORMS FOR VOTERS WHO WISH TO CURE THEIR BALLOT IN ACCORDANCE WITH SECTIONS 1-2-502.5 (4)(C), 1-7.5-107 (3.5)(D), OR 1-7.5-107.3 (1.5), C.R.S.; and

   ~~7.12.2~~ 7.11.2   Use WebSCORE to register voters; update existing voter registrations; issue and replace mail ballots; and issue, spoil, and replace in-person ballots.

Rule 8.6.1(b) concerning removal of watchers is amended to update a cross reference:

   (b)   Violated any of the limitations outlined in Rule ~~8.15~~ 8.14;

Rule 8.7.4 concerning watchers is amended to update a cross-reference:

8.7.4   Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in Rule ~~1.1.31~~ 1.1.30 applies only to voting.

Amendments to Rule 8.10.2(a)(4):

8.10.2   Watchers must be permitted access that would allow them to attest to the accuracy of election-related activities. This includes personal visual access at a reasonable proximity to read documents, writings or electronic screens and reasonable proximity to hear election-related discussions between election judges and electors.

   (a)   Election activities include:

      (1)   Setup and breakdown of Voter Service and Polling Centers.

      (2)   Voter check-in and registration activities.

      (3)   Ballot receipt and processing.

      (4)   Signature verification of mail ballot envelopes ~~at close enough distance to challenge the signature~~.

      (5)   Ballot duplication.

      (6)   Ballot tabulation.

      (7)   The logic and accuracy test and post-election audit.

      (8)   Provisional ballot processing.

      (9)   UOCAVA ballot processing.

(10)   Canvass.

(11)   Recount.

(b)   Witness and verify means to personally observe actions of election officials in each step of the conduct of an election.

Rule 8.13 is repealed:

8.13   ~~During initial signature review by an election judge, the county clerk may allow a watcher to escalate ballot envelope signatures for secondary review by a bipartisan team of election judges.~~

[Not shown: current Rule 8.14 is renumbered as Rule 8.13]

Amendments to Rules 8.15 and 8.16 including renumbering and New Rule 8.14.12:

~~8.15~~ 8.14   ~~A watcher may not:~~ A COUNTY CLERK MUST REVOKE THE CERTIFICATE OF A WATCHER WHO:

~~8.15.1~~ 8.14.1   Personally ~~interrupt~~ INTERRUPTS or ~~disrupt~~ DISRUPTS the processing, verification, and counting of any ballots or any other stage of the election~~, except as permitted by the county clerk under Rule 8.13.~~ INCLUDING LODGING REPEATED CHALLENGES OF VOTERS OR MAIL BALLOTS ON BASES THAT ARE NOT AUTHORIZED BY STATUTE OR THESE RULES AFTER BEING ADVISED THAT SUCH BASES ARE NOT AUTHORIZED.

~~8.15.2~~ 8.14.2   ~~Write~~ WRITES down any ballot numbers or any other personally identifying information about the electors.

~~8.15.3~~ 8.14.3   ~~Touch~~ TOUCHES or ~~handle~~ HANDLES the official signature cards, ballots, mail ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.

~~8.15.4~~ 8.14.4   ~~Interfere~~ INTERFERES with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots.

~~8.15.5~~ 8.14.5   ~~Interact~~ COMMUNICATES with election judges ABOUT THAT JUDGE'S DUTIES WHILE THAT ELECTION JUDGE IS CURRENTLY ON DUTY, UNLESS THE JUDGE IS THE ~~other than a~~ designated watcher contact ~~except as permitted by the county clerk under Rule 8.13~~.

~~8.15.6~~ 8.14.6   ~~Use~~ USES a mobile phone or other electronic device to make or receive ~~a call~~ AN AUDIO OR VIDEO COMMUNICATION in any polling location or other place election activities are conducted.

~~8.15.7~~ 8.14.7   ~~Use~~ USES any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted.

~~8.15.8~~ 8.14.8   ~~Unless otherwise approved by the county clerk, have~~ HAS in ~~his or her~~ THEIR OPEN AND VISIBLE possession any mobile phone or other electronic device while watching election activities where voters' confidential or personally identifiable information is within view.

~~8.15.9~~ 8.14.9   ~~Attempt~~ ATTEMPTS to determine how any elector voted.

~~8.15.10~~ 8.14.10   ~~Disclose~~ DISCLOSES or ~~record~~ RECORDS any confidential voter information as defined in section 24-72-204(8), C.R.S., that he or she may observe.

8.15.11 8.14.11 ~~Disclose~~ DISCLOSES any results before the polls have closed.

8.14.12 ATTEMPTS TO INTIMIDATE OR INTERFERE WITH AN ELECTION JUDGE OR OTHER ELECTION OFFICIALS DURING THE DISCHARGE OF THAT JUDGE OR OFFICIAL'S DUTIES.

8.16 8.15 ~~Unless the county clerk has established another process, if~~ IF a watcher disputes a decision made by an election judge or alleges a discrepancy, the watcher must alert the designated watcher contact.

[Not shown: current Rules 8.17 and 8.18 are renumbered as Rules 8.16 and 8.17]

Amendments to Rule 9.1.1 concerning challenging an in-person voter:

9.1.1 Under Section 1-9-201, C.R.S., an election official, watcher, or eligible elector of the precinct may challenge an elector's right to vote. A person whose eligibility is challenged while voting in-person, must be offered a regular ballot by an election judge if the person ~~satisfactorily~~ answers the applicable challenge questions CONFIRMING THEIR ELIGIBILITY AS specified in section 1-9-203, C.R.S., and this Rule. If the person challenged ~~provides unsatisfactory answers or~~ refuses to answer the challenge questions OR DOES NOT OTHERWISE CONFIRM THEIR ELIGIBILITY, an election judge must offer the person a provisional ballot.

Amendments to Rule 9.2 including New Rules 9.2.1, 9.2.2(a)(1-4), 9.2.2(b)(1-4), 9.2.3, 9.2.4; Repeal of current Rule 9.2.2; and necessary renumbering:

9.2 Challenging a mail ballot voter

9.2.1 CHALLENGES OF A MAIL BALLOT MUST BE MADE IN WRITING ON THE FORM APPROVED FOR USE BY THE SECRETARY OF STATE AND MUST INCLUDE ALL INFORMATION REQUIRED ON THE FORM. ONCE FILLED OUT, THE CHALLENGE MUST BE DELIVERED TO A PERSON DESIGNATED BY THE COUNTY CLERK WHO DID NOT MAKE THE CHALLENGE. THE PERSON DESIGNATED BY THE COUNTY CLERK TO RECEIVE THE CHALLENGE FORM MUST ATTACH THE CHALLENGE FORM TO THE MAIL BALLOT BEING CHALLENGED AND PROCESS THE CHALLENGE IN ACCORDANCE WITH THIS RULE 9.

9.2.1 9.2.2 If an individual challenges a mail ballot ~~under section 1-9-207, C.R.S.,~~ FOR FORGERY OF A DECEASED PERSON'S SIGNATURE ON THE MAIL BALLOT ENVELOPE OR FOR SUBMISSION OF MULTIPLE BALLOTS BY THE SAME VOTER FOR THE SAME ELECTION, the election judge must forward the ballot to two other election judges of different political party affiliations DESIGNATED BY THE COUNTY CLERK who must JOINTLY review the elector's eligibility to vote. AT THEIR REQUEST, THE ELECTION JUDGES MAY RECEIVE ASSISTANCE IN MAKING THEIR ELIGIBILITY DETERMINATION FROM COUNTY CLERK STAFF. A CHALLENGE FOR SUBMISSION OF MULTIPLE BALLOTS UNDER THIS RULE DOES NOT APPLY TO AN UNAFFILIATED VOTER WHO RETURNS MORE THAN ONE PARTY'S BALLOT.

(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.~~ MAIL BALLOT SHOULD NOT BE COUNTED BECAUSE THEY BELIEVE IT CONTAINS A FORGERY OF A DECEASED PERSON'S SIGNATURE ON THE MAIL BALLOT ENVELOPE, OR THEY BELIEVE IT IS ONE OF MULTIPLE BALLOTS CAST BY THE SAME VOTER FOR THE SAME ELECTION, THEN THE FOLLOWING STEPS MUST BE TAKEN BY THE COUNTY CLERK:

(1) THE COUNTY CLERK MUST SEND TO THE CHALLENGED VOTER:

(A) NOTIFICATION THAT THEIR BALLOT HAS BEEN CHALLENGED;

(B)   A COPY OF THE CHALLENGE FORM;

(C)   A FORM FOR THE ELIGIBLE ELECTOR TO RETURN CONFIRMING THAT THE ELECTOR RETURNED THEIR MAIL BALLOT OR DID NOT RETURN MORE THAN ONE MAIL BALLOT AS APPLICABLE;

(D)   INSTRUCTIONS TO THE ELIGIBLE ELECTOR TO RETURN A COPY OF THE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5); C.R.S., AND

(E)   NOTIFICATION TO THE ELIGIBLE ELECTOR THAT THE CHALLENGE AND ELECTOR'S RESPONSE MUST BE REFERRED TO THE DISTRICT ATTORNEY UNDER SECTION 1-9-209, C.R.S.

(2)   NOTIFICATION OF THE CHALLENGE MUST BE SENT WITHIN THREE DAYS AFTER THE CHALLENGE HAS BEEN MADE, BUT NO LATER THAN TWO DAYS AFTER ELECTION DAY.

(3)   THE CHALLENGED BALLOT MUST BE COUNTED IF THE BALLOT IS OTHERWISE VALID AND THE COUNTY CLERK RECEIVES THE FORM FROM THE ELIGIBLE ELECTOR WITHIN EIGHT DAYS AFTER ELECTION DAY, INCLUDING:

(A)   A STATEMENT THAT THE ELECTOR RETURNED A MAIL BALLOT TO THE COUNTY CLERK AND RECORDER OR DID NOT VOTE MORE THAN ONCE IN AN ELECTION AS APPLICABLE; AND

(B)   A COPY OF THE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5), C.R.S.

(4)   IF THE COUNTY CLERK RECEIVES A FORM INDICATING THAT THE ELECTOR DID NOT RETURN A BALLOT TO THE COUNTY CLERK, OR IF THE ELIGIBLE ELECTOR DOES NOT RETURN THE FORM WITHIN EIGHT DAYS AFTER ELECTION DAY, THE SELF-AFFIRMATION ON THE RETURN ENVELOPE MUST BE CATEGORIZED AS INCORRECT, AND THE BALLOT MAY NOT BE COUNTED.

(b)   If ~~both~~ EITHER election ~~judges determine~~ JUDGE DETERMINES the ~~elector is eligible and that elector's signature is valid~~, CHALLENGE SHOULD BE REJECTED, THEN THE COUNTY CLERK ~~the election judges~~ must count the elector's ballot IF IT IS OTHERWISE VALID. UNLESS THE CHALLENGE IS WITHDRAWN, THE COUNTY CLERK MUST SEND THE CHALLENGED VOTER:

(1)   A COPY OF THE CHALLENGE ALONG WITH NOTIFICATION THAT THE CHALLENGE WAS REJECTED;

(2)   NOTIFICATION THAT THE BALLOT WAS COUNTED;

(3)   INSTRUCTIONS TO THE ELECTOR ALLOWING THEM TO OTHERWISE RESPOND TO THE CHALLENGE; AND

(4)   NOTIFICATION THAT THE CHALLENGE AND ELECTOR'S RESPONSE MUST BE REFERRED TO THE DISTRICT ATTORNEY UNDER SECTION 1-9-209, C.R.S.

