

COLORADO SECRETARY OF STATE

8 CCR 1505-1

ELECTION RULES

Preliminary Draft of Proposed Rules

June 15, 2007

Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

A final copy of the proposed rule changes will be available to the public no later than August 2, 2007, and a copy will be posted on the Department of State's web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that "[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing."

Proposed additions to the current rules are reflected in SMALL CAPS or underlined. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.

1

2 Rule 2 would be amended as follows

3 **Rule 2. Rules Concerning Voter Registration**

4

5 2.1 All requests for lists, printouts, disks, tapes, and other media shall be made in writing.

6 2.2 After a receipt of request, the fee for providing the information shall be determined. The
7 fee must be paid prior to the request being filled.

8 2.3 Emergency Registration Application. Prior to the implementation of the statewide voter
9 registration database, when an elector completes an emergency registration application
10 pursuant to section 1-2-217.5 (1)(b), C.R.S., the elector shall be required to present one of
11 the forms of identification set forth in Rule ~~2-7-30.1.6~~.

12 2.4 Confidentiality of Agency in Voter Registration. For Voter Registration Applications
13 completed pursuant to Part 5 of Article 2 of Title 1, C.R.S., at an agency designated by
14 the National Voter Registration Act of 1993, no information regarding the name and
15 location of the designated voter registration agency shall be provided to the public, and

1 such information shall remain confidential.

2 2.5 Confidentiality of Voter Information. Pursuant to section 24-72-204(3.5)(b)(II) and (IV),
3 C.R.S., the county clerk and recorder of the county where the individual resides shall
4 provide an opportunity to make the request of confidentiality in person at the time such
5 individual registers to vote or make any change in the individual's registration, and at any
6 other time during the normal business hours of the office of the county clerk and
7 recorder.

8 2.5.1 The voter's name, address, and birth date shall be listed on the confidentiality
9 application. A confidentiality affirmation shall be printed on the form, in the area
10 immediately above a line for the applicant's signature and the date. The
11 affirmation shall state the following:

12 *"I swear or affirm, under penalty of perjury, that I have reason to believe*
13 *that I or a member of my household will be exposed to criminal*
14 *harassment, or otherwise be in danger of bodily harm, if my address is not*
15 *kept confidential"*

16 2.5.2 Immediately below the signature line, there shall be a printed notice, in a type that
17 is larger than the other information contained on the form, that the applicant may
18 be prosecuted for perjury in the second degree under section 18-8-503, C.R.S., if
19 the applicant signs such affirmation and does not believe such affirmation to be
20 true.

21 2.5.3 A voter making an address change within the same county shall not be charged an
22 additional processing fee.

23 2.6 Information required from applicants for voter registration.

24 2.6.1 All applicants for voter registration shall provide on the application for voter
25 registration:

26 (1) in the case of an applicant who has been issued a current and valid Colorado
27 driver's license or valid Identification card issued by the department of revenue,
28 the applicant's driver's license number or Identification card number; or

29 (2) in the case of an applicant who has not been issued a current and valid Colorado
30 driver's license or valid Identification card issued by the department of revenue,
31 the last four digits of the applicant's social security number or the entire social
32 security number.

33 2.6.2 If an applicant has not been issued a current valid Colorado driver's license
34 number, a valid Identification card issued by the department of revenue, or a
35 social security number as required by Rule 2.6.1, the applicant shall be assigned a
36 unique identifying number for voter registration purposes.

37 2.7 First Time Voter Who Registers by Mail. Prior to the implementation of the statewide

1 voter registration database, when a first time voter registers to vote by mail, the voter
2 shall provide a copy of one of the following FORMS OF IDENTIFICATION SET FORTH IN
3 RULE 30.1.6.

- 4 ● ~~A current and valid Colorado driver's license;~~
- 5 ● ~~A valid identification card issued by the Department of Revenue in accordance~~
6 ~~with the requirements of Part 3 of Article 2 of Title 42, C.R.S.;~~
- 7 ● ~~A valid U.S. passport;~~
- 8 ● ~~A valid employee identification card with a photograph of the eligible elector~~
9 ~~issued by any branch, department, agency, or entity of the United States~~
10 ~~government or of this state, or by any county, municipality, board, authority, or~~
11 ~~other political subdivision of this state;~~
- 12 ● ~~A valid pilot's license issued by the federal aviation administration or other~~
13 ~~authorized agency of the United States;~~
- 14 ● ~~A valid U.S. military identification card with a photograph of the eligible~~
15 ~~elector;~~
- 16 ● ~~A copy of a current utility bill, bank statement, government check, paycheck, or~~
17 ~~other government document that shows the name and address of the elector. (A~~
18 ~~cable bill, a telephone bill, documentation from a public institution of higher~~
19 ~~education in Colorado containing at least the name, date of birth, and legal~~
20 ~~residence address of the student elector, a paycheck from a government~~
21 ~~institution, or a Certificate of Degree of Indian or Alaskan Native Blood are~~
22 ~~sufficient forms of identification);~~
- 23 ● ~~A valid Medicare or Medicaid card issued by the United States Health Care~~
24 ~~Financing Administration;~~
- 25 ● ~~A certified copy of a U.S. birth certificate for the elector issued in the United~~
26 ~~States; or~~
- 27 ● ~~Certified documentation of naturalization~~

28 ~~2.7.1 An elector who provides a copy of one of the forms of identification listed in 2.7~~
29 ~~shall not be tagged as ID deficient.~~

30 ~~2.8 Electors Tagged as ID Deficient. An applicant for voter registration shall be tagged as ID~~
31 ~~deficient if: —~~

- 32 ~~(1) the elector does not provide a current and valid driver's license number, valid~~
33 ~~identification card number, social security number or the last four digits of the~~
34 ~~elector's social security number under 2.6.1 and the elector does not provide a~~
35 ~~copy of one of the forms of identification listed in 2.7; or~~

1 ~~(2) — the county clerk is unable to verify a number provided under 2.6.1 through the~~
2 ~~statewide voter registration system or any other means available to the county~~
3 ~~clerk, and the elector does not provide a copy of one of the forms of~~
4 ~~identification listed in 2.7.~~

[Note: this information is also in Rule 30.1.6]

5 2.98 Registration of Homeless Voters.

6 2.98.1 For the purpose of voter registration residence a homeless voter may identify a
7 specific location within a precinct that the voter considers his home base to which
8 the voter returns regularly and manifests an intent to remain, and a place from
9 which he or she can receive messages and be contacted. A home base may
10 include a homeless shelter, a homeless provider, a park, a campground, a vacant
11 lot, a business address, or any other physical location.

12 2.98.2 If the home base does not include a mailing address, then the homeless voter must
13 provide a mailing address pursuant to section 1-2-204(2)(f), C.R.S.

14 2.98.3 A post office box or general delivery at a post office shall not be deemed a home
15 base.

16 2.9 CHANGES TO AN ELECTOR’S VOTER REGISTRATION RECORD

17 2.9.1 IF AN ELECTOR SUBMITS A LETTER OR OTHER CORRESPONDENCE BY MAIL TO
18 CHANGE HIS OR HER VOTER REGISTRATION RECORD, SUCH CORRESPONDENCE MUST
19 INCLUDE THE ELECTOR’S DATE OF BIRTH, AND SOCIAL SECURITY NUMBER IF THE
20 ELECTOR WISHES TO STATE IT, IN ACCORDANCE WITH PART 2, ARTICLE 2 OF TITLE
21 1.

22 2.9.2 SUCH CHANGES THAT ARE SUBMITTED BY AN ELECTOR ABSENT A DATE OF BIRTH
23 MAY ONLY BE MADE BY THE COUNTY CLERK AND RECORDER IF THE COUNTY CLERK
24 AND RECORDER IS ABLE TO CONFIDENTLY IDENTIFY THE ELECTOR AND MAKE THE
25 CHANGE TO THE CORRECT VOTER REGISTRATION RECORD.

26 2.9.3 IF A COUNTY CLERK AND RECORDER IS UNABLE TO CONFIDENTLY IDENTIFY THE
27 ELECTOR, THE COUNTY CLERK AND RECORDER SHALL NOTIFY THE ELECTOR IN
28 WRITING THAT THE ELECTOR MUST PROVIDE HIS OR HER DATE OF BIRTH.

29
30 Rule 5.5.10 would be amended as follows:

31 5.5.10 If 25 or more provisional ballots have been cast and counted, the results shall be
32 reported as one total. If less than 25 provisional ballots have been cast and counted, the
33 results shall be included in the results of the ~~absentee~~ MAIL-IN ballots counted in the
34 election.