~~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.~~

9.2.3   IF AN INDIVIDUAL CHALLENGES A MAIL BALLOT FOR ANY REASON OTHER THAN FOR FORGERY OF A DECEASED PERSON'S SIGNATURE OR FOR SUBMISSION OF MULTIPLE BALLOTS CAST BY THE SAME VOTER FOR THE SAME ELECTION, THE ELECTION JUDGE MUST FORWARD THE CHALLENGE TO THE COUNTY CLERK AND OTHERWISE PROCESS THE MAIL BALLOT AS NORMAL. UNLESS THE CHALLENGE IS WITHDRAWN, THE COUNTY CLERK MUST SEND THE CHALLENGED VOTER:

    (A)   A COPY OF THE CHALLENGE;

    (B)   NOTIFICATION THAT THE BALLOT WAS COUNTED;

    (C)   INSTRUCTIONS TO THE ELECTOR ALLOWING THEM TO OTHERWISE RESPOND TO THE CHALLENGE; AND

    (D)   NOTIFICATION THAT THE CHALLENGE AND ELECTOR'S RESPONSE MUST BE REFERRED TO THE DISTRICT ATTORNEY UNDER SECTION 1-9-209, C.R.S.

9.2.4   FOLLOWING THE ELECTION, THE COUNTY CLERK MUST SEND A COPY OF ALL CHALLENGES THAT HAVE NOT BEEN WITHDRAWN, ALONG WITH ANY RESPONSES RECEIVED FROM THE CHALLENGED VOTERS, TO THE DISTRICT ATTORNEY AS REQUIRED BY SECTION 1-9-209, C.R.S.

Amendments to Rule 10.1.5 concerning precanvass accounting:

10.1.5   ~~Designated Election Official's disposition of forms~~

    ~~(a)   The designated election official must review the Statement of Ballots forms for completion and accuracy.~~

    ~~(b)   If the designated election official or the canvass board discovers a problem with a Statement of Ballots form that cannot be easily resolved, they may contact the election judges for an explanation or correction.~~

Amendments to Rule 10.2.5 concerning appointment to the Canvass Board:

10.2.5   ~~Appointment of Canvass Workers.~~ The designated election official may appoint canvass workers to help prepare and conduct the canvass.

Amendments to Rules 10.3 including repeal of Rule 10.3.3 and necessary renumbering:

10.3   Duties of the Canvass Board

10.3.1   The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(1)(c), C.R.S.

10.3.2   The canvass board's ONLY duties are to:

    (a)   Conduct the canvass AND CERTIFY THE OFFICIAL ABSTRACT OF VOTES in accordance with section 1-10-101.5, C.R.S., ~~including~~ BY:

        ~~(1)   Account and balance the election and certify the official abstract of votes;~~

        ~~(2)~~(1)   ~~Reconcile~~ RECONCILING the number of ballots counted to the number of ballots cast; and

(3)(2) ~~Reconcile~~ RECONCILING the number of ballots cast to the number of voters who voted ~~by reviewing the reconciled detailed ballot logs and Statement of Ballots~~.

(b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule 25.2 or 25.3;

(c) In coordination with the county clerk, investigate and report discrepancies found in the audit under section 1-7-514(2), C.R.S.; and

(d) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and this Rule. The canvass board's role in conducting a recount includes selecting ballots for the random test, observing the recounting of ballots, and certifying the results.

~~10.3.3 If the board identifies a discrepancy in a Statement of Ballots form, the board may review the particular ballots at issue to identify, correct, and account for the error.~~

~~10.3.4~~ 10.3.3 The canvass board may not perform duties typically reserved for election judges WHILE CANVASSING THE RESULTS, including:

(a) Determining voter intent;

(b) Evaluating voter eligibility, INCLUDING REVIEWING SIGNATURES THAT HAVE BEEN ACCEPTED OR REJECTED; and

(c) Requesting new logs or reports that were not created to conduct the election.

~~10.3.5~~ 10.3.4 ~~Role of Watchers.~~ Watchers appointed under section 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.

Amendments to Rule 10.5.1 including repeal of Rules 10.5.1(g) and (h):

10.5 Procedures for Canvass

10.5.1 The designated election official must provide the following information to the canvass board:

(a) The name of each candidate, office, and votes received;

(b) The number or letter of each ballot issue or question and votes received;

(c) The total number of ballots cast;

(d) The number of provisional ballots cast, including totals for:

(1) Ballots accepted by each code; and

(2) Ballots rejected by each code.

(e) The number of mail ballots cast, including totals for:

(1) Ballots accepted; and

(2) Ballots rejected by each code.

(f)   The number of in-person ballots counted;

~~(g)   The number of emergency replacement ballots, including totals for:~~

~~(1)   Ballots accepted; and~~

~~(2)   Ballots rejected by each code.~~

~~(h)   The number of ballots returned by voters with a disability covered under section 1-5-706 C.R.S.~~

~~(i)~~ (G)   The number of damaged and spoiled ballots.

~~(j)~~ (H)   If applicable, the number of ballots cast in each party's primary election, including totals for:

(1)   Ballots accepted in each party's primary election by affiliated and unaffiliated voters; and

(2)   Ballots rejected by each code.

New Rule 10.6.3 concerning official abstract and reporting to the Secretary of State:

10.6.3   IF A MAJORITY OF THE CANVASS BOARD VOTES NOT TO CERTIFY THE ABSTRACT OF VOTES CAST OR DOES NOT MAKE A FINAL DETERMINATION BY THE DEADLINE TO CERTIFY THE ABSTRACT OF VOTES CAST, THE COUNTY CLERK MUST FORWARD THE ABSTRACT THAT HAS NOT BEEN CERTIFIED TO THE SECRETARY OF STATE ALONG WITH A REPORT FROM THE CANVASS BOARD DESCRIBING WHY THE ABSTRACT HAS NOT BEEN CERTIFIED. UPON RECEIVING AN ABSTRACT UNDER THIS RULE, OR IF THE COUNTY CLERK DOES NOT PROVIDE THE ABSTRACT TO THE SECRETARY OF STATE BY THE DEADLINE TO CERTIFY THE ABSTRACT OF VOTES CAST, THE SECRETARY OF STATE WILL CONSIDER WHETHER TO CANVASS THE RETURNS UNDER SECTION 1-10-104, C.R.S.

Amendments to Rule 10.8.2 concerning the Secretary of State's role concerning the cavass board:

10.8.2   The county clerk or ~~the~~ ANY canvass board MEMBER may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.

Rule 10.12.3, concerning testing recount equipment, is repealed:

~~10.12.3 In a county using a voting system certified before January 1, 2016, the county clerk must test the VVPAT records from at least one of the DREs that had votes cast on the ballot styles containing the race or measure being recounted.~~

~~(a)   A bipartisan team of election judges or staff must manually verify the results of the recounted contest on the machines selected for the test and verify that the tally matches the VVPAT record.~~

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

Repeal of Rules 10.13.4 and 10.13.6, concerning counting ballots during a recount, and necessary renumbering:

~~10.13.4 To recount ballots using "Ballot Now":~~

(a) ~~Back up the official election database.~~

(b) ~~Open Ballot Now with an unused Mobile Ballot Box (MBB) from the election and create a Ballot Now recount database.~~

(c) ~~Scan and resolve all recount ballots according to this Rule 10.~~

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

(e) ~~Open a new recount election in "Tally" and process the recount MBBs following the tabulation procedures above.~~

(f) ~~Compare recount results to original results and document any differences.~~

(g) ~~Backup the test database and the official recount database.~~

~~10.13.5~~ 10.13.4 To recount ballots by hand count.

(a) If the tabulation of the original count was conducted by hand count, the recount must be conducted by hand count.

(b) Ballots must be counted in batches of 25 to ensure that the number of ballots recounted matches the number originally counted.

(c) Votes must be counted by individual hash marks in 25-count sections by two different judges.

~~10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule 10.12.3, the county clerk must upload the memory cards.~~

[Not shown: renumbering Current Rules 10.13.7 and 10.13.8 to Rules 10.13.5 and 10.13.6]

Amendments to rules concerning logic and accuracy testing, specifically changes to Rules 11.3.2(d)(2) and (d)(4)(A)(i); repeal of Rule 11.3.2(d)(4)(B); and necessary renumbering:

(d) Conducting the Test

(1) The county and Testing Board must observe the tabulation of all test ballots, compare the tabulation with the previously retained records of the test vote count, and correct any discrepancies before the device is used in the election.

(2) The county must reset the public counter to zero on all devices and present ~~zero tapes or~~ THE summary report to the Testing Board for verification.

(3) The county must make an appropriate number of voting devices available and the Testing Board may witness the programming of devices necessary for the test.

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

(A) Ballot Scanners:

(i)   The Testing Board must test at least one central count ballot scanner ~~and at least one ballot scanner used at a voter service and polling center, if applicable~~.

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

(iii)   The Testing Board must count the board and county's test ballot batches separately and generate reports to verify that the machine count is identical to the predetermined tally.

~~(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 results match what the Testing Board member manually marked on his or her test ballots.~~

~~(C)~~ (B) Ballot Marking Devices (BMDs):

(i)   The Testing Board must randomly select and test at least one BMD.

(ii)   At least two members of the Testing Board must use the selected BMD to mark and print at least 25 ballots in the same manner that the testing board member manually marked his or her test ballots. At least two members of the Testing Board must mark at least one of his or her test ballots using the audio ballot playback and accessible input devices.

(iii)   A Testing Board member or county election official must separately scan and tabulate the test ballots marked with and printed from the BMD on one central count or polling location scanner, and generate a results report.

(iv)   Each Testing Board member must verify that the results report generated from the scanner exactly corresponds to the testing board member's tally of the votes on the manually marked paper ballots comprising his or her test ballots.

Repeal of Rule 11.8.2 and amendments to Rule 11.8.3 including renumbering:

11.8.2 ~~In the case of electromechanical or electronic voting systems, devices, or related components certified for use in Colorado before January 1, 2016, the Secretary of State will approve a political subdivision's application to purchase, lease, or use the voting system, device, or related component, only if:~~

    (a) ~~The political subdivision purchased, leased or used the same voting system, device, or related component, before January 1, 2016; and~~

    (b) ~~The political subdivision's application for approval is limited to the acquisition or use of voting system applications, components or voting devices intended to replace the same or substantially similar applications, devices and components that are damaged, defective or inoperable; and~~

    (c) ~~Approval of the application, and the political subdivision's purchase, lease or use of the voting system components or voting devices, will not materially impair the political subdivision's future fiscal ability to purchase or lease a voting system certified for use in Colorado on or after January 1, 2016.~~

~~11.8.3~~ 11.8.2 ~~In the case of electromechanical or electronic voting systems, devices or related components certified for use in Colorado on or after January 1, 2016, the~~ THE Secretary of State will approve a political subdivision's application to purchase, lease, or use the voting system, device, or related component, after considering all relevant factors, including without limitation:

[No changes to (a) through (q)]

[Not shown: renumbering current Rules 11.8.4 through 11.8.8 to Rules 11.8.3 through 11.8.7]

Amendments to Rule 11.9 concerning contest order and election night reporting, specifically changes to Rule 11.9.1(b)(3) and repeal of Rule 11.9.1(b)(4):

    (3) A county using the Dominion, ~~Hart,~~ or Clear Ballot 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 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.~~

Amendment to rule 11.10.1:

11.10 Reports or materials required by this Rule may be submitted to the voting systems team:

    11.10.1 By delivery to:

    Colorado Secretary of State
    Attn: Voting Systems
    1700 Broadway – Suite ~~200~~ 550
    Denver, CO 80290

Amendments to Rule 15 concerning preparation, filing, and verification of petitions:

Amendments to Rule 15.1:

15.1   The following requirements apply to candidate, statewide initiative, recall, MINOR PARTY CREATION, and referendum petitions, unless otherwise specified.