1 New Rule 6.2 would be adopted as follows:

2 6.2 PROCEDURES FOR COORDINATED ELECTIONS INVOLVING JURISDICTIONS SHARED BY
3 MULTIPLE COUNTIES

4 6.2.1 UPON IMPLEMENTATION OF THE STATEWIDE VOTER REGISTRATION DATABASE,
5 CONTROLLING COUNTIES SHALL BE DESIGNATED FOR THE PURPOSE OF ASSIGNING
6 AND PUBLISHING SHARED RACES, ISSUES AND QUESTIONS IN COORDINATED
7 ELECTIONS.

8 6.2.2 THE CONTROLLING COUNTY SHALL BE THE COUNTY WHERE THE LARGEST NUMBER
9 OF ACTIVE REGISTERED ELECTORS WITHIN THE JURISDICTION RESIDE AT THE TIME
10 THAT THE CONTROLLING COUNTY IS DESIGNATED.

11 6.2.3 THE SECRETARY OF STATE SHALL MAINTAIN AND MAKE AVAILABLE TO COUNTY
12 CLERKS ON ITS WEBSITE THE LIST OF CONTROLLING COUNTIES FOR EACH SHARED
13 JURISDICTION WITHIN THE STATE.

14 6.2.4 THE CONTROLLING COUNTY SHALL PUBLISH CERTIFIED RACES, ISSUES AND
15 QUESTIONS TO ALL COUNTIES SHARING JURISDICTION NO LATER THAN THE DATE
16 OF BALLOT CERTIFICATION

17 A. THE CONTROLLING COUNTY SHALL USE ONLY STANDARD ABBREVIATIONS
18 APPROVED BY THE SECRETARY OF STATE IN PUBLISHING THE RACES, ISSUES
19 AND QUESTIONS FOR THE SHARED JURISDICTION.

20 B. ALL COUNTIES WITHIN THE SHARE JURISDICTION SHALL ENSURE THAT THE
21 RACES, ISSUES AND QUESTIONS ARE PRINTED ON THE BALLOT AS CERTIFIED BY
22 THE SECRETARY OF STATE OR DESIGNATED ELECTION OFFICIAL.

23 6.2.5 IF ANY CONTROLLING COUNTY FAILS TO FULFILL ITS RESPONSIBILITIES IN
24 ACCORDANCE WITH THIS RULE, ANY OF THE OTHER COUNTIES IN THE SHARED
25 JURISDICTION MAY MAKE A WRITTEN REQUEST TO THE SECRETARY OF STATE TO
26 TEMPORARILY ASSUME THE DUTIES OF THE CONTROLLING COUNTY. THE
27 SECRETARY OF STATE SHALL HAVE THE AUTHORITY TO ACT ON BEHALF OF THE
28 CONTROLLING COUNTY OR TO TEMPORARILY DESIGNATE ANOTHER COUNTY TO
29 ACT AS THE CONTROLLING COUNTY IN ORDER ASSURE IMPLEMENTATION OF THIS
30 RULE.

31 Succeeding subsections of Rule 6 would be renumbered accordingly

32

33

34 New Rule 7.6 would be adopted as follows:

35 7.6 IN ACCORDANCE WITH SECTION 1-7-115, C.R.S., A VOTER SHALL HAVE A MINIMUM OF TEN
36 MINUTES TO CAST HIS OR HER BALLOT, BUT SHALL NOT OCCUPY A VOTING BOOTH FOR
37 MORE THAN THE MAXIMUM TIME NECESSARY TO CAST HIS OR HER BALLOT.

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Rules 8.7, 8.8, 8.9 and 8.12 would be amended as follows:

8.7 What Watchers May Observe. Duly appointed Watchers may observe polling place voting, early voting and the processing and counting of precinct, provisional, mail, and ~~absentee~~-MAIL-IN ballots. For mail ballot elections, or ~~absentee~~-MAIL-IN BALLOT processing, watchers may be present at each stage of the election including the receiving and bundling of the ballots received by the designated election official. Watchers may be present during provisional ballot processing but may not have access to confidential voter information.

8.8 Limitations of Watchers. Duly appointed Watchers may observe election judges but may not interrupt or disrupt the processing, verification and counting of any ballots or any other stage of the election. Watchers may track the names of electors who have cast ballots by utilizing their previously obtained lists, but may not write down any ballot numbers or any other identifying information about the electors. Watchers may not handle the poll books, official signature cards, ballots, mail ballot envelopes, ~~absentee~~ MAIL-IN ballot envelopes or provisional ballot envelopes, voting or counting machines or machine components. Watchers shall not interfere with the orderly process and conduct of any election, including ballot issuance, receiving of ballots, voting or counting of the ballots. Watchers may not be allowed to interact with election officials or election judges, except that each designated election official shall name at least one individual in each precinct polling place or election location to whom Watchers may direct questions or from whom watchers may seek requested information.

8.9 Parties May Appoint Watchers. Major and minor political parties with candidates on the ballot may appoint one Watcher each to be present to observe polling place voting, early voting, and the processing and counting of regular, provisional, mail and ~~absentee~~-MAIL-IN ballots. See sections 1-7-105 and 1-7-106, C.R.S.

8.12 Media Observers. Media Observers with valid and current media credentials may be present to witness early voting, election day voting and the processing and counting of provisional, mail and ~~absentee~~-MAIL-IN ballots. However, at the discretion of the county clerk and recorder, Media Observers may be required to appoint one member of the media as a pool reporter, and one member as a pool photographer to represent all media observers in accordance with the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Associations and the Secretary of State as set forth herein:

Rule 10.4 would be amended as follows:

10.4 Candidates whose names are listed on a ballot must provide an audio recording of the pronunciation of their name to the Secretary of State prior to the election for offices that are voted on by the electors of the entire state, or of a congressional district, or for the offices of members of the general assembly or district attorney or a district office of state

1 concern.

2 10.4.1 For candidates designated by a major or minor party, such audio recording shall
3 be provided no later than the last day upon which the candidate acceptance may
4 be filed with the Secretary of State in accordance with Article 4 of title 1, C.R.S.
5 THE AUDIO RECORDING OF THE CANDIDATE’S NAME SHALL BE RECORDED EXACTLY
6 AS IT IS PROVIDED ON THE CANDIDATE ACCEPTANCE THAT IS SUBMITTED TO THE
7 SECRETARY OF STATE, AND AS THEY WISH IT TO APPEAR ON THE BALLOT.

8 10.4.2 For candidates nominated by petition, such audio recording shall be provided no
9 later than the last day upon which the petition of nomination and candidate
10 acceptance may be filed with the Secretary of State in accordance with Article 4
11 of title 1, C.R.S. THE AUDIO RECORDING OF THE CANDIDATE’S NAME SHALL BE
12 RECORDED EXACTLY AS IT IS PROVIDED ON THE CANDIDATE ACCEPTANCE THAT IS
13 SUBMITTED TO THE SECRETARY OF STATE, AND AS THEY WISH IT TO APPEAR ON THE
14 BALLOT.

15 10.4.3 For unaffiliated candidates for president who seek placement on the General
16 Election ballot by submitting a candidate’s statement of intent and a filing fee to
17 the Secretary of State in accordance with section 1-4-303(1), C.R.S., such audio
18 recording shall be provided no later than the last day upon which the candidate’s
19 statement of intent may be. THE AUDIO RECORDING OF THE CANDIDATE’S NAME
20 SHALL BE RECORDED EXACTLY AS IT IS PROVIDED ON THE CANDIDATE’S STATEMENT
21 OF INTENT THAT IS SUBMITTED TO THE SECRETARY OF STATE, AND AS THEY WISH IT
22 TO APPEAR ON THE BALLOT.

23 10.4.4 For district and county judges seeking retention, such audio recording shall be
24 provided no later than the date upon which the declaration of intent to run for
25 retention in a judicial office may be filed with the secretary of State in accordance
26 with Article VI, Section 25 of the Colorado Constitution. THE AUDIO RECORDING
27 OF THE CANDIDATE’S NAME SHALL BE RECORDED EXACTLY AS IT IS PROVIDED ON
28 THE DECLARATION OF INTENT TO RUN FOR RETENTION IN A JUDICIAL OFFICE THAT IS
29 SUBMITTED TO THE SECRETARY OF STATE, AND AS THEY WISH IT TO APPEAR ON THE
30 BALLOT.

31
32 New Rule 10.5 would be adopted as follows:

33 10.5 COUNTY, MUNICIPAL, AND SPECIAL DISTRICT CANDIDATES WHOSE NAMES ARE LISTED ON A
34 BALLOT FOR AN ELECTION COORDINATED BY THE COUNTY CLERK AND RECORDER MUST
35 PROVIDE AN AUDIO RECORDING OF THE PRONUNCIATION OF THEIR NAME TO THE COUNTY
36 CLERK AND RECORDER PRIOR TO THE ELECTION FOR OFFICES THAT ARE VOTED ON BY THE
37 ELECTORS OF THE COUNTY, MUNICIPALITY, OR SPECIAL DISTRICT.