    15.1.1   Petition template for state petitions

        (a)   Petition proponents must use the Secretary of State's fillable .pdf petition template to create their petition format.

        (b)   After approval of the petition format as to form, proponents must print all petition sections in accordance with the Secretary of State's petition-printing guidelines.

        (c)   Any signature affixed to a petition section that does not conform to the requirements of this Rule 15.1.1 is not valid.

Current Rule 15.1.1(d) is repealed and replaced by New Rule 15.1.1(d):

        (d)   ~~An unaffiliated candidate for the office of President of the United States who is submitting a petition for nomination under Section 1-4-802, C.R.S. must include on the petition the names of registered electors the candidate is nominating as their presidential electors.~~ PETITION PROPONENTS FOR INITIATIVE PETITIONS MUST PROVIDE A WORD VERSION OF THE FINAL TEXT OF THE MEASURE TO THE SECRETARY OF STATE.

Amendments to Rule 15.1.2. Portions of Current Rules 15.4 are amended and re-codified under Rule 15.1.2 as follows:

    15.1.2   PETITION SUBMISSION

        (A)   The Secretary of State or DEO will not accept or count additional signatures after ~~proponents file the original petition or addendum.~~ THE INITIAL SUBMISSION OF THE PETITION, EVEN IF ADDITIONAL SIGNATURES ARE OFFERED BEFORE THE DEADLINE.

        ~~15.4.3~~ (B)   ~~Staff~~ THE SECRETARY OF STATE OR DEO will inspect each petition section for evidence of disassembly. If it appears that the section was disassembled, the Secretary ~~of State~~ OR DEO will reject all signatures in the section.

        ~~15.4.6~~ (C)   ~~Staff will count each line with writing on each petition section. For purposes of this Rule, an "entry" means a counted line with writing. At the bottom of each page, staff will write the number of entries on that page and, on the face of each petition section, staff will write the total number entries for that section.~~ THE SECRETARY OF STATE OR DEO WILL CONSIDER ANY SIGNER LINE WITH WRITING ON IT AS A REVIEWABLE LINE, EVEN IF THE LINE IS INCOMPLETE OR PARTIALLY CROSSED OUT.

        ~~15.4.6(a)~~ (D)   ~~Staff~~ THE SECRETARY OF STATE OR DEO will not ~~count~~ REVIEW LINES THAT ARE blank or completely crossed-out ~~lines~~.

        ~~(b)   Staff will count a line with incomplete writing, a partial cross out, or with what appears on its face to be an invalid signature as an entry.~~

        ~~15.4.5~~ (E)   If the number of lines SUBMITTED is less than the number of signatures required to ~~certify the measure to~~ ACCESS the ballot, the Secretary of State OR DEO will issue a statement of insufficiency AND WILL NOT REVIEW SIGNER LINES OR APPLY DUPLICATES TO FUTURE CANDIDATE PETITION SUBMISSIONS FOR THE SAME OFFICE OR RECALL PETITIONS OF THE SAME OFFICEHOLDER.

(F)   THE SECRETARY OF STATE OR DEO WILL REVIEW AND PROCESS CANDIDATE PETITIONS FOR THE SAME OFFICE IN THE ORDER IN WHICH THEY ARE RECEIVED.

Amendments to Rule 15.1.3(c) concerning circulator affidavit:

(c)   If a state candidate, RECALL PROPONENT, OR INITIATIVE PROPONENT is curing a circulator affidavit under section 1-4-912(2), C.R.S., the candidate OR PROPONENT must use ~~the cure affidavit provided~~ A FORM APPROVED by the Secretary of State.

Amendments to Rules 15.1.4(d) and (e) including repeal of Rule 15.1.4(d)(5); New Rules 15.1.4(e)(4), (6), (8), and (9); and necessary renumbering:

15.1.4 Verifying individual entries

(a)   Staff will check each individual entry against the information contained in SCORE.

(b)   Staff will create and maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.

(c)   If an entry does not match the signor's current information in SCORE, staff must check the signor's information in SCORE as of the date the signor signed the petition.

(d)   Secretary of State or DEO staff will reject the entry if:

(1)   The name on the entry is not in SCORE;

(2)   The middle initial or middle name on the entry does not match the middle initial or middle name in SCORE;

(3)   The address on the entry does not match the RESIDENTIAL address in SCORE;

(4)   ~~The address on the entry is a post office box;~~ THE ENTRY ADDRESS CONTAINS INFORMATION, SUCH AS A NUMBER, APARTMENT NUMBER, OR STREET DIRECTION THAT CONTRADICTS THE SCORE ADDRESS;

~~(5)   The entry is incomplete;~~

~~(6)~~ (5) The signer completed the entry before the designated election official approved the petition format;

~~(7)~~ (6) The signer was not an eligible elector at the time he or she completed the entry;

~~(8)~~ (7) The signer completed the entry after the date on the circulator affidavit;

~~(9)~~ (8) Evidence exists that some other person assisted the signer in completing the entry but no statement of assistance accompanies the entry;

~~(10)~~ (9) The name and signature on the entry is illegible and cannot be verified in SCORE;

(11) (10)   The entry is a duplicate of a previously accepted entry on the same petition; or

(12) (11)   For a candidate petition where an elector may sign only one petition for the same office, the entry is a duplicate of a previously accepted entry on a ~~previously filed~~ petition THAT WAS DECLARED SUFFICIENT OR INSUFFICIENT AFTER LINES WERE REVIEWED for the same office.

(13) (12)   The signer's information appears outside of a numbered signature block on a petition section.

(14) (13)   For a candidate petition, the address on the entry does not match the current residential or mailing address for the elector in SCORE.

(e)   Secretary of State or DEO staff will ~~accept the~~ NOT USE ANY OF THE FOLLOWING DISCREPANCIES AS THE SOLE REASON TO REJECT AN entry ~~if~~:

(1)   The name on an entry matches or is substantially similar to the information in SCORE, or if the signature on an entry is a common variant of the name;

(2)   A middle initial or middle name is present on the entry but not in SCORE, or present in SCORE but not on the entry;

(3)   A name suffix is present on the entry but not in SCORE, or present in SCORE but not on the entry; ~~or~~

(4)   THE PRINTED NAME IS MISSING OR ILLEGIBLE BUT THE SIGNATURE CAN BE READ;

(4) (5)   The address on the entry is missing an apartment letter or number or a street direction, OR THE ADDRESS ENTRY CONTAINS AN APARTMENT LETTER OR NUMBER OR A STREET DIRECTION THAT IS MISSING IN THE VOTER REGISTRATION RECORD;

(6)   THE COUNTY NAME IS MISSING, ABBREVIATED, OR WRONG;

(5) (7)   For ~~a~~ candidate ~~petition~~ AND RECALL PETITIONS, the address provided did not match the current residence address information in SCORE, but did match the current mailing address information in SCORE~~.~~;

(8)   ON A SIGNER LINE, THE DATE IS MISSING BUT A LINE ABOVE OR BELOW HAS AN ACCEPTABLE DATE; OR

(9)   FOR SECRETARY OF STATE REVIEWED PETITIONS ONLY, THE YEAR OF THE DATE IS MISSING OR WRONG.

Amendments to Rule 15.2 including New Rules 15.2.1(c), 15.2.1(d)(3), and necessary reorganization and renumbering.

15.2   Petition entity license, registration, filing, and circulation

15.2.1 A petition entity that intends to pay petition circulators must obtain a petition entity license, pay a fee, and register with the Secretary of State before circulating INITIATIVE, CANDIDATE, AND RECALL petitions. The license application must include:

    (a) The petition entity's name, address, telephone number, and email address;

    (b) The designated agent's name; ~~and~~

    (C) THE NAME OF ALL OWNERS AND CHIEF OFFICERS OF THE ENTITY; AND

    ~~(c)~~(D) An affirmation that:

        (1) ~~the~~ THE designated agent has read and understands Article 4, ARTICLE 12, and Article 40 of Title 1, C.R.S.; ~~and~~

        (2) THE DESIGNATED AGENT has completed the Secretary of State's circulator training program; AND

        (3) THE ENTITY AND NONE OF ITS OWNERS OR CHIEF OFFICERS HAS EVER BEEN FOUND IN A JUDICIAL OR ADMINISTRATIVE HEARING IN COLORADO OR ANY OTHER STATE OF AUTHORIZING OR KNOWINGLY PERMITTING:

            (A) FORGERY OF A REGISTERED ELECTOR'S SIGNATURE;

            (B) CIRCULATION OF A PETITION SECTION, IN WHOLE OR IN PART, BY ANYONE OTHER THAN THE CIRCULATOR;

            (C) USE OF A FALSE CIRCULATOR NAME OR ADDRESS IN A CIRCULATOR AFFIDAVIT;

            (D) PAYMENT OF MONEY OR A THING OF VALUE TO ANY PERSON FOR THE PURPOSE OF INDUCING THE PERSON TO SIGN OR WITHDRAW HIS OR HER NAME FROM A PETITION; OR

            (E) A NOTARY PUBLIC'S NOTARIZATION OF A CIRCULATOR AFFIDAVIT OUTSIDE OF THE PHYSICAL PRESENCE OF THE CIRCULATOR OR WITHOUT THE PRODUCTION OF THE REQUIRED IDENTIFICATION FOR NOTARIZATION OF A PETITION SECTION.

15.2.2 Before compensating a circulator, the designated agent must register with the Secretary of State by submitting a signed form that includes a list of the proposed initiatives and/or the candidate or candidate committee's name the petition entity will circulate.

15.2.3 If a petition entity fails to register a proposed initiative, RECALL PETITION, or candidate petition over any two-year period, the license expires. The Secretary of State will notify a petition entity that its license has expired within 30 days after the date of expiration.

15.2.4 A petition entity may renew an expired license without a fee by submitting a new license application.

Amendments to Rules 15.3.2 and Repeal of Rule 15.3.3 concerning statewide initiative petition circulation:

15.3.2   The petition circulator must provide a permanent residence address on the circulator affidavit. ~~If the circulator is not a permanent Colorado resident, the circulator must also provide the Colorado address where he or she temporarily lives.~~

(a)   For purposes of Article 40 of Title 1, C.R.S., and this Rule, a circulator's permanent "residence" or "domicile" means his or her principal or primary home or place of abode in which a circulator's habitation is fixed and to which the circulator, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A permanent "residence" or "domicile" is a permanent building or part of a building and may include a house, condominium, apartment, room in house, or mobile home. Except as provided in paragraph (b) of this Rule, a vacant lot, business address, or post office box is not a permanent "residence" or "domicile". ~~(Sections 1-2-102(1)(a)(i) and 1-40-121(1)(b), C.R.S.)~~

(b)   A homeless circulator must provide the address or location where he or she is living the date the affidavit is signed. The circulator must provide a physical location; a post office box may not be provided.

(c)   For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator's permanent residence address that does not comply with this Rule 15.4.2 is a "false address".

15.3.3   ~~Proponents may file a petition or addendum only once, and may not supplement additional signatures after filing the petition or addendum, even if the additional signatures are offered before the deadline to submit the original petition or addendum.~~

[Current Rule 15.4.3 is amended and re-codified under New Rule 15.1.2(b)]

~~15.4.4~~ 15.4.3   Staff will consecutively number each line on each petition section. For purposes of this Rule, "line" means the block of information that contains the last name, first name, middle initial, county, signing date, street address, city, and signature of a petition signer.