38 10.5.1 FOR CANDIDATES DESIGNATED BY A MAJOR OR MINOR PARTY, SUCH AUDIO
39 RECORDING SHALL BE PROVIDED NO LATER THAN THE LAST DAY UPON WHICH THE

1 CANDIDATE ACCEPTANCE MAY BE FILED WITH THE COUNTY CLERK AND RECORDER
2 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 1, C.R.S.

3 10.5.2 FOR CANDIDATES NOMINATED BY PETITION, SUCH AUDIO RECORDING SHALL BE
4 PROVIDED NO LATER THAN THE LAST DAY UPON WHICH THE PETITION OF
5 NOMINATION AND CANDIDATE ACCEPTANCE MAY BE FILED WITH THE COUNTY
6 CLERK AND RECORDER IN ACCORDANCE WITH ARTICLE 4 OF TITLE 1, C.R.S.

7
8 Rule 11.5.3.7 would be amended as follows:

9 11.5.3.7 The test ballots shall be tested on each type of voting device utilized in a given election
10 and each method of counting. The tests shall include testing of ~~absentee-MAIL-IN~~
11 BALLOT counting methods, election day counting methods, provisional ballot counting
12 methods, early voting counting methods and audio ballots, if applicable.

13
14 Rule 11.5.3.8.4 would be amended as follows:

15 11.5.3.8.4 The Testing Board and designated election official or his or her designated deputized
16 clerks, as necessary, shall count the test ballots as follows:

17 (a) ~~Absentee-MAIL-IN~~ Ballots:

18 (1) All county test ballots shall be counted on at least one, but not more than
19 three, ~~absentee-MAIL-IN BALLOT~~ vote counting devices and have the
20 predetermined total verified to the machine total.

21 (2) All Testing Board Member test ballots shall be counted individually with
22 reports generated to verify the machine count to the predetermined hand
23 tally.

24
25 Rules 11.5.4.4, 11.5.4.5, 11.5.4.6, and 11.5.4.7 would be amended as follows:

26 11.5.4.4 For optical scanners used for any function of counting ballots except for Central
27 Count/vote center as defined herein, the designated election official shall manually
28 verify all of the ballots that were counted on the randomly selected device(s) with the
29 election summary report that was generated from the device(s) at the close of the
30 polls. The Secretary of State shall randomly select AT LEAST two (2) races to be
31 manually verified.

32 11.5.4.5 For Optical Scanners used for the purpose of counting ballots in a Central Count/vote
33 center environment as defined herein, the designated election official shall randomly
34 select five (5) percent but not more than five hundred (500) ballots of all the ballots

1 counted on the specific audited device. If the amount of ballots is less than five
2 hundred (500) on the audited device, then a minimum of twenty percent (20%) of the
3 ballots counted on the device will be manually verified. The public counter for that
4 voting device shall be reset to zero, and the ballots shall be recounted on the voting
5 device. A new report will be generated from the electronic count of the ballots and
6 shall be manually verified. The ballots and a copy of the report shall be sealed in a
7 separate container and secured with the remainder of the official election records for
8 the election. The Secretary of State shall randomly select AT LEAST two (2) races to
9 be manually verified.

10 11.5.4.6 For Direct Record Electronic Devices (DREs) that do not meet the requirements of
11 section 1-5-802, C.R.S., used for any function of counting ballots in an election, the
12 designated election official will manually verify the image of all the ballots contained
13 in the Ballot Log or Ballot Audit that were counted on the specific device with the
14 report generated for that specific device at the close of polls which contains the
15 election summary report. The Secretary of State shall randomly select AT LEAST two
16 (2) races to be manually verified.

17 11.5.4.7 For Direct Electronic Devices (DREs) that do meet the requirement of section 1-5-
18 802, C.R.S., used for any function of counting ballots in an election, after the close of
19 the polls, the designated election official will manually verify all of the voter verified
20 paper record produced with the report generated for that specific devices, which
21 contains the election summary report. The Secretary of State shall randomly select
22 AT LEAST two (2) races to be manually verified.

23
24 Rule 11.5.4.11 would be amended as follows:

25 11.5.4.11 Upon completion of the audit, the designated election official shall promptly report
26 the results of the audit to the Secretary of State's Office. The report shall be
27 submitted following the completion of the audit and up to and including 5:00 pm on
28 the last day of the canvass. The report shall contain:

- 29 (a) The make, model and serial number of the voting device that was audited.
- 30 (b) The number of ballots originally counted by the device or the number of ballots
31 audited as identified in paragraph (d) of this section;
- 32 (c) The count of the specific race or races as provided on the summary report printed
33 at the close of polls or the report generated for the audit;
- 34 (d) The count of the specific race as manually verified; ~~and~~
- 35 ANY OTHER INFORMATION REQUIRED BY SECTION 1-7-514, C.R.S.; AND
- 36 (eF) The signature of the canvass board and the designated election official.

1 Rules 12.1, and 12.2 would be amended as follows:

2 12.1 Definitions.

3 12.1.1 A secrecy sleeve or secrecy envelope shall be sealed or closed on at least two
4 sides, one of which shall be the bottom of the sleeve.

5 12.1.1.1 The secrecy sleeve or secrecy envelope shall be uniform within each
6 type of ~~absentee-MAIL-IN BALLOT~~ or mail ballot voting system used in
7 the State of Colorado. Each secrecy sleeve or secrecy envelope used
8 in the State of Colorado in any mail ballot or ~~absentee~~ MAIL-IN ballot
9 election shall contain the following required language, approved by the
10 Secretary of State, regarding identification requirements of voters who
11 have registered by mail:

12 (a) “First Time Voters Who Register By Mail”

13 If you registered in your county by mail, and did not provide
14 identification with your registration application, a copy of one of
15 the forms of identification listed in Rule ~~2-730.1.6~~ is required with
16 your mail ballot or your ~~absentee~~ MAIL-IN ballot.

17 (b) “If you did not submit proof of identification with your mail-in
18 registration form, you will be required to provide proof of
19 identification using the types of identification described above with
20 your voted mail or ~~absentee~~ MAIL-IN ballot.”

21 (c) “Failure to provide ID will result in your ballot being treated as a
22 provisional ballot. Provisional ballots are counted when
23 registration is verified.” *See* section 1-7.5-107(3.5)(d), C.R.S.

24 12.1.2 A separate mail ballot plan is not required from a political subdivision if a
25 county clerk and recorder submits a mail ballot plan for a coordinated election
26 which includes the political subdivision.

27 12.2 Election Judges.

28 12.2.1 The designated election official for the election may appoint an appropriate
29 number of judges to receive the ballots after they are mailed, to handle “walk-
30 in” balloting and ~~absentee-MAIL-IN~~ ballots at the sites designated for “walk-in”
31 balloting, to check registrations, to inspect, verify, and duplicate ballots when
32 necessary, and to count the ballots and certify results.

33 Rules 12.3.2 would be amended as follows:

34 12.3.2 As soon as possible, but no later than SIXTY-FIVE (65) DAYS PRIOR TO A
35 REGULAR SPECIAL DISTRICT ELECTION AND NO LATER THAN FIFTY-FIVE (55) days
36 prior to ~~an~~-ANY OTHER election, a written plan must be submitted to the

- 1 Secretary of State which includes the following:
- 2 (a) Date of the election;
- 3 (b) Type and name of jurisdiction involved in the election;
- 4 (c) Description of the type of election to be conducted;
- 5 (d) Citation of the statute or home rule charter provisions authorizing the
6 election;
- 7 (e) Estimated number of eligible electors;
- 8 (f) Name of the designated election official who will be responsible for all
9 aspects of the election;
- 10 (g) Indication of whether the county clerk and recorder will assist in the election
11 for the entity other than by providing a list of registered electors and other
12 information required by statute;
- 13 (h) Total number of “places of deposit”. For security reasons, unmonitored
14 freestanding places of deposit located outside will not be allowed;
- 15 (i) For elections coordinated by the county clerk and recorder, the total number
16 of walk-in voting locations;
- 17 (j) Number of accessible voting machines anticipated being used for walk-in
18 voting locations in elections coordinated by the county clerk and recorder;
- 19 (k) Length of time accessible voting machines will be available for walk-in
20 voting in elections coordinated by the county clerk and recorder;
- 21 (l) Written timetable for the conduct of the election in accordance with the
22 statute;
- 23 (m) Indication of how postage will be handled for ballot packets returned as
24 undeliverable (e.g. “return postage guaranteed”);
- 25 (n) Indication of procedures to be followed to ensure compliance with statutes
26 and rules, including persons responsible for each stage;
- 27 (o) Description of procedures to be used to ensure ballot security at all stages of
28 the process;
- 29 (p) Description of procedures for maintaining privacy and security of accessible
30 voting machines to be used in an election coordinated by the county clerk
31 and recorder;
- 32 (q) Description of procedures to be used for signature verification;

- 1 (r) Description of procedures to ensure privacy by use of a secrecy sleeve or
2 secrecy envelope so receiving judges cannot tell how the elector voted;
- 3 (s) Description of procedures to be used to reconcile ballots issued, ballots
4 received, defective ballots and substitute ballots; and
- 5 (t) An actual sample of the secrecy sleeve or secrecy envelope to be used in the
6 mail ballot election.

7

8 Rules 12.5 would be amended as follows:

9 12.5 ~~Absentee~~ MAIL-IN and Early Voting.

10 12.5.1 ~~Absentee~~ MAIL-IN BALLOT voting occurs in a mail ballot election when a
11 registered, eligible elector requests that the ballot be mailed to a place other than
12 the address of record.

13 12.5.2 An “in person” request for an ~~absentee~~ MAIL-IN ballot that is delivered to the
14 elector in the clerk and recorder’s office may be filed any time after January 1
15 of the year of the election, but no later than the close of business on the Friday
16 prior to the election; except that, if the applicant wishes to receive the ~~absentee~~
17 ballot by mail, the application shall be filed no later than the close of business
18 on the seventh day before the election.

19 12.5.3 Upon receipt of a request for an ~~absentee~~ MAIL-IN ballot, the designated election
20 official shall deliver the original ballot or a replacement ballot to that elector.

21 12.5.4 A record shall be made on the registration rolls that a request for an ~~absentee~~
22 MAIL-IN ballot was received, a ballot was mailed to the alternate address and the
23 ballot number shall be recorded.

24 12.5.5 For mail ballot elections, the notation “~~Absentee~~ MAIL-IN Ballot No.
25 A.M.I.V. ___” shall not be required on the ~~absentee~~ MAIL-IN ballots.

26 12.5.6 Establishment of polling place for early voting shall not be required for a mail
27 ballot election, however the location for walk-in balloting shall be maintained.

28

29 Rules 12.10 would be amended as follows:

30 12.10 Replacement Ballots for Purpose of Mail Ballot Elections.

31 12.10.1 Requests for replacement ballots may be made in writing, by mail, by fax, or by
32 telephone.

33 12.10.2 An elector requesting a replacement ballot shall complete a sworn statement, as

1 required by section 1-7.5-107(3) (d) (I), C.R.S., on a form provided by the
2 designated election official.

12.10.3 The affidavit shall include space in which the elector shall specify the reason for requesting a replacement ballot. The affidavit shall also contain a statement in bold that the original ballot may not be cast and that, if both the original and the replacement ballot are cast, neither ballot will be counted ELECTOR HAS NOT AND WILL NOT CAST THE ORIGINAL BALLOT. If the elector requested that the replacement ballot be mailed, the affidavit may be included in the ballot packet mailed to the eligible elector, and must be received on or before election day by the election official.

3 12.10.4 The election judge issuing a replacement ballot shall indicate on the outside of
4 the return envelope whether a sworn statement must be returned with the voted
5 ballot. No replacement ballot shall be counted until it has been determined that
6 an affidavit has been completed by the voter and has been received on or before
7 election day by the election official.

8 12.10.5 UPON ISSUANCE OF A REPLACEMENT BALLOT, THE FIRST VOTED BALLOT
9 RETURNED BY THE ELECTOR SHALL BE CONSIDERED THE ELECTOR'S OFFICIAL
10 BALLOT, PURSUANT TO SECTION 1-7.5-107(6)), C.R.S.

11

12 Rule 12.11 would be repealed as follows:

13 ~~12.12 Verification of Replacement Ballots~~

14 ~~12.12.1 Upon issuance of a replacement ballot, the first voted ballot returned by the~~
15 ~~elector shall be considered the elector's official ballot, pursuant to section~~
16 ~~1-8-111(3), C.R.S.~~

17 ~~12.12.2 If a return verification envelope is submitted which contains a replacement~~
18 ~~ballot it shall be set aside until 7:00 p.m. on election day. If it can be~~
19 ~~determined that the replacement ballot is the only ballot issued to the elector or~~
20 ~~that all prior ballots issued to the elector have been voided, it may be processed~~
21 ~~in the same manner as the original ballot.~~

22 ~~12.12.3 The information on the return verification envelope may be checked prior to~~
23 ~~7:00 p.m. on election day, but the ballot may not be removed until the polls~~
24 ~~close.~~

25 ~~12.12.4 When all voted ballots have been received and the polls closed, the replacement~~
26 ~~ballots shall be checked to ensure that the elector only voted with the~~
27 ~~replacement ballot. If it appears that the elector only voted the replacement~~
28 ~~ballot and if all the information is complete on the return verification envelope,~~
29 ~~the ballot may be removed and counted as the other ballots.~~

1 All succeeding subsections of Rule 12 would be renumbered accordingly

2

3 Rule 13 would be amended as follows:

4 **Rule 13. Rules Concerning ~~Absentee~~MAIL-IN Voting**

5 13.1 All election materials prepared by the designated election official, including the Article
6 X, Section 20 notice, may be included in the ~~absentee~~MAIL-IN ballot ~~mailing~~ PACKET.

7 13.2 The county clerk and recorder shall keep a list, to the extent possible, of the names and
8 mailing addresses of all individuals who deliver more than five voted ~~absentee~~MAIL-IN
9 ballots to the designated or coordinated election official's office or the designated drop
10 site for ~~absentee~~ MAIL-IN ballots.

11 13.3 The county clerk and recorder shall notify each individual on the list required by 13.2 by
12 letter that they have violated section 1-8-113, C.R.S., by delivering more than five
13 ~~absentee~~ MAIL-IN ballots to the designated election official.

14 13.4 The designated election official shall require that the eligible elector submit a copy of his
15 or her identification as defined in section 1-1-104(19.5), C.R.S., with the elector's ballot
16 in the return envelope if the eligible elector registered to vote by mail pursuant to Part 5,
17 Article 2, Title 1, C.R.S., and failed to include the copy with the original registration or
18 failed to supply a driver's license number, Colorado Department of Revenue ID number
19 or at least the last four digits of a social security number that was subsequently verified
20 per Rule 30.5.

21 13.5 The county clerk and recorder shall indicate on the list of registered voters requested by
22 the designated election official those registered voters required to be identified in Rule
23 13.4.

24 13.6 In any election where a multiple page printed ballot is used, a voter must vote and return
25 all pages of the ballot at the same time. Any voter who has returned at least one page of
26 a multiple page printed ballot will be considered to have voted. Any additional page
27 returned at a later time shall not be counted but shall be appropriately marked, set aside,
28 and preserved as other election materials in accordance with section 1-7-802, C.R.S.

29 13.7 If the elector is required to provide his or her identification, the outside of the return
30 envelope shall be marked to identify such envelope. A county may use additional
31 methods to communicate the requirement to provide identification. The elector shall also
32 be provided with specific instructions on the requirement to provide such identification.

33 13.8 If the marked return envelope does not contain proper identification, the ballot shall be
34 treated as a provisional ballot. The outside of the return envelope shall be marked
35 "provisional". The provisional ballot shall be verified and counted in accordance with
36 section 1-8.5-105(5), C.R.S.

1 13.9 If a voter has been directed to return a document with his or her voted ballot, the election
2 judge shall open the returned envelope to retrieve the required form. If the required form
3 cannot be found in the return envelope, the election judge shall open the secrecy
4 envelope/sleeve to find the required form or document in an effort to not disenfranchise
5 the voter.

6 13.10 For any non-matching or missing signatures on an ~~absentee~~MAIL-IN ballot return
7 envelope, Rule 29 concerning procedures for the verification of signatures shall be
8 followed.

9 13.11 The designated election official's duties under section 1-8-112, C.R.S., are triggered if
10 the U.S. mail is delivered collectively to the residential facility. If the U.S. mail is
11 delivered to individuals or individual mailboxes, the requirements of section 1-8-112,
12 C.R.S., shall not be applicable.

13 13.12 Voters who appear in person at their correct polling place, but who requested ~~absentee~~
14 MAIL-IN ballots, will nevertheless be permitted to cast provisional ballots upon their
15 declaration that they have not and will not cast any vote in the election other than by that
16 provisional ballot. The provisional ballot is then to be counted, once election officials
17 determine that the voter did not in fact cast the ~~absentee~~MAIL-IN ballot.