[Current Rule 15.4.5 is amended and re-codified under New Rule 15.1.2(e)]

[Current Rule 15.4.6 is amended and re-codified under New Rules 15.1.2(c) and (d)]

Rule 15.6 is repealed:

15.6   ~~Curing insufficient statewide initiative petitions~~

15.6.1   ~~If petition proponents submit additional signatures within the permitted time, Secretary of State staff will verify the additional signatures in accordance with this Rule 15.~~

15.6.2   ~~If the Secretary of State found the original submission insufficient based on the random sample verification, staff will add the number of additional valid signatures to the number of projected valid signatures in the original submission.~~

(a)   ~~If the new projected number of valid signatures equals 110% or more of the required signatures, the Secretary of State will issue a statement of sufficiency.~~

(b)   ~~If the new projected number of valid signatures equals more than 90% but less than 110% of the required signatures, staff will verify all previously submitted signatures. Staff will add the total number of valid signatures in the original~~

~~petition to the number of additional valid signatures submitted in the addendum in order to determine sufficiency.~~

15.6.3 ~~If the initial verification was of every signature, staff will add the number of additional valid signatures to the number of valid signatures in the original submission in order to determine sufficiency.~~

15.6.4 ~~Staff will issue a new statement of insufficiency or sufficiency that reports the total number of valid signatures submitted.~~

[Not shown: renumbering current Rules 15.7 and 15.8 to Rules 15.6 and 15.7]

Amendments to Rule16.2.2, concerning Military and Overseas Voters (UOCAVA) and electronic transmission, including New Rule 16.2.2(a) and necessary renumbering:

16.2.2 The electronic transmission must include:

(A) DIRECTIONS FOR THE VOTER TO ACCESS THEIR BALLOT AND MATERIALS ONLINE AT THE WEBSITE APPROVED BY THE SECRETARY OF STATE; OR

~~(a)~~ (B) The county clerk's contact information including mailing address, email address, phone, and fax number;

~~(b)~~ (C) A notice that the ballot may not be duplicated for any other elector;

~~(c)~~ (D) Instructions for completing and returning the ballot;

~~(d)~~ (E) A notice regarding the ballot return deadline;

~~(e)~~ (F) Information regarding how the elector may verify that his or her ballot has been received by the county clerk; and

~~(f)~~ (G) Any other information deemed necessary by the Secretary of State or the county clerk.

~~(g)~~ (H) The ballot packet, which must be in text format on 8 ½" x 11" white paper and must include:

(1) An electronic transmission AFFIDAVIT AND coversheet to protect voter privacy;

(2) The unvoted ballot; AND

(3) The electronic transmission ballot instructions.~~; and~~

(4) ~~The self-affirmation required by section 1-8.3-114, C.R.S., and Rule 16.2.3.~~

Amendments to Rule16.2.3:

16.2.3 The self-affirmation must include the standard oath required by the Uniformed and Overseas Citizen Voting Act ~~(52 U.S.C. sec. 20301(b)(7) and 20302(a)(5))~~, the elector's name, date of birth, signature, and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot and that Colorado law requires that I return this ballot by a more secure

method, such as mail, if available and feasible. (Sections 1-8.3-113 and 1-8.3-114, C.R.S.)

Amendments to Rule16.2.6 update a cross-reference:

16.2.6 Upon receipt of a voted ballot sent by electronic transmission, the county clerk must verify the elector's signature in accordance with Rule ~~7.8~~ 7.7. After the affidavit has been verified, a bipartisan team of judges must duplicate the ballot. Duplicating judges must not reveal how the elector voted.

Part of Rule 16.2.7(b) is repealed:

16.2.7 A military or overseas elector whose registration record is inactive may download an application and ballot using the electronic ballot delivery system.

   (a) The elector must submit the ballot and application in accordance with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted.

   (b) Every county must use the approved electronic delivery system to implement this Rule.~~, except that a county may obtain a waiver. The Secretary will consider the following factors in approving or denying a request for waiver:~~

       ~~(1) Number of military or overseas electors registered to vote in the county;~~

       ~~(2) Historical data regarding the number of military and overseas electors who have registered and voted in the county; and~~

       ~~(3) Staff or other resource limitations.~~

[No changes to Rule 17]

Amendments to Rule 18.4.1 concerning uniform counting standards for paper ballots:

18.4 Ballot Duplication

   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.

Amendments to Rule 20.3.3 concerning country security procedures, specifically general requirements concerning security documentation:

   20.3.3 Only election officials or canvass board members sworn under oath are allowed to handle ballots~~, which include VVPAT records~~.

Amendments to Rule 20.4 including repeal of Rules 20.4.1(a), 20.4.2, 20.4.3, and necessary renumbering:

20.4 Physical locking mechanisms and seals. The county must record the serial number of every seal on the appropriate chain-of-custody log. Two individuals must verify, and indicate by signing and

dating the log, that the seal serial numbers match the logged serial numbers. If a seal is inaccessible and cannot be removed, then it is not necessary to verify that seal serial number.

20.4.1   ~~DREs,~~ BMDs~~, and Judge's Booth Controllers (JBCs)~~

(a)   ~~The county must place a seal over a removable card or cartridge that is inserted into the unit, or over the slot or door covering the card or cartridge.~~

~~(b)~~ (A)   The county must place a seal over any data port when the port is not being used, except slots for activation cards.

~~(c)~~ (B)   If the county cannot verify the firmware or software hash value (MD5 or SHA-1), the county must seal the ~~DRE or~~ BMD case. To detect unauthorized access, the county must use seals at either the seams of the case or at key entry points such as screw access points.

~~(d)~~ (C)   In each voter service and polling center, the county must provide a minimum of one accessible ~~DRE or~~ BMD that complies with section 1-5-704, C.R.S.

~~20.4.2   Before attaching a VVPAT to a specific voting device, the county must seal the unit after verifying that no votes were cast. At least two election officials must verify that seals are intact before the start of voting, and at the close of voting. VVPAT records must either remain in the VVPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule 20.13.~~

~~20.4.3   Ballot scanners~~

~~(a)   The county must place a seal over each card or cartridge inserted into the unit, or over any door or slot containing the card or cartridge.~~

~~(b)   The county must place a seal over each empty card or cartridge slot or door covering the area where the card or cartridge is inserted.~~

~~(c)   Before the start of voting and after the close of voting, two election officials must visually confirm that all seals are intact and that the seal numbers match those logged in the chain-of-custody log.~~

~~20.4.4~~ 20.4.2   ~~Memory cards and activation~~ ACTIVATION cards

(a)   The county must assign and securely affix a permanent unique identifier to each removable card or activation card. The county may use the manufacturer assigned serial number for this purpose.

(b)   The county must handle ~~memory cards and~~ activation cards in a secure manner at all times. The county must transfer and store any card or activation card ~~that is not sealed in a voting machine~~ in a secure container with at least one seal. Upon delivery and receipt, election judges or county personnel must verify, and indicate by signing and dating the chain-of custody log, that all seal numbers match those listed in the log.

(c)   The county must maintain a written or electronic log to record ~~memory card or~~ activation card seals and track seals for each voting unit.

(d)   The county must maintain a complete inventory of ~~memory cards and~~ activation cards, including which VSPC they are assigned to during an election. Before and

after a VSPC opens and closes each day, the supervisor judge must verify that all cards issued to the VSPC are present. If at any time the supervisor judge cannot account for all activation cards issued to the VSPC, the supervisor judge or a member of the county election staff must immediately submit an incident report to the Secretary of State under Rule 11.7.

Amendments to Rule 20.5:

20.5   Access to secure areas AND VOTING SYSTEMS

Permanent adoption of amendments to Rule 20.5.4 that were temporarily adopted on June 17:

20.5.4 Voting system access security

(a)   Except for voters using a voting system component to vote during an election, county clerks may not allow any person to access any component of a county's voting system unless that person has passed the background check required by this or any other rule or law, is performing a task permitted by the county clerk or the Office of the Secretary of State under statute or rule, and is:

(1)   An employee of the county clerk;

(2)   Appointed as an election judge by the county clerk in accordance with Article 6 of Title 1, C.R.S.;

(3)   An employee of the voting system provider for the county's voting system; or

(4)   An employee or designee of the Secretary of State.

(b)   All voting system provider employees who conduct work on any component of a county's voting system must complete a criminal background check prior to the employee's work with the voting system. The provider must affirm that the check was conducted in writing to the Secretary of State prior to the employee conducting any work. Any person convicted of an election offense or an offense with an element of fraud is prohibited from working on any component of a county's voting system.

(c)   All Secretary of State staff who conduct work on any component of a county's voting system must undergo a criminal background check prior to the staff's work with the voting system.

(d)   Any person convicted of an election offense or an offense with an element of fraud is prohibited from working on any component of a county's voting system.

(e)   Any violation of Rule 20 may result in the prohibition or limitation on the use of, as well as decertification of, a county's voting system or components in accordance with section 1-5-621, C.R.S., and Rule 21.7.3.

Amendments to Rule 20.7:

20.7   The county must keep all components of the voting system, ballots, servers, workstations, ~~DREs,~~ ballot scanners, BMDs, ~~VVPAT records,~~ and video data records in a temperature-controlled storage environment that maintains a minimum temperature of 50 degrees Fahrenheit and a maximum temperature of 90 degrees Fahrenheit. The storage environment must be dry with

storage at least four inches above the floor. The county must provide the Secretary of State with a description of the specific environment used for each type of component.

New Rule 20.9.4 concerning security cameras or other surveillance:

20.9.4 VIDEO FOOTAGE CREATED UNDER THIS RULE MUST BE MAINTAINED AS AN ELECTION RECORD UNDER SECTION 1-7-802, C.R.S.

Rule 20.10.4(c), concerning equipment maintenance procedures, is repealed:

(c) ~~If the maintenance was performed on a DRE, a minimum of five ballots must be cast on the device.~~

Amendments to Rule 20.11 including repeal of Rule 20.11.2 and necessary renumbering:

20.11 Transportation of equipment, ~~memory cards,~~ ballot boxes, and ballots

20.11.1 The county must submit detailed plans to the Secretary of State before an election regarding the transportation of equipment and ballots both to remote voting sites and back to the central elections office or storage facility. If there is any evidence of possible tampering with a seal, or if the seal numbers do not match those listed in the chain-of-custody log, the county clerk must be immediately notified and must follow the procedures specific to the incident as described in Rule 20.15. While the method of transportation of equipment may vary, the following standards apply:

(a) Transportation by county personnel. County personnel must at all times display identification provided by the County. Two employee signatures and date are required at the departure location verifying that the equipment, ~~including memory card or cartridge,~~ is sealed to detect tampering. Upon delivery of equipment, at least two election officials must verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact and that the seal numbers match the logged seal numbers.

(b) Transportation by election judges. Election officials that are receiving equipment must inspect all voting devices and verify the specific seal numbers by signature and date on the chain-of-custody log for the device.

(c) Transportation by contract. If a county contracts for the delivery of equipment to remote voting locations, each individual delivering equipment must successfully pass a criminal background check. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from handling or delivering voting equipment. Two election officials must verify the specific seal numbers by device, sign, and date the chain-of-custody log upon release of the equipment to the individuals delivering the equipment.

20.11.2 ~~Standards for transporting voting equipment to and from the voting location:~~

(a) ~~Required procedures if memory cards or cartridges are removed from voting devices at remote voting locations:~~

(1) ~~Before removing a memory card or cartridge, two election officials must inspect and verify that all seals on the device are intact and that the serial numbers on the seals match those listed on the chain-of-custody log. Both election officials must sign and date the chain-of-custody log before breaking the seal.~~

(2)   Election officials must place the memory cards or cartridges in a sealable transfer case and must seal the case. The election officials must maintain a chain-of-custody log for the transfer case of the memory cards or cartridges.

(3)   Election officials must place new seals over the empty memory card/cartridge slot and door and document the seal numbers used.

(4)   At least two election officials must accompany the transfer case to the processing location. The election officials who receive the equipment must verify, and indicate by signing and dating the chain-of-custody log, that the seals are intact and seal serial numbers match those listed in the log.

(5)   Election officials transporting secured voting equipment must maintain chain-of-custody logs.

(b)   Required procedures if devices are delivered with memory cards/cartridges intact:

(1)   Two election officials must verify that all seals are intact at the close of polls. Election judges must sign and date the chain-of-custody log with such indication.

(2)   At least two election officials must accompany the secured equipment to the drop-off location. The person receiving the equipment must verify the seals and sign and date the logs.

(3)   Upon confirmation that the seals are intact and bear the correct numbers, election officials must remove and upload the memory cards/cartridges into the central count system.

(4)   To secure the equipment, election officials must place a tamper-evident seal over the memory card slot and update the chain-of-custody log to reflect the new seal numbers.

[Not shown: renumbering Current Rules 20.11.3 and 20.11.4 to Rules 20.11.2 and 20.11.3]

Rule 20.13 is repealed:

20.13   Procedures for voter verifiable paper record (VVPAT). The following requirements apply only to DREs with a VVPAT.

20.13.1 Security. The VVPAT record is considered an official record of the election, in accordance with section 1-5-802, C.R.S.

(a)   The housing unit for any VVPAT record to be used in the election must be sealed and secured before any votes are cast for the election. Election officials must attest to the VVPAT record having no votes included on the paper record before the start of voting, and before the installation or replacement of a new VVPAT record. Documentation of the seal numbers must be maintained before voting and at the conclusion of voting.

(b)   If a DRE with VVPAT is used at a voter service and polling center, the seal numbers must be recorded at the beginning and end of each voting day.

(c) ~~At the close of the polls, the VVPAT records will be transferred to the election office in the same manner as any paper ballots. In the absence of paper ballots, the VVPAT records will be transferred to the election office in the same manner as memory cards.~~

Amendments to Rule 20.13.2 include repeal of Rules 20.13.2(c) and 20.13.3 and necessary renumbering:

~~20.13.2~~ 20.13   Anonymity. ~~The designated election official must implement measures to protect the anonymity of voters choosing to vote on DREs~~

~~(a)~~ 20.13.1   Measures to protect anonymity include:

~~(1)~~ (A)   The county may not keep any record indicating the order in which people voted on the BMD ~~DRE, or which VVPAT record is associated with the voter~~.

~~(2)~~ (B)   When more than one ~~DRE~~ BMD is available at a voting location, the county must, to the extent practicable, allow the voter to choose the ~~DRE~~ BMD they wish to vote on.

~~(b)~~ 20.13.2   The county clerk may not release a report generated from SCORE that includes a date and time stamp that could potentially identify a voter who cast a specific ballot.

~~(c)   At no time may an election official simultaneously access a VVPAT and the list of voters. If the VVPAT record requires inspection, at least two election officials must conduct the examination.~~

~~(d)~~ 20.13.3   The county must arrange voter service and polling center ~~DREs~~ BMDs in a manner that prevents election officials and other voters from observing how a ~~DRE~~ BMD voter marks or casts their ballot.

~~20.13.3 Storage. The storage of the VVPAT records must be consistent with storage of paper ballots under section 1-7-802, C.R.S.~~

~~(a)   Individual spools containing VVPAT records must contain the following catalog information affixed to the spool:~~

~~(1)   Date and name of election;~~

~~(2)   Name of voting location;~~

~~(3)   Dates and times of voting;~~

~~(4)   Machine serial number of DRE associated with the record; and~~

~~(5)   Number of spools associated with this machine for this election (i.e. "Spool 1 of 1", or "Spool 1 of 2", etc.).~~

~~(b)   Light sensitive storage containers must be used for the 25 month storage period to ensure the integrity of the VVPAT paper record. Containers must be sealed, with record of the seal numbers maintained on file and signed by two election officials.~~

20.14.2 Security training must include the following components:

(a)   Proper application and verification of seals and chain-of-custody logs;

(b)   How to detect tampering with voting equipment, memory cards, or election data on the part of anyone coming in contact with voting equipment, including election officials, vendor personnel, or voters;

(c)   Ensuring privacy in voting booths;

~~(d)   VVPAT requirements;~~

~~(e)~~ (D)   Chain-of-custody requirements for voting equipment, ~~memory~~ ACTIVATION cards, and other election materials;

~~(f)~~ (E)   Ballot security;

~~(g)~~ (F)   Voter anonymity; and

~~(h)~~ (G)   Recognition and reporting of security incidents.

20.15   Remedies

20.15.1 If a seal is broken, or there is another discrepancy, the election official must immediately notify the county, who must remedy the discrepancy as follows:

[No changes to (a) and (b)]

(c)   If the evidence indicates that the discrepancy occurred after votes were cast or printed on the device:

(1)   The county may not continue to use the machine until verification or reinstallation of trusted build and acceptance testing is complete.

(2)   The election officials must seal the device and securely deliver it to the county.

~~(3)   If the device is a DRE or ballot scanner:~~

~~(i)   The county must close the election on that device, and perform a complete manual verification of the paper ballots (or VVPAT records) to the summary tape printed on the device that represents the record of votes on the memory card.~~

~~(ii)   If the totals do not match then only the paper record will be accepted as the official results for that device. The county must re-seal and secure the device and immediately report the discrepancy to the Secretary of State. The county must not use the device for the remainder of the election unless the trusted build is reinstated.~~

           (iii) ~~If the totals match, the county may upload the memory card into the election management software at the close of polls.~~

           (iv) ~~After verifying the totals, the county must secure the paper records and memory card with seals and a chain-of-custody log.~~

    ~~(4)~~ (3) The county must verify the trusted build or the Secretary of State must reinstall trusted build. Where the county can display, verify, or print the hash value (MD5 or SHA-1) of the firmware or software, the county must document and verify that the hash value matches the documented alphanumeric string associated with the trusted build for the software or firmware of that device.

    ~~(5)~~ (4) The county must complete the necessary seal process and documentation to establish the chain-of-custody for the device ~~and memory card~~.

    ~~(6)~~ (5) The county must set the machine to election mode ready for a zero report before resuming voting on the device.

    ~~(7)~~ (6) Before certifying election results, the county must conduct a full (all contests) random audit on the device under Rule 25.3 and report results to the Secretary of State. This requirement is in addition to the post-election audit required by Rule 25.2 or 25.3.

Amendments to Rule 20.19.4, concerning voting systems conditions for use, including repeal of Rules 20.19.4(a) and (c):

20.19.4 ~~DREs~~

    ~~(a) The county's election judges must:~~

        ~~(1) Test the VVPAT printer immediately after changing the VVPAT paper; and~~

        ~~(2) Lock and re-seal the VVPAT canister, and make appropriate entries on the VVPAT chain-of-custody log, before voting resumes on the DRE.~~

    ~~(b)~~ At least one ~~DRE~~ BMD in each voter service and polling center must have a backup battery, or be connected to an uninterruptible power supply, sufficient to sustain continuous operation for a minimum of two hours in the event of power loss.

    ~~(c) The county must maintain logs indicating administrator function use.~~

Rules 20.19.5, 20.20, and 20.21 are repealed:

~~20.19.5 Ballot scanners:~~

    ~~(a) When issuing ballots, the county must provide in-person voters with a secrecy sleeve sufficient to conceal a voter's marked ballot from others in the polling location, including election officials.~~

    ~~(b) The county must record the ballot scanner serial number on all chain-of-custody logs and reports generated by the device.~~

(c)   Each ballot scanner must have a backup battery, or be connected to an uninterruptible power supply sufficient to sustain continuous operation for a minimum of two hours in the event of power loss.

(d)   The county must maintain logs indicating administrator function use.

(e)   The county must program each ballot scanner to permit an election judge to override rejection of overvoted ballots that cannot be duplicated in accordance with Rule 18.

20.20   ES&S voting system conditions

20.20.1 If the county must provide language minority assistance under section 203 of the Voting Rights Act (42 U.S.C. §§ 1973 to 1973bb-1), it may not use an ES&S voting system.

20.20.2 DREs. The county may only use the nine inch screen on the VVPAT.

20.20.3 For ballot scanners with a zip disk drive, the county must save the cast vote records for each batch of tabulated ballots to a zip disk. A batch of tabulated ballots may consist of one or more SCORE absentee ballot batches.

20.21   Hart DRE conditions. If a county shortens a lengthy candidate name on the VVPAT, it must provide printed notice of the change to voters at the voter service and polling center.

Amendments to Rule 21.3.5 concerning Voting System Standards for Certification, specifically application procedures:

21.3.5   The vendor must identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, Part 2, Article 72 of Title 24, C.R.S., together with a citation to the specific grounds for exemption before beginning Phase III V of the certification process.

Amendments to Rule 21.4.1:

21.4   Voting System Standards

21.4.1   The 2002 Voting Systems Standards are incorporated by reference. Material incorporated by reference in the Election Rules does not include later amendments or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Federal Election Commission, 999 E Street NW, Washington, DC, 20463, 800-424-9530. Copies are also available online at http://www.eac.gov/testing_and_certification/voluntary_voting_system_guidelines.aspx.

Amendments to Rule 21.4.5(f) concerning functional requirements:

(f)   All DRE or BMD voting devices must use technology providing visual or auditory ballot display and selection methods used by people with disabilities.

Amendments to Rule 21.4.11(g) concerning documentation requirements:

(g)   The voting system must include detailed documentation, which includes the location and a description of the content of the of audit trail information throughout the system. The audit information applies to:

(1)   Operating Systems (workstation, server, ballot scanner, AND BMD, and DRE);

(2)   Election management system; and

(3)   Election Tabulation Devices – ballot scanner and DRE.

Amendments to Rule 21.5.1, concerning testing preparation procedures, include: repeal of Rules 21.5.1(b)(4), (b)(6)(A-C), (b)(13) and (b)(16); New Rules 21.5.1(g), (h), and (i):

21.5.1   Voting system provider demonstration

(a)   The voting system provider must demonstrate the submitted voting system to the Secretary of State prior to any functional testing PRIOR TO CERTIFICATION OF THE VOTING SYSTEM.

(b)   The demonstration period does not have a predetermined agenda for the voting system provider to follow; however, presentations should be prepared to address and demonstrate the following items as they pertain to each area and use within the voting system, if applicable:

(1)   System overview;

(2)   Verification of complete system matching EAC certification THE APPLICATION FOR CERTIFICATION OF A VOTING SYSTEM;

(3)   Ballot definition creation;

(4)   Printing ballots on demand;

(5) (4)   Hardware diagnostic testing;

(6) (5)   Programming election media devices; for various counting methods including:

(A)   Mail ballots;

(B)   In-person ballots; and

(C)   Provisional ballots;

(7) (6)   Sealing and securing system devices;

(8) (7)   Logic and accuracy testing;

(9) (8)   Processing ballots;

(10) (9) Accessible use, INCLUDING A FULL DEMONSTRATION OF ALL FUNCTIONALITY USING ACCESSIBLE VOTER INTERFACE DEVICES AND THE AUDIO BALLOT;

(11) (10)   Accumulating results;

(12) (11)   Post-election audit;

(13)   Canvass process handling;

(14) (12)   Audit steps and procedures throughout all processes; AND

(15)   Certification of results; and

(16) (13)   Troubleshooting.