18 ~~13.13 For the purposes of section 1-8-115(1)(a), C.R.S., the deadline to apply for an absentee~~
19 ~~ballot shall be the last day to apply for an absentee ballot by mail in accordance with~~
20 ~~section 1-8-104(3), C.R.S.~~

21 13.13 PERMANENT MAIL-IN VOTING

22 13.3.1 AN APPLICATION FOR A MAIL-IN BALLOT RECEIVED BY THE COUNTY CLERK AND
23 RECORDER SHALL BE TREATED AS AN APPLICATION FOR PERMANENT MAIL-IN
24 BALLOT ONLY IF THE APPLICANT MAKES SUCH DESIGNATION. IF THE APPLICANT
25 DOES NOT SPECIFY THE LENGTH OF THE REQUEST FOR A MAIL-IN BALLOT, THE
26 APPLICATION SHALL BE TREATED AS AN APPLICATION FOR THE CURRENT
27 CALENDAR YEAR.

28 13.14 A COUNTY CLERK AND RECORDER USING THE "BALLOT NOW" SYSTEM TO PRINT MAIL-IN
29 BALLOTS SHALL PRINT AND MAKE BALLOTS AVAILABLE NO LATER THAN 32 DAYS
30 PRECEDING THE ELECTION IN ACCORDANCE WITH SECTION 1-5-403, C.R.S. BALLOT
31 ISSUANCE SHALL BEGIN NO LATER THAN SEVENTY-TWO (72) HOURS AFTER PRINTING IS
32 COMPLETE IN ACCORDANCE WITH 1-8-111, C.R.S.

33 13.15 A COUNTY CLERK AND RECORDER WHO UTILIZES A THIRD PARTY VENDOR TO MAIL
34 BALLOTS SHALL BE CONSIDERED TO BE IN POSSESSION OF THE BALLOTS FOR THE PURPOSES
35 OF SECTIONS 1-5-403 AND 1-8-111, C.R.S. WHEN THE BALLOTS ARE RECEIVED BY OR
36 PRINTED BY THE VENDOR MAILING THE BALLOTS.

37 13.16 MAIL-IN BALLOT DROP-OFF LOCATIONS

38 13.16.1 EACH COUNTY CLERK AND RECORDER SHALL PROVIDE A DROP-OFF LOCATION FOR

1 MAIL-IN BALLOTS DURING THE TIME EARLY VOTING IS HELD AT EACH DESIGNATED
2 EARLY VOTING SITE IN THE COUNTY IN ACCORDANCE WITH SECTION 1-8-
3 113(1)(A), C.R.S. SUCH SITES SHALL BE MADE AVAILABLE TO RECEIVE MAIL-IN
4 BALLOTS DURING THE HOURS THAT EARLY VOTING IS OFFERED.

5 13.16.2 EACH COUNTY CLERK AND RECORDER SHALL MAKE AVAILABLE AT LEAST ONE
6 MAIL-IN BALLOT DROP OFF LOCATION AT DESIGNATED EARLY VOTING
7 LOCATION(S) TO RECEIVE MAIL-IN BALLOTS ON ELECTION DAY. THE DROP-OFF
8 LOCATION(S) SHALL BE MADE AVAILABLE TO ELECTORS BETWEEN THE HOURS OF
9 7:00 A.M. AND 7:00 P.M.

10 13.16.3 NOTHING IN THIS RULE 13.16 SHALL PRECLUDE A COUNTY CLERK AND RECORDER
11 FROM ESTABLISHING DROP-OFF SITES FOR MAIL-IN VOTING IN ADDITION TO THE
12 DROP-OFF SITES REQUIRED BY SECTION 1-8-113, C.R.S.

13 13.17 VOTER VERIFICATION OF RECEIPT OF MAIL-IN BALLOT

14 13.17.1 ANY SYSTEM USED BY A COUNTY CLERK AND RECORDER TO MEET THE
15 REQUIREMENTS OF SECTION 1-8-307.5, C.R.S. SHALL ENSURE THAT ELECTORS
16 HAVE ACCESS TO INFORMATION REGARDING THE RECEIPT OF THE ELECTOR'S
17 MAIL-IN BALLOT IN A TIMELY MANNER.

18 13.17.2 SUCH SYSTEM SHALL ALLOW AN ELECTOR ACCESS TO INFORMATION REGARDING
19 RECEIPT OF THEIR MAIL-IN BALLOT FOR A PERIOD NO LESS THAN TWENTY-FIVE
20 (25) MONTHS AFTER THE DATE OF THE ELECTION.

21
22 Rule 14.5, 14.6, and 14.7 would be amended as follows:

23 14.5 Counting of Paper Ballots - Recount

24 14.5.1 Totals of recounted ballots shall be processed, counted, and reported in
25 summary form as follows:

26 (a) Sum total of votes cast for each candidate, under-votes, and over-votes for
27 all precincts;

28 (b) Sum total of votes cast for each candidate, under-votes, and over-votes for
29 all ~~absentee~~ MAIL-IN ballots (a combined total, not totaled by individual
30 precincts or locations, unless the voting system so allows.);

31 (c) Sum total of votes cast for each candidate, under-votes, and over-votes for
32 all early voting precincts (a combined total, not totaled by individual
33 precinct or locations, unless the voting system so allows.);

34 (d) Determine grand total of ballots cast by early voting, ~~absentee~~ MAIL-IN
35 voting, and precinct voting.

1 14.5.2 If ~~absentee-MAIL-IN~~ ballots were originally counted with early voting ballots,
2 then the recount will be of a combined total of early and ~~absentee-MAIL-IN~~
3 ballots.

4 14.5.3 Ballot boxes or containers shall be opened one at a time.

5 14.5.4 Ballots shall be counted into groups of 25 to ensure that the number of ballots
6 recounted matches the number originally counted.

7 14.5.5 Votes shall be counted by individual hash marks in 25-count sections by two
8 different judges.

9 14.6 Counting of Ballots - Recount

10 14.6.1 All voting equipment to be used in the recount must be tested prior to the
11 recount, utilizing the procedures set forth in this section. Prior to the recount,
12 the canvass board shall choose at random and test Voting Devices and
13 precinct(s) to be utilized as a test deck for purposes of section 1-10.5-102. The
14 purpose of a test deck is to assure the tabulation machines are counting
15 properly. The devices chosen shall contain at least five (5) ballots cast. A hand
16 tally shall be conducted of the selected devices pursuant to section 1-10.5-
17 102(3)(a). The totals of the recounted contest obtained from the test devices
18 and precinct(s) reports from close of polls shall be compared to the hand-tallied
19 total.

20 14.6.2 The canvass board shall choose at random five percent (5%) of voting devices
21 containing votes from the election, which are affected by the recount, for the
22 test.

23 (a) Prior to the start of the test, the canvass board shall verify that devices
24 randomly chosen were not used in the audit conducted pursuant to section 1-
25 7-514 (1)(b).

26 (b) The proportion of Optical Scan devices to DRE/electronic voting devices
27 selected for the test shall match the proportion of machines used in the
28 election by the designated election official.

29 (c) At least one device selected for the test shall be a central count/~~absentee~~
30 MAIL-IN ballot scanner.

31 14.6.3 For testing central count/~~absentee-MAIL-IN~~ BALLOT scanners the canvass board
32 shall randomly select one percent (1%) or fifty (50) ballots, whichever is
33 greatest. A blank prom cartridge, rom cartridge or memory card shall be
34 utilized for the test. The ballots selected shall be processed through the central
35 count/~~absentee~~ MAIL-IN BALLOT scanner and compared to the hand-tallied total.

36 14.6.4 If the test deck totals differ from the hand count totals, and the discrepancy
37 cannot be accounted for by voter error, all ballots containing the recounted

- 1 contest shall be tallied by hand following procedures for paper ballot recounts.
2 If the test deck totals are exactly the same, the recount tabulation shall be
3 conducted in the same manner as the original ballot count in accordance with
4 section 1-10.5-102(3)(b).
- 5 14.6.5 A clear audit trail shall be maintained throughout the recount including, but not
6 limited to, a log of seal numbers on transfer cases or ballot boxes as defined in
7 section 1-7-505, C.R.S., and the corresponding numbered seal used as a
8 replacement for the original seal, upon completion of the recount of ballots
9 within that transfer case or ballot box.
- 10 14.6.6 The number of ballots counted by a precinct according to the election night
11 report shall be available during the recount for comparison purposes.
- 12 14.6.7 Totals of recounted ballots shall be processed, counted, and reported in
13 summary form as follows:
- 14 (a) Sum total of votes cast for each candidate, ballot issue or ballot question
15 subject to the recount, under-votes, and over-votes for all precincts;
- 16 (b) Sum total of votes cast for each candidate, ballot issue or ballot question
17 subject to the recount, under-votes and over-votes for all ~~absentee-MAIL-IN~~
18 ballots (a combined total, not totaled by individual precincts or location,
19 unless your system allows);
- 20 (c) Sum total of votes cast for each candidate, ballot issue or ballot question,
21 subject to the recount, under-votes, and over-votes for all early voting
22 locations (a combined total, not totaled by individual precinct or locations,
23 unless the voting system so allows);
- 24 (d) Determine the grand total of ballots cast in early, ~~absentee-MAIL-IN~~, and
25 precinct voting.
- 26 14.6.8 If ~~absentee-MAIL-IN~~ ballots were originally counted with early voting ballots,
27 then the recount will be of a combined total of early and ~~absentee-MAIL-IN~~
28 ballots.
- 29 14.6.9 Ballots shall be reviewed for voter intent.
- 30 14.6.10 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, all
31 precinct ballots shall be counted within all precincts. After the individual
32 precinct is counted, the ballots shall be returned to the ballot container and
33 sealed.
- 34 14.6.11 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, all
35 early voting ballots shall be counted. After an individual ballot container is
36 counted, the ballots shall be returned to the ballot container and sealed.

- 1 14.6.12 Utilizing one or more blank prom cartridges, rom cartridges, or memory card,
2 all ~~absentee-MAIL-IN~~ voting ballots shall be counted. After an individual ballot
3 container is counted, the ballots shall be returned to the ballot container and
4 sealed.
- 5 14.7 Counting of Ballots Using the “Ballot Now” Voting System
- 6 14.7.1 In the case of a recount, the designated election official shall identify all
7 precincts with the contest(s) designated for a recount using the following
8 procedures:
- 9 (a) Using the Ballot Now Scanned Ballots by Precinct report from the original
10 election database, locate the batches containing any ballot type (Election,
11 ~~Absentee-MAIL-IN~~, and Provisional) for the recount.
- 12 (b) Remove ballots from each batch and label them as “Recount”.
- 13 14.7.2 Required scanner testing shall be performed using a test deck from at least three
14 (3) randomly chosen precinct(s) with at least 150 ballots total as prescribed by
15 statute, following testing procedures outlined in the State of Colorado
16 Procedures for the use of the Ballot Now Voting System. A Recount Test
17 spreadsheet shall be created based on the chosen precinct in the same fashion as
18 the ballot options test spreadsheet.
- 19 14.7.3 Ballots for the recount shall be processed following the State of Colorado
20 Procedures for the use of the Ballot Now Voting System in conjunction with the
21 following procedures:
- 22 (a) Open Ballot Now with an unused MBB (Mobile Ballot Box) from the
23 election and create a Ballot Now recount database;
- 24 (b) Scan and resolve all recount ballots following original election procedures,
25 including the examination of ballots (Rule 14.3; section 1-8-10.5-102,
26 C.R.S.) Use the Audit Trail Report and original Scan Batch Reports with
27 notes to ensure resolution action follows original resolution.
- 28 (c) Save all recount CVRs (Cast Vote Records) to the MBB (Mobile Ballot
29 Box) after verifying that the number of ballots processed matches the
30 number of ballots cast in the recount contest(s).
- 31 (d) Open a new recount election in “Tally” and process the recount MBB
32 following the tabulation procedures above.
- 33 (e) Compare recount results to original results and document any differences.
- 34 (f) Backup the test database and the official recount database following the
35 “Archive” procedures.

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Rule 16 would be amended as follows:

Rule 16. Rules Concerning Verification by ~~Random Sample~~ of Statewide Initiative Petitions

16.1 THE CRITERIA USED FOR VERIFYING ALL SIGNATURES AND CHECKING A RANDOM SAMPLE OF SIGNATURES SHALL BE THE SAME.

16.2 WHEN VERIFYING ALL SIGNATURES, EACH PETITION SECTION SHALL BE CHECKED FOR EVIDENCE OF DISASSEMBLY. IF IT APPEARS THAT THE SECTION WAS DISASSEMBLED, ALL SIGNATURES ON THE PETITION SECTION SHALL BE REJECTED.

16.3 Preliminary count and generation of random numbers.

16.~~3~~.1 When the petitions are received, each section shall be consecutively numbered.

16.~~3~~.2 Each line with writing shall be counted on each petition and shall be considered an entry. The number of entries for each page of the section shall be written on the page, and the total entries for the section shall be written on the face of the petition section.

(a) A line which has no writing or marks on it shall not be considered an entry.

(b) A line which has writing on it but is completely crossed out shall not be considered an entry.

(c) A line which has writing on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.

16.~~3~~.3 After the entries have been counted for each petition section, a data entry clerk shall enter the following data into the computer; the petition identification number, the petition section number, the page number and the number of entries on the page.

16.~~3~~.4 The computer shall then create a record for each entry which record shall contain the petition identification number, petition section number, page number and the entry number. The total number of entries submitted for the petition shall be tallied.

16.~~3~~.5 If the number of entries is less than the total number of signatures required to certify the measure to the ballot, a statement of insufficiency shall be issued.

1 16.43.6 A series of random numbers shall be generated by the computer which is
2 the greater of four thousand signatures or five percent of the total number of
3 entries.

4 16.24 Verification of selected entries.

5 16.24.1 The random numbers selected shall be matched with the appropriate
6 petition section, page number and entry number.

7 16.24.2 Each entry generated shall be checked for validity in accordance with
8 Rules 22.3.3 and 22.3.4:

9 (a) Evidence of disassembly of the petition;

10 (b) The circulator's affidavit does not meet the requirements of statute or rule;

11 (c) The individual entry does not meet the requirements of statute or rule.

12 16.24.3 Each reason for rejection of an entry shall be recorded by separate code
13 and a master record of the rejected entries shall be maintained. A master record
14 shall also be maintained of each entry that is accepted.

15 16.35 Each section shall be checked for evidence of disassembly. If it appears that the section
16 was disassembled, the entry shall be rejected.

17 16.46 Checking the circulator's affidavit.

18 16.46.1 The circulator's affidavit shall be checked for each entry. If the affidavit
19 is not attached and completed, the entry shall be rejected.

20 16.46.2 The notary clause at the end of the affidavit shall be checked for each
21 entry. If any information is missing or if the date on the notary clause is not the
22 same date as the circulator signed the affidavit, the entry shall be rejected.

23 16.46.3 ~~If the information on the current voter registration file does not match the~~
24 ~~information on the entry, the circulator's voter registration history shall be~~
25 ~~checked to determine if the information on the affidavit matches the voter~~
26 ~~registration file at the time the entry was signed. THE AFFIDAVIT SHALL BE~~
27 ~~VERIFIED TO ENSURE THAT IT HAS BEEN COMPLETED IN ACCORDANCE WITH~~
28 ~~SECTION 1-40-111(2), C.R.S. IF THERE IS SUFFICIENT EVIDENCE TO CONCLUDE~~
29 ~~THAT THE CIRCULATOR WAS NOT IN COMPLIANCE WITH THE REQUIREMENTS OF~~
30 ~~SECTION 1-40-111(2), C.R.S. AT THE TIME ANY SIGNATURE WAS GATHERED, ALL~~
31 ~~ENTRIES IN THE SECTION SHALL BE REJECTED.~~

32 16.57 Checking individual signatures.

33 16.57.1 Each individual entry shall be checked against the master voter
34 registration files.

1 16.57.2 If the information on the current voter registration file does not match the
2 information on the entry, the elector's voter registration history shall be checked
3 to determine if the information on the entry matches the voter registration file at
4 the time the entry was signed.

5 16.57.3 Name of registered elector: to be accepted, the name on the entry must be
6 found in form similar to that found on the voter registration record. Signatures
7 that are common variants of the name found on the voter record shall be counted.
8 If the signer of the petition is not found on the voter registration file, the entry
9 shall be rejected.

10 16.57.4 Middle initial and additional terms.

11 (a) If the middle initial or middle name is not part of either the signature line or
12 the voter record but is included on the other document, if the first and last
13 name are the same on both documents, the entry shall be accepted.

14 (b) If the middle initial or middle name on the signature line is different than the
15 middle initial or middle name on the voter record, the entry shall be rejected.

16 (c) If an indicator such as Jr., Sr. or II is present or omitted from the petition or
17 the voter record, the entry shall be accepted. If two persons with the same
18 name reside at the same address as found on the master voter list, the entry
19 shall be rejected, unless the identity of the signer can be conclusively
20 determined.

21 16.57.5 Address of registered elector.

22 (a) If the address written on the line does not match the address on the voter
23 record or on the voter history for the date when the signature was taken, the
24 entry shall be rejected.