(c)   At the time of application, the voting system provider must arrange a time with the Secretary of State to access the demonstration room to setup the voting system IF THE DEMONSTRATION IS TO BE IN-PERSON.

(d)   A maximum of one business day is normally allowed for the A IN-PERSON demonstration. If the voting system provider requests more time for the demonstration or, if the Secretary of State finds that the complexity of the system is such that more time is needed for a demonstration, more time may be granted.

(e)   The AN IN-PERSON demonstration will be open to representatives of the press and the public to the extent allowable. The Secretary of State may limit the number of representatives from each group to accommodate space.

(f)   The Secretary of State will post notice of the fact that the IN-PERSON demonstration will take place in the designated public place for posting such notices for at least seven days prior to the demonstration. The notice must indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.

(G)   THE SECRETARY OF STATE MAY ALLOW A VIRTUAL DEMONSTRATION IN LIEU OF THE IN-PERSON DEMONSTRATION. A VIRTUAL DEMONSTRATION MAY BE LIVESTREAMED OR A SUBMITTED VIDEO.

(H)   IF THE SECRETARY OF STATE ALLOWS A LIVESTREAM VIRTUAL DEMONSTRATION IN LIEU OF AN IN-PERSON DEMONSTRATION, THEN THE SECRETARY WILL POST NOTICE OF THE LIVESTREAM DEMONSTRATION AT LEAST SEVEN DAYS PRIOR TO THE DEMONSTRATION. THE NOTICE MUST INDICATE THE TIME AND LINK FOR THE DEMONSTRATION.

(I)   IF THE SECRETARY OF STATE ALLOWS A SUBMITTED VIDEO DEMONSTRATION IN LIEU OF AN IN-PERSON DEMONSTRATION, THEN THE SECRETARY OF STATE WILL POST NOTICE AND PROVIDE A LINK TO THE SUBMITTED VIDEO PRIOR TO CERTIFICATION OF THE VOTING SYSTEM.

Permanent adoption of amendments to Rule 21.7.3 that were temporarily adopted on June 17:

21.7.3   The Secretary of State may investigate a complaint filed by any person, and, upon any findings as outlined in (a) through (e) below, may prohibit, limit or decertify use of a voting system, in whole or in part. An investigation by the Office of the Secretary of State may include, but is not limited to, the review or inspection of the voting system component at issue.

(a)   Any person installed any uncertified or decertified voting system component;

(b)   A county breaks the chain-of-custody for any component of a voting system by allowing any individual not authorized by Rule 20.5.4 access to that component;

(c)　　A county submits an incident report regarding a component of a voting system and the Secretary of State finds that the chain-of-custody cannot be reestablished securely;

(d)　　A component of a voting system experiences repeated hardware failures or malfunctions of a similar nature; or

(e)　　The Secretary determines that the integrity or security of a voting system component cannot be verified and that chain-of-custody cannot be reestablished securely.

Permanent adoption of amendments Rule 21.7.4 that was temporarily adopted on June 17:

21.7.4　The Secretary of State will notify a county of the prohibition or limitation on use or decertification of a component of a voting system under Rule 21.7.3 and the county must immediately cease using that component.

Permanent adoption of the renumbering edit (former Rule 21.7.4 is renumbered as Rule 21.7.5) that was temporarily adopted on June 17. Additional proposed revisions follow:

21.7.5　In accordance with section 1-5-621, C.R.S., the Secretary of State will hold a public hearing to consider the decision to decertify a voting system IF A POLITICAL SUBDIVISION OR PROVIDER OF A VOTING SYSTEM THAT IS DECERTIFIED HAS REQUESTED IN WRITING THAT THE SECRETARY OF STATE RECONSIDER.

New Rule 21.7.6:

21.7.6　IF ANY VOTING SYSTEM CURRENTLY CERTIFIED IN COLORADO IS NOT USED BY ANY POLITICAL SUBDIVISION FOR TWO CONSECUTIVE GENERAL ELECTIONS, THE SYSTEM MAY BE DECERTIFIED FOR USE.

Amendments to Rule 21.10.1 and 21.10.2:

21.10　Escrow of voting system software and firmware by voting system provider. The voting system provider must meet the requirement for software escrow per the following:

21.10.1 The voting system provider must place in escrow a copy of the election management software, firmware, and supporting documentation being certified with ~~either the Secretary of State or~~ an independent ~~escrow~~ agent approved by the Secretary of State. ~~[Section 1-7-511, C.R.S.]~~

21.10.2 Within ten days of the voting system provider receiving notification of ~~examination of voting equipment as part of~~ the certification ~~process~~, the voting system provider must arrange for the completion of escrow requirements as indicated by this Rule.

Amendments to Rule 21.10.12:

21.10.12　　Copies of electronic media and supporting documentation for escrow within the Secretary of State will be sent to:

Colorado Secretary of State
Attn: Voting Systems
1700 Broadway – Suite ~~200~~ 550
Denver, CO 80290

23.1.3 Meetings

(a)   The Commission must meet no fewer than three times annually.

(b)   The meetings will be held at the office of the Secretary of State, ~~or~~ regional locations throughout the state, OR VIRTUALLY as the Commission determines appropriate.

[No changes to (c) and (d)]

24.3.3 Nominees to fill vacancies must be selected in accordance with section 1-4-302 (2), C.R.S. ~~There must be more vacancy nominees than vacancies to be filled~~.

25.1.7 "Risk-limiting audit" or "RLA" means a post-election audit of votes on paper ballot cards ~~and VVPAT records,~~ conducted in accordance with section 1-7-515, C.R.S., and Rule 25.2, which has a pre-specified minimum chance of requiring a full hand count if the outcome of a full hand count would differ from the reported tabulation outcome.

(d)   Ballot manifest. The county must maintain an accurate ballot manifest in a form approved by the Secretary of State and independent of the voting system.

(1)   ~~In the case of centrally counted paper ballots, the~~ THE ballot manifest must uniquely identify for each tabulated ballot the scanner on which the ballot is scanned, the ballot batch of which the ballot is a part, the number of ballot cards in the batch, and the storage container in which the ballot batch is stored after tabulation. The county must secure and maintain in sealed ballot containers all tabulated ballots in the batches and order they are scanned. The county must maintain and document uninterrupted chain-of-custody for each ballot storage container.

(2)   ~~In the case of paper ballots scanned on polling location scanners, and electronic ballots cast on DREs, the ballot manifest must uniquely identify the device on which the ballot is cast or tabulated, the number of ballots or ballot cards cast or tabulated on the device, and the storage container or location in which the paper ballots or VVPAT is stored. The county must maintain and document uninterrupted chain-of-custody for each polling location scanner, DRE, and VVPAT, and all ballots cast on an individual polling location scanner or DRE must constitute a single batch.~~

(e)   RLA tabulation. On the ~~ninth~~ TENTH day after election day, the county must finish tabulating all in-person and accepted mail ballots cast by voters registered in the county. The county may but is not required to include in the RLA tabulation any provisional ballots and property owner ballots that have been verified and accepted on or before the ninth day after election day. Immediately after

completing the RLA tabulation, and to the extent permitted by its voting system, the county must also generate and preserve:

(1) A summary results report, showing overvotes, undervotes, blank-voted contests, and valid write-in votes;

(2) A results file export suitable for uploading to the Secretary of State's election night reporting system; and

(3) A CVR export.

(f) CVR export verification. Counties conducting a comparison audit must verify that:

(1) The number of individual CVRs in its CVR export equals the aggregate number of ballot cards reflected in the county's ballot manifest as of the ~~ninth~~ TENTH day after election day; and

(2) The vote totals for all choices in all ballot contests in the CVR export equals the vote totals in the summary results report for the RLA tabulation.

(3) After verifying the accuracy of the CVR export, the county must apply a hash value to the CVR export file using the hash value utility provided by the Secretary of State.

(g) Comparison audit uploads. No later than 5:00 p.m. MT on the ~~ninth~~ TENTH day after election day, each county conducting a comparison audit must upload:

(1) Its verified and hashed ballot manifest, and the ballot manifest's hash value, to the Secretary of State's office;

(2) Its verified and hashed CVR export, and the CVR export's hash value, to the Secretary of State's office; and

(3) Its RLA tabulation results export to the Secretary of State's election night reporting system.

(h) Ballot polling audit uploads. No later than 5:00 p.m. MT on the ~~ninth~~ TENTH day after election day, each county conducting a ballot polling audit must submit or upload:

(1) Its verified and hashed ballot manifest, and the ballot manifest's hash value, by email to the Secretary of State's office;

(2) Its cumulative tabulation report, by email to the Secretary of State's office; and

(3) Its RLA tabulation results export to the Secretary of State's election night reporting system.

(i) Random seed. The Secretary of State will convene a public meeting on the ~~tenth~~ THIRTEENTH day after election day to establish a random seed for use with the Secretary of State's RLA tool's pseudo-random number generator based on Philip Stark's online tool, *Pseudo-Random Number Generator using SHA-256*. This material is incorporated by reference in the Election Rules and does not

include later amendments or editions. The following material incorporated by reference is posted on the Secretary of State website and available for review by the public during regular business hours at the Colorado Secretary of State's office: *Pseudo-Random Number Generator using SHA-256* available at https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html. The Secretary of State will give public notice of the meeting at least seven calendar days in advance. The seed is a number consisting of at least 20 digits, and each digit will be selected in order by sequential rolls of a 10-sided die. The Secretary of State will randomly select members of the public who attend the meeting to take turns rolling the die, and designate one or more staff members to take turns rolling the die in the event that no members of the public attend the meeting. The Secretary of State will publish the seed on the Audit Center immediately after it is established.

[No changes to (j) and (k)]

(l)   Random selection of ballot cards for audit. The Secretary of State will randomly select the individual ballot cards to audit. The Secretary of State will use a pseudo-random number generator with the seed established under subsection (h) of this Rule to identify individual ballot cards as reflected in the county ballot manifests. The Secretary of State will notify each county of, and publish on the Audit Center, the randomly selected ballot cards that each county must audit no later than 11:59 p.m. MT on the ~~tenth~~ THIRTEENTH day after election day.

Amendments to Rule 25.2.3(a) concerning conducting the audit:

(a)   ~~The~~ AT LEAST TWO MEMBERS OF DIFFERENT PARTIES OF THE audit board must locate and retrieve, or observe the location and retrieval by county election staff, ~~each~~ OF THE randomly selected ballot card ~~or VVPAT record~~ from the appropriate storage container. The audit board must verify that the seals on the appropriate storage containers are those recorded on the applicable chain-of-custody logs.

[No changes to (a)(1) and (2)]

Repeal of Rule 25.3:

~~25.3   Random Audit. If the Secretary of State waives the requirement to conduct an RLA under section 1-7-515(2)(b), C.R.S., the designated election official must conduct the random audit mandated by sections 1-7-509(1)(b) and 1-7-514, C.R.S., in accordance with this rule.~~

~~25.3.1   Selected voting devices~~

~~(a)   No later than 48 hours after the close of polls on election night, the Secretary of State must notify the designated election official of the voting devices randomly selected for audit, based on the submitted hardware inventory list referred to in Rule 11.2.~~

~~(b)   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 DREs.~~

~~25.3.2   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.~~

25.3.3   Number of ballots to audit

    (a)   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.

    (b)   Electronic ballots tabulated on DREs. The board must audit all ballots tabulated on the selected DREs.

25.3.4   Conducting the audit

    (a)   Paper ballots tabulated on ballot scanners

        (1)   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.

        (2)   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:

            (A)   Reset the selected ballot scanner's results to zero and generate a zero report;

            (B)   Rescan the randomly selected ballots for audit and generate a tabulation report from the selected ballot scanner; and

            (C)   Manually verify that the votes on the randomly selected ballots match the tabulation report for those ballots generated from the selected ballot scanner.

    (b)   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.

25.3.5   If the board discovers discrepancies during the audit, the board must:

    (a)   Confirm that the manual count of the votes contained in the audited ballots is correct;

    (b)   Confirm that the manual count of the votes contained in the audited ballots properly reflects overvotes, stray marks on the ballot, and other indications of voter intent;

    (c)   Determine whether any discrepancy is attributable to a damaged ballot; and

(d)   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.

25.3.6 The designated election official must report the results of the audit in writing to the Secretary of 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:

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

(b)   The number of ballots originally counted on each device or the number of ballots audited;

(c)   The count of the specific contests on the summary report printed at the close of polls and the report generated for the audit;

(d)   The count of the specific contests as manually verified;

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

(f)   The signatures of the audit board, the canvass board members who observed the audit, and the designated election official.

25.3.7 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.

[Not shown: renumbering Current Rule 25.4 to Rule 25.3]

Repeal of Rule 27 placeholder and publication annotation:

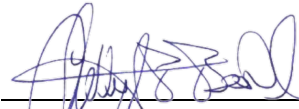**Rule 27.   [Emergency rule expired 01/02/2021]**

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

II.   Effective Date of Adopted Rules
The rules will become permanently effective twenty days after publication in the Colorado Register.[5]

Dated this 26th day of August, 2021,

Christopher P. Beall
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State

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[5] Section 24-4-103(5), C.R.S. (2020).

STATE OF COLORADO
Department of State
1700 Broadway, Suite 550
Denver, CO 80290

Jena M. Griswold
Secretary of State
Christopher P. Beall
Deputy Secretary of State

Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State
Rules Concerning Elections
8 CCR 1505-1

August 26, 2021

I.   Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The Secretary adopted amendments 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.

Specific changes include:

- Amendments under Rule 1 concerning definitions:

  o Repeal of Current Rule 1.1.19 which defines Direct Recording Electronic (DRE) voting devices. Direct Recording Electronic voting devices are no longer certified for use in Colorado and are not used in any county in the state. References to these kinds of voting devices are being removed throughout these rules.

  o Repeal of Current Rule 1.1.26(b) removes reference to a DRE under the definition of "electronic ballot".

  o Repeal of Current Rule 1.1.48 which defines Voter Verifiable Paper Audit Trail (VVPAT) is necessary because as used in these rules, VVPATs are paper records that were produced exclusively by DREs. DREs are no longer certified for use in Colorado, so VVPATs also are no longer used in Colorado. References to this kind of paper record are being removed throughout these rules.

  o Other amendments to definitions involve technical and renumbering edits. Additional election rules are amended to remove references to DRE and VVPAT throughout 8 CCR 15051.

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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/TTY	(303) 869-4867
Administration	(303) 860-6900		Website	www.sos.state.co.us
Fax	(303) 869-4860		E-mail	administration@sos.state.co.us

- Amendments under Rule 2 concerning voter registration and registration records.

  o New Rule 2.12.3 is necessary to clarify how major political parties should receive confidential voter records for their precinct caucuses.

  o Amendments to Rule 2.13.2 and New Rule 2.13.3 are necessary to reflect current practice. Records have been cancelled under Section 1-2-605(7), C.R.S., centrally by the Secretary of State since 2018. After cancellation the Secretary of State notifies each county of the records that have been cancelled. County clerks will still be responsible for conducting regular list maintenance, such as voter moves, inactivation, and cancellation due to death or incarceration.

  o Amendments to Current Rule 2.13.3 include renumbering to Rule 2.13.4. Amendments to this section are necessary to ensure proper administration of mail ballot elections statewide. This rule change will help to ensure that the voter registration database remains as up to date as possible, particularly when an election is near.

  o Repeal of Current Rule 2.13.5 is necessary to ensure proper administration of mail ballot elections statewide. County clerks now send all confirmation card correspondence through SCORE, which allows the voter record status for each record to be more easily maintained. As a result, this rule is no longer needed.

  o New Rule 2.15.7 is necessary to ensure that information regarding potential criminal activity is given to the state level officials who may wish to coordinate an investigation with the Attorney General's office. The Attorney General, along with local District Attorneys, has concurrent jurisdiction to investigate and prosecute criminal activity under Article 13 of Title 1.

  o Amendments to Rule 2.18 conform election rules to changes made in SB 21-250.

  o Amendments to Rule 2.19. The current rule was codified in state law in SB 21-250 and as a result is no longer needed. The amendments made are necessary to implement other changes made in SB 21-250 related to notification to students at state institutions of higher education.

- Amendments under Rule 6 concerning election judges and judge training.

  o Amendments to Rule 6.1.3 ensure proper administration of mail ballot elections statewide. Notifying the Secretary of State of the need to consider a supplemental list is not necessary for counties to work with their local county parties.

  o Amendments to Rule 6.8 clarify how signature verification judges may be trained. The current rule leaves ambiguity regarding how often a county-created signature verification training must be reviewed by the Secretary of State.

- Amendments under Rule 7 concerning mail ballot election administration generally.

o   Amendments to Rule 7.1.1 conform election rules to changes made in SB 21-250.

o   Amendments to Rule 7.2.6 ensure proper administration of mail ballot elections statewide. This rule change is intended to help voters understand their responsibilities when returning their mail ballot.

o   Amendments to Rule 7.2.7 ensure proper administration of mail ballot elections statewide. This rule change is intended to help voters return their ballot in the correct return envelope.

o   New Rule 7.2.17 ensures proper administration of mail ballot elections statewide by protecting the right to a secret ballot.

o   Repeal of Current Rules 7.3.2 through 7.3.5 and adding New Rule 7.3.2 and 7.3.3 to reflect the current practice for the delivery of emergency ballots under Section 1-7.5-115, C.R.S.

o   Repeal of Rule 7.4. This rule was codified in state law in SB 21-250 and as a result is no longer needed.

o   Amendments to Rule 7.5.10, including renumbering as Rule 7.4.10. Amendments are necessary to ensure proper administration of mail ballot elections statewide. This amendment clarifies that the county clerk must inform the district attorney's office in the event that a person delivers more than 10 ballots in an election, but must otherwise accept the ballots delivered by the person for regular processing.

o   Amendments to Rule 7.7, including renumbering as Rule 7.6, to conform election rules to changes made by SB 21-188.

o   Amendments to Rule 7.8, including renumbering as Rule 7.7, to ensure proper administration of mail ballot elections statewide by conforming current rules regarding signature verification to 1-7.5-107.3, C.R.S.

o   Amendments to Rule 7.8.11, including renumbering as Rule 7.7.11, to further establish procedures for using and testing signature verification devices to process ballots used in mail ballot elections.

o   Amendments to Rule 7.9, including renumbering as Rule 7.8, to remove a duplicative rule, references to DREs, and references to stations and areas at a VSPC which are no longer used in Colorado elections.

o   Amendments to Rule 7.9.9, including renumbering as Rule 7.8.9, to clarify that county wait time data is due no later than 30 days after the election.

o   Amendments to Rule 7.12, including renumbering as Rule 7.11, to clarify changes made in SB 21-250 regarding the collection of cure letters at VSPCs.

- Amendments under Rule 8 regarding watchers.

- Amendments to Rule 8.10.2(a)(4) and Repeal of Current Rule 8.13 to ensure proper administration of mail ballot elections statewide by conforming current rules regarding signature verification to Section 1-7.5-107.3, C.R.S. Statute currently does not allow a watcher to be directly involved in the acceptance or rejection of a ballot envelope signature. That has necessitated this rule change.

- Amendments to Rule 8.15 and 8.16, including renumbering as Rule 8.14 and New Rule 8.14.12 to ensure proper administration of mail ballot elections statewide by clarifying the duties and responsibilities of watchers.

• Amendments under Rule 9 regarding challenges.

- Amendments to Rule 9.1.1 ensure proper administration of elections statewide by clarifying the process by which in-person challenges should be processed.

- Amendments to Rule 9.2 including New Rules 9.2.1, 9.2.2(a)(1-4), 9.2.2(b)(1-4), 9.2.3, 9.2.4; Repeal of current Rule 9.2.2 to ensure proper administration of elections statewide by clarifying the process by which mail ballot challenges should be processed. Amendments to conform election rules to changes made by SB 21-250.

• Amendments to Rule 10 regarding canvassing and recount procedures.

- Amendments to Rule 10.1.5, Amendments to Rule 10.3, including repeal of Current Rule 10.3.3, and Amendments to Rule 10.5.1 including repeal of Rules 10.5.1 (g) and (h) to establish equitable uniformity in the operation of canvass boards by aligning current election rules with the canvass board's duties under statute.

- New Rule 10.6.3 establishes equitable uniformity in the operation of canvass boards by clarifying when a canvass board must forward an uncertified abstract of votes cast to the Secretary of State for consideration under Section 1-10-104, C.R.S.

- Amendments to Rule 10.8.2 establish equitable uniformity in the operation of canvass boards by allowing any canvass board member to request the guidance of the Secretary of State in performing their duties.

- Repeal of Rule 10.12.3 to remove references to DRE and VVPAT.

- Repeal of Rules 10.13.4 and 10.13.6 to remove references to DRE and other technology no longer in use in Colorado.

• Amendments to Rule 11 regarding risk-limiting audits, voting systems and election night reporting.

- Amendments to Current Rules 11.3.2(d)(2) and (d)(4)(A)(i); repeal of Current Rule 11.3.2(d)(4)(B) to remove references to DRE and other technology no longer in use in Colorado.

- Repeal of Rule 11.8.2 and amendments to Rule 11.8.3 (renumbered as Rule 11.8.2), to remove rules that are no longer applicable in Colorado. There are no counties in the State of Colorado using voting systems certified for use prior to January 1, 2016.

- Amendments to Rule 11.9.1(b)(3) and repeal of Rule 11.9.1(b)(4) to remove references to technology no longer in use in Colorado.

- Amendments to Rule 11.10.1 update the Colorado Secretary of State office address.

- Amendments under Rule 15 regarding the submission and review of petitions.

  - Repeal of Current Rule 15.1.1(d) and New Rule 15.1.1(d) to conform current election rules to changes made by SB 21-250 and to clarify the information required to be filed by a petition proponent with the Secretary of State.

  - Amendments to Rule 15.1.2

    - Portions of Current Rules 15.4.3, 15.4.5, and 15.4.6 are amended and re-codified under Rule 15.1.2. Amendments made to these sections have also been made to conform election rules to changes in law made in SB 21-250. Amendments made to bring consistency and clarity to the examination and verification of candidate, recall, and petition signatures.

    - Amendments to Rule 15.1.3(c) to conform election rules to changes made in law in SB 21-250.

    - Amendments to Rules 15.1.4(d) and (e) including repeal of Rule 15.1.4(d)(5); New Rules 15.1.4(e)(4), (6), (8), and (9); to conform election rules to changes in law made in SB 21-250. Amendments and additions also made to bring consistency and clarity to the examination and verification of candidate, recall, and petition signatures.