25 (b) If the address on the petition either includes or omits a letter or number
26 identifying an apartment or the directional location of a street, such as "E"
27 for east, "SW" for southwest, etc., the entry shall be accepted.

28 (c) If the signer has a post office box for the address, the entry shall be rejected.

29 16.57.6 Incomplete information: if the line on the petition is incomplete, with at least
30 one piece of information omitted, the entry shall be rejected.

31 16.57.7 Date of signing.

32 (a) If a signature is placed on the petition prior to the final approval of the
33 petition format by the designated election official, the entry shall be
34 rejected.

35 (b) If the signature is placed on the petition after the date on the circulator's

- 1 affidavit, the entry shall be rejected.
- 2 16.57.8 Assistance to signer: if assistance appears to have been given to the signer and
3 no statement of assistance accompanies the signature or mark explaining the
4 variance in the script, the entry shall be rejected.
- 5 16.57.9 Illegible signature: if the signature and printed name are illegible so that the
6 voter record cannot be verified, the entry shall be rejected.
- 7 16.57.10 Duplicate signature: if the elector had previously signed the same petition, the
8 first valid entry shall be counted and all other entries shall be rejected.
- 9 16.68 Computation of total accepted signatures.
- 10 16.68.1 A tally shall be made of the number of accepted signatures and the number of
11 rejected signatures. IF ALL SIGNATURES ON THE PETITION HAVE BEEN VERIFIED A
12 STATEMENT OF SUFFICIENCY SHALL BE PREPARED IN ACCORDANCE WITH RULE 18.
13 IF A RANDOM SAMPLE OF SIGNATURES HAVE BEEN VERIFIED, THE FOLLOWING
14 PROCEDURES SHALL BE FOLLOWED:
- 15 ~~16.6.2~~16.8.1.1. The Secretary of State shall determine the range of
16 signatures by multiplying the constitutionally required number of signatures
17 by 0.90 to compute 90% of the required signatures and by 1.10 to compute
18 110% of the required signatures. This number shall be calculated after the
19 general election at which the Secretary of State was elected.
- 20 ~~16.6.3~~16.8.1.2. After completing a petition, the number of signatures
21 checked shall then be divided into the number of accepted signatures. This
22 number will be the percentage of accepted signatures which were submitted.
- 23 ~~16.6.4~~16.8.1.3. The percentage calculated in Rule ~~16.6.3~~ 16.8.1.2 shall then
24 be multiplied by the total number of entries which were previously tallied.
25 This number will be the number of presumed valid signatures which were
26 submitted.
- 27 ~~16.6.5~~16.8.1.4. If the number generated is 90% or less of the
28 constitutionally required number of signatures as calculated in Rule ~~16.6.2~~
29 16.8.1.1, then the Secretary of State shall issue a statement of insufficiency.
30 If the number generated is 110% or more of the constitutionally required
31 number, then the Secretary of State shall issue a statement of sufficiency.
- 32 ~~16.6.6~~16.8.1.5. If the number generated is more than 90% but less than
33 110% of the required number, the Secretary of State shall order that each
34 signature on the petition be verified to determine whether the issue or
35 question should be certified to the ballot.

36

1 Rule 17 would be repealed as follows:

2 **Rule 17. Rules Concerning Verification of All Signatures on Petitions – REPEALED**

3 ~~17.1—The process for checking all signatures shall be the same as for random sample of~~
4 ~~checking, with the following exceptions.~~

5 ~~17.2—Each petition section shall be checked for evidence of disassembly. If it appears that the~~
6 ~~section was disassembled, all signatures on the petition section shall be rejected.~~

7 ~~17.3—Checking the circulator’s affidavit.~~

8 ~~17.3.1—Each petition section shall be checked for the completed circulator’s affidavit.~~
9 ~~If the affidavit is not attached and completed, all signatures on the section of the~~
10 ~~petition shall be rejected.~~

11 ~~17.3.2—Each petition section shall be checked to assure that the notary clause at the end~~
12 ~~of the affidavit is completed. If any information is missing or if the date in the~~
13 ~~notary clause is not the same date as the circulator signed the affidavit, all~~
14 ~~signatures on the section of the petition shall be rejected.~~

15 ~~17.3.3—Except in the case of initiative petitions, the name of each circulator shall be~~
16 ~~checked to assure that the circulator was a registered elector at the time that the~~
17 ~~signatures were gathered. Any signatures gathered while the circulator was not~~
18 ~~a registered elector shall be rejected.~~

19 ~~17.4—Each individual entry shall be verified using the same criteria as found in Rule 16.5.~~

20 ~~17.5—Final Tally: After all of the sections have been checked, a final tally of all valid~~
21 ~~signatures shall be prepared and the statement of sufficiency issued.~~

22 Subsequent rules would not be renumbered.

23

24 Rule 19.2 would be amended as follows:

25 19.2 If the proponents submit additional signatures within the permitted time, all signatures
26 submitted in the addendum shall be checked using the process delineated in Rule 16 and
27 Rule 17.

28

29 Rule 20 would be repealed as follows:

30 **Rule 20. Rules Concerning Protests - REPEALED**

31 ~~20.1—Protests of statewide initiative petitions.~~

1 ~~20.2—Protest of random sampling process.~~

2 ~~20.2.1—Proponents and opponents may protest the process by which the numbers used~~
3 ~~in the calculations were generated.~~

4 ~~20.2.2—Proponents and opponents may protest that the process used for determining~~
5 ~~entries and generating the random sample did not meet the requirements~~
6 ~~established by statute or rule.~~

7 ~~20.2.3—Proponents and opponents may protest that entries were improperly accepted or~~
8 ~~rejected in that the requirements established by statute or rule were improperly~~
9 ~~applied.~~

10 ~~(a) If the protest alleges that individual entries were improperly accepted or~~
11 ~~rejected, each individual entry must be listed and the reason for challenge~~
12 ~~must be given.~~

13 ~~(b) The reason for challenge must state which of the requirements established~~
14 ~~by statute or rule were improperly applied.~~

15 ~~20.2.4—Individual entries which were not checked by the Secretary of State may not be~~
16 ~~challenged as sufficient or insufficient.~~

17 ~~20.3—Protest of petitions when all signatures are checked.~~

18 ~~20.3.1—Proponents and opponents protesting the checking of petitions when each~~
19 ~~signature was checked must list each individual entry being protested and the~~
20 ~~reason for challenge.~~

21 ~~20.3.2—The reason for challenge must state which of the requirements established by~~
22 ~~statute or rule were improperly applied.~~

23 ~~20.3.3—The protest shall be deemed insufficient for each entry or class of entries~~
24 ~~challenged where the individual entry is not listed or the reason for the~~
25 ~~challenge is not given.~~

26 Subsequent rules would not be renumbered.

27

28 Rules 22.1, and 22.3 would be amended as follows:

29 22.1. Applicability. This rule shall apply to candidate ~~and issue~~ petitions authorized by law
30 except as to municipal candidate ~~or issue~~ petitions.

31 22.3 Procedures Concerning Count of Signatures and Verification of Petition.

32 22.3.1 When the petitions are received, each section shall be date-stamped and
33 consecutively numbered.

1 22.3.2 Each line with writing shall be counted on each petition and shall be considered
2 an entry. The number of entries for each page of the section shall be written on
3 the page and the total entries for the section shall be written on the face of the
4 petition section.

5 (a) A line that has no writing or marks on it shall not be considered an entry.

6 (b) A line that has writing on it but is completely crossed out shall not be
7 considered an entry.

8 (c) A line which has writing on it but is incomplete or on its face contains an
9 invalid signature or which is partially crossed out shall be considered an
10 entry to be included in this count.

11 22.3.3 Verification of petitions.

12 (a) Each reason for rejection of an entry shall be recorded by separate code and
13 a master record of the rejected entries shall be maintained. A master record
14 shall also be maintained of each entry that is accepted.

15 (b) Each section shall be checked for evidence of disassembly. If it appears that
16 the section was disassembled, all entries in the section shall be rejected.

17 (c) The circulator's affidavit shall be checked for each entry. If the affidavit is
18 not attached and completed, all entries in the section shall be rejected.

19 (d) The notary clause at the end of the affidavit shall be checked for each entry.
20 If any information is missing or if the date on the notary clause is not the
21 same date as the circulator signed the affidavit, all entries in the section shall
22 be rejected.

23 ~~(e) Except for initiative petitions, the name of each circulator shall be checked
24 to assure that the circulator was an eligible elector in the political
25 subdivision for which the petition is being circulated at the time that the
26 signatures were gathered. If the circulator was not an eligible elector, all
27 entries in the section shall be rejected.~~

28 ~~(f) If the information on the current voter registration file does not match the
29 information on the entry, the circulator's voter registration history shall be
30 checked to determine if the information on the affidavit matches the voter
31 registration file at the time the affidavit was signed. If the information does
32 not match, all entries in the section shall be rejected.~~

33 ~~(g) In accordance with the decision of the United States Supreme Court in
34 Buckley v. American Constitutional Law Foundation, 520 U.S. 182 (1999),
35 circulators of statewide initiative petitions are not required to be registered
36 electors, but such circulators must still be "electors", which means that they
37 must be (1) residents of the State of Colorado, (2) citizens of the United~~

1 ~~States, and (3) at least 18 years of age. If there is sufficient evidence to~~
2 ~~conclude that the circulator was not an elector at the time any signature was~~
3 ~~gathered, all entries in the section shall be rejected.~~ (E) THE AFFIDAVIT SHALL
4 BE VERIFIED TO ENSURE THAT IT HAS BEEN COMPLETED IN ACCORDANCE WITH
5 SECTION 1-4-905(1) AND (2), C.R.S. IF THERE IS SUFFICIENT EVIDENCE TO
6 CONCLUDE THAT THE CIRCULATOR WAS NOT IN COMPLIANCE WITH THE
7 REQUIREMENTS OF SECTION 1-4-905(1) AND (2), C.R.S. AT THE TIME ANY
8 SIGNATURE WAS GATHERED, ALL ENTRIES IN THE SECTION SHALL BE
9 REJECTED.

10
11 Rule 23.4.3 would be amended as follows:

12 23.4.3 Each referendum petition section shall consist of the following, in the order listed:
13 Sections 1-40-113(1), and 1-40-102(6), C.R.S.

- 14 (a) The warning as specified in Section 1-40-110, C.R.S.
- 15 (b) The heading “Referendum Petition”, followed by the demand upon the Secretary
16 of State in substantially the following form, in which the underlined material is
17 only for example:

18 “To: The Honorable _____, Secretary of State of the State of Colorado

19 We, the undersigned electors of the State of Colorado, do hereby respectfully
20 petition, order, and demand that Sections 1 to 12, inclusive (being the entire Act),
21 of House Bill No. 02-1010, by Representatives Abel, Baker, and Cain, and
22 Senators Smith, Thomas, and Jones, entitled “Concerning registration
23 requirements for motor vehicles, and, in connection therewith, authorizing two-
24 and five-year registration periods and authorizing discretionary vehicle
25 identification number inspections, and making an appropriation”, passed by the
26 Sixty-third General Assembly of the State of Colorado, at its regular session in the
27 year 2002, shall be submitted to the voters for their adoption or rejection at the
28 next biennial regular general election, to be held on Tuesday, the 5th day of
29 November, 2002, and each of the signers of this petition says:

30 I sign this petition in my own proper person only, and I am a registered elector of
31 the State of Colorado, my residence address and the date of my signing this
32 petition are correctly written immediately after my name, and I do hereby
33 designate the following persons to represent me in all matters affecting this
34 petition.”

- 35 (c) The name and mailing address of two persons who are designated to represent
36 the signers thereof in all matters affecting the same.
- (d) The ballot title and submission clause in the form required by this Rule 23.

- 1 (e) The text of the Act, or the item(s), section(s), or part(s) of the Act, on which the
2 referendum is demanded. *See* sections 1-40-110; 1-40-102(6).
- 3 (f) Succeeding pages that each contain the warning, the ballot title, and submission
4 clause, and ruled lines numbered consecutively for electors' signatures.
- 5 (g) A final page that contains the circulator's affidavit required by section 1-40-111
6 (2), C.R.S., ~~except that, instead of a statement that the circulator is a registered~~
7 ~~elector, the affidavit shall include a statement that the circulator is a resident of~~
8 ~~the State of Colorado, a citizen of the United States, and at least 18 years of age.~~
9 ~~Rule 22.3.3(g)~~

10
11 Rule 25 would be amended as follows:

12 **Rule 25. Rules Concerning Uniformed and Overseas Citizens' Absentee Voting Act**
13 **("UOCAVA")**

14 25.1 UOCAVA Fax Ballot Rules:

15 25.1.1 U.S. citizens who are absent from the state and who are members of the
16 Uniformed Services as defined as the U.S. Armed Forces (Army, Navy,
17 Marines, Air Force and Coast Guard), Merchant Marine, and their spouses or
18 dependants, resident overseas electors, or nonresident overseas electors who are
19 otherwise qualified to apply for and vote by ~~absentee-MAIL-IN~~ ballot,
20 ("UOCAVA citizens"), may request an ~~absentee-MAIL-IN~~ ballot by facsimile
21 transmission.

22 25.1.2 A designated election official may send and receive ~~absentee-MAIL-IN~~ ballot
23 applications by facsimile transmission, send blank ballots and accept voted
24 ballots by facsimile transmission from eligible electors who are UOCAVA
25 citizens absent from the state and who are otherwise qualified to vote by
26 ~~absentee-MAIL-IN~~ ballot.

27 25.1.3 If the designated election official has mailed a Clarification for Voter Status
28 Memorandum to an elector in response to receiving an ~~absentee-MAIL-IN~~ ballot
29 request and has not received a response to the memo at the time the ~~absentee~~
30 ~~MAIL-IN~~ ballot packet is prepared, the designated election official shall mail the
31 elector a full ballot for which the elector, as a resident, would be eligible to vote
32 (federal, state, local offices and questions).

33 25.1.4 ~~No later than January 1, 2006,~~ The office of each county clerk and recorder
34 shall have a dedicated fax machine located in their office in order to send and
35 receive faxed ballots to and from UOCAVA citizens in accordance with the
36 Help America Vote Act of 2002 and this Rule 25.

37 25.1.5 On the faxed application, the elector shall provide the fax number, including the

1 international country code and local area, province or city code (if applicable),
2 where the ballot shall be faxed.

3 25.1.6 An ~~Absentee-MAIL-IN~~ ballot that is completed and returned by the elector via
4 facsimile transmission must contain the elector's printed name, signature, date
5 of birth, and the following statement: "I am a member of the Uniformed
6 Services, a member of the Merchant Marine, spouse/dependant of a Uniformed
7 Services Member or Merchant Marine, resident overseas elector or a
8 nonresident overseas elector and am qualified to apply for and vote by ~~absentee~~
9 MAIL-IN ballot. I also understand that by faxing my voted ballot, I am
10 voluntarily waiving my right to a secret ballot."

11 25.2 Limited Electronic Mail Ballot Rules

12 25.2.1 A uniformed services elector serving outside the United States may receive and
13 return an application for, or an ~~absentee-MAIL-IN~~ ballot by electronic mail in
14 circumstances where a mail ballot or fax ballot is not available or feasible.

15 (a) An application for ~~absentee-AN~~ electronic ~~mail~~-ballot must be received no
16 later than close of business the Friday immediately preceding the election

17 (b) An email request for a replacement ballot must be received by 5:00 p.m.
18 Mountain Time on election day.

19 25.2.2 Upon receipt and verification of an application, the designated election official
20 shall authorize the transmission of a blank ballot containing all contests and
21 questions for which the elector is eligible to vote.

22 (a) The designated election official shall fax the election materials, which
23 shall include a blank ballot and voter instructions (including the elector
24 affidavit) to the Federal Voting Assistance Program (FVAP) Electronic
25 Transmission Service (ETS). The designated election official shall not
26 send the voting materials directly to the elector by electronic mail. Or,

27 (b) The designated election official may store the ballot electronically with
28 ETS using the procedures outlined in the FVAP ETS Guide, and authorize
29 the transmission of the blank ballot and instructions (including the elector
30 affidavit) to the elector by faxing a completed electronic transmission
31 coversheet to ETS.

32 25.2.3 The electronic package transmitted to ETS shall contain:

33 (a) A completed electronic transmission coversheet;

34 (b) The blank ballot, if not stored with ETS, with voting instructions
35 (including the elector affidavit); and

- 1 (c) The contact information for the designated election official including:
2 name, title, mailing address, email address, phone, and fax number.
- 3 25.2.4 ~~An Absentee~~ ballot that is completed and returned by the elector via electronic
4 mail must contain the elector's printed name, signature, date of birth, and the
5 following statement: "I am a member of the Uniformed Services and am
6 qualified to apply for and vote by ~~absentee~~-MAIL-IN ballot. I also understand
7 that by transmitting my voted ballot by electronic mail, I am voluntarily waiving
8 my right to a secret ballot."
- 9 25.2.5 To return a voted ~~absentee~~-ballot and affidavit by electronic mail, the elector
10 must have access to the technology to scan the documents, save the documents
11 in a secure format, and