    - Amendments to Rule 15.2 including New Rules 15.2.1(c), 15.2.1(d)(3) to help enforce the provisions of Sections 1-4-905.5 and 1-40-135, C.R.S. and to conform election rules to changes made in law in SB 21-250.

    - Amendments to Rules 15.3.2, Repeal of Rule 15.3.3 and Rule 15.6 to conform election rules to changes made in law in SB 21-250.

- Amendments under Rule 16 regarding Military and Overseas Voters under UOCAVA (Uniformed and Overseas Citizens Absentee Voting Act)

- o Amendments to Rule 16.2.2, including new Rule 16.2.2(a). These changes are made to reflect current practice for delivery of electronic ballots to Military and Overseas Voters.

- o Repeal in part under Rule 16.2.7(b) to clarify the methods by which counties must provide UOCAVA voters the opportunity to receive an electronic ballot.

- Amendments to Rule 18.4.1 to ensure proper administration of elections statewide by clarifying the process for ballot duplication.

- Amendments under Rule 20 regarding voting systems. These rule changes are necessary to ensure the security of voting systems used in Colorado.

  - o Amendments to Rule 20.4 including repeal of Current Rules 20.4.1(a), 20.4.2, 20.4.3 to remove references to DRE, VVPAT, and ballot scanners at polling locations which are no longer used in Colorado.

  - o Permanent adoption of temporary Rules 20.5.4. (temporarily adopted on June 17, 2021; e-filed under CCR tracking #2021-00378).

    - The rules only allow individuals from the county clerk's office, elections judges, Department of State employees, or employees of the voting system provider to access any component of the voting system. Those individuals must be background checked and be performing a task permitted by the clerk or Secretary of State under statute or rule.

    - Limiting access to the voting system and its components is necessary to protect the chain-of-custody of those systems. The Secretary of State and county clerks around the state have received solicitations and requests for unaccredited third parties to access these systems. In one recent instance, evidence revealed that someone who was not authorized under this rule to access a voting system was given access, further illustrating the need to adopt these rule changes on a permanent basis.

    - For more information and background on the reasons and necessity for this rule, see the supplemental comment submitted by the Department of State for this rulemaking, which can be found at: https://www.sos.state.co.us/pubs/rule_making/written_comments/2021/20210810SupplementalSubmissionSecretaryOfState.pdf

  - o Amendments to Rule 20.7 to remove references to DRE and VVPAT.

  - o New Rule 20.9.4 to clarify that security camera footage should be retained as an election record following an election.

  - o Repeal of Rule 20.9.4(c) to remove a reference to DRE.

- Amendments to Rule 20.11 including repeal of Rule Current 20.11.2 to remove references to memory cards and the procedures for handling that technology. This voting technology is no longer used or certified for use in Colorado. These changes do not remove chain-of-custody and secure transportation requirements for any voting equipment currently in use in Colorado.

- Repeal of Rule 20.13 to remove references to DRE and VVPAT.

- Amendments to Current Rule 20.13.2, including renumbering as Rule 20.13 and repeal of Rules 20.13.2(c) and 20.13.3 to remove references to DRE and VVPAT.

- Amendments to Rule 20.14.2 including repeal of Rule 20.14.2(d) to remove a reference to VVPAT.

- Amendments to Rule 20.15.1(c), including repeal of Rule 20.15.1(c)(3) to remove references to DREs, VVPAT, and ballot scanners that are no longer in use in Colorado.

- Amendments to Rule 20.19.4, including repeal of Rules 20.19.4(a) and (c) to remove references to DREs, VVPAT, and procedures related to those voting systems.

- Repeal of Rules 20.19.5, 20.20, and 20.21 to remove references to technology which is no longer certified for use in Colorado. These changes do not remove chain-of-custody or ballot secrecy requirements for any voting equipment or procedures currently in use in Colorado.

- Amendments under Rule 21 regarding voting systems certification

  - Amendments to Rule 21.3.5 clarify the timing for one step in the certification of a voting system.

  - Amendments to Rule 21.4.1 to remove a web link which is no longer operable.

  - Amendments to Rule 21.4.5(f) to remove a reference to DREs.

  - Amendments to Rule 21.5.1, include: repeal of Rules 21.5.1(b)(4), (b)(6)(A-C), (b)(13) and (b)(16); New Rules 21.5.1(g), (h), and (i) to update standards for certification of electronic or electromechanical voting systems. These updates are being made to ensure that new technologies submitted for certification meet the requirements set out in law and rule for certification and that those technologies are certified in a timely manner.

  - Permanent adoption of temporary Rule 21.7.3 and renumbering of former Rule 21.7.4 to Rule 21.7.5. (temporarily adopted on June 17, 2021; e-filed under CCR tracking #2021-00378).

- These rule changes are necessary to ensure that the voting systems currently in use in Colorado are secure. The rules establish the actions the Department of State may take in the event that security a voting system or its component parts cannot be verified. Those actions include prohibiting, limiting, or decertifying the use of a voting system in a county in whole or in part.

- The Secretary of State and county clerks around the state have received solicitations and requests for unaccredited third parties to access Colorado's voting systems which would break the chain of custody for those systems. In one recent instance, evidence revealed that someone who was not a clerk employee was given access to these systems, which prompted the Department of State to prohibit the use of those systems whose integrity and security could not be verified. Both the requests and this particular situation further illustrate the need to adopt these rule changes on a permanent basis.

- For more information and background on the reasons and necessity for this rule, see the supplemental comment submitted by the Department of State for this rulemaking, which can be found at: https://www.sos.state.co.us/pubs/rule_making/written_comments/2021/20210810SupplementalSubmissionSecretaryOfState.pdf

- Amendments to Rule 21.7.5 and New Rule 21.7.6 clarify requirements for decertification of a voting system under Section 1-5-621, C.R.S.

- Amendments to Rule 21.10.1 and 21.10.2 to update standards for certification of electronic or electromechanical voting systems.

- Amendments to Rule 21.10.12 to update the Colorado Secretary of State office address

- Amendments to Rule 23.1.3 to allow the Bipartisan Election Advisory Commission to meet virtually, as well as in person.

- Amendments to Rule 24.3.3 to clarify the requirements for the appointment of replacement presidential electors.

- Amendments under Rule 25 regarding risk-limiting audits.

- Amendments to Rule 25.1.7 to remove a reference to VVPAT records.

- Amendments to Rules 25.2.2(d-i) and (l) including repeal of Rule 25.2.2(d)(2) to remove references to DREs and VVPAT. Amendments are also being made to change the post-election timeline for conducting a risk-limiting audit.

- Amendments to Rule 25.2.3(a) to clarify the procedures required to be followed by the audit board during a risk-limiting audit.

- o Repeal of Rule 25.3 to remove a reference to random audits which are no longer permitted under Colorado law. Colorado counties are required by statute to conduct a post-election risk-limiting audit instead of a random audit.

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.

Written comments received during the formal rulemaking are available online at: https://www.sos.state.co.us/pubs/rule_making/hearings/2021/ElectionsRulesHearing20210803.html. All comments are incorporated into the official rulemaking record.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

- Senate Bill 21-188; enacted May 21, 2021 and Senate Bill 21-250; enacted June 21, 2021.

- Section 1-1-107(2)(a), C.R.S., (2020), 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."

- Section 1-1-109(3), C.R.S., (2020), which requires the Secretary of State "to promulgate rules…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."

- Section 1-1-110(1), C.R.S., (2020), which requires county clerks to, "follow the rules and order promulgated by the secretary of state pursuant to this code."

- Section 1-1.5-104(1)(e), C.R.S., (2020), which gives the Secretary of State the power to "[p]romulgate rules…as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of [Article 1.5]."

- Section 1-4-101(2)(c), C.R.S., (2020), which allows the Secretary of State to adopt rules "necessary to avoid voter confusion in voting in primary elections."

- Section 1-4-908(1.5)(b)(III), C.R.S., (2020), which authorizes the Secretary of State to "promulgate rules, in accordance with article 4 of title 24, to implement [review of candidate petition signatures]."

- Sections 1-4-1203 (4)(d) and (6), C.R.S., (2020), which allows the Secretary of State to adopt rules "necessary to avoid voter confusion in voting in presidential primary elections."

- Section 1-5-608.5(3)(b), C.R.S., (2020), which allows the Secretary of State to "promulgate conditions of use in connection with the use by political subdivisions of electronic and electromechanical voting systems as may be appropriate to mitigate deficiencies identified in the certification process."

- Section 1-5-616(1), C.R.S., (2020), which requires the Secretary of State to adopt rules "that establish minimum standards for electronic and electromechanical voting systems." This includes the authority to adopt rules regarding "security requirements" for those voting systems.

- Section 1-5-616(4), C.R.S., (2020), which requires the Secretary of State to "adapt the standards for certification of electronic or electromechanical voting systems established by rule . . . to ensure that new technologies that meet the requirements for such systems are certified in a timely manner…"

- Section 1-5-706, C.R.S., (2020), which requires the Secretary of State to "establish procedures to enable a voter with a disability to independently and privately mark a ballot . . . The procedures shall include a method, to be determined by the secretary of state, by which a voter with a disability may request such a ballot."

- Section 1-7-511(4), C.R.S., (2020), which requires the Secretary of State to adopt rules "prescribing the manner and procedures that voting system providers shall follow to [escrow voting system software certified for use]"

- Section 1-7-512(2), C.R.S., (2020), which requires the Secretary of State to promulgate rules establishing procedures for voting system providers to: notify the Secretary of State of changes to software; place software in escrow; and notify the Secretary of State and designated election official of any defect in the system.

- Section 1-7-515(4), C.R.S., (2020), which requires the Secretary of State to promulgate rules "necessary to implement and administer," risk-limiting audits.

- Section 1-7.5-105(2)(c), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules "concerning the submission and approval of election plans."

- Section 1-7.5-106(2), C.R.S., (2020), which allows the Secretary of State to adopt rules "governing procedures and forms necessary to implement" mail ballot elections.

- Section 1-7.5-107(6), C.R.S., (2020), which requires that mail ballots be counted as provided in "rules promulgated by the secretary of state."

- Section 1-7.5-107.3 (5) and (6), C.R.S., (2020), which requires the secretary of state to adopt rules "establishing procedures for using signature verification devices to process ballots used in mail ballot elections."

- Section 1-7.5-115(4)(d), C.R.S., (2020), which allows the secretary of state to prescribe by rule, "any procedures or requirements as may be necessary to implement [emergency ballot voting]."

- Section 1-8.3-104(3), C.R.S., (2020), which authorizes the secretary of state to establish an electronic transmission system through which a UOCAVA voter may apply for and receive ballots and other associated materials.

- Section 1-9-210, C.R.S., (2020), which requires notification of a challenge to be delivered to an elector, "in accordance with the rules of the secretary of state."

- Section 1-10-104.5, C.R.S., (2020), which requires the Secretary of State to promulgate rules, "for the purpose of establishing equitable uniformity in the appointment and operation of canvass boards."

- Section 1-10.5-102(3)(c), C.R.S., (2020), which requires the Secretary of State to promulgate rules to administer and enforce any requirement of the recount statute.

- Section 1-40-116(3), C.R.S., (2020), which allows the Secretary of State to adopt rules for the examination and verification of signer lines on an initiative petition.

- Section 1-40-132(1), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules as may be necessary, "to administer and enforce any provision of this article that relates to initiated or referred measures and state constitutional amendments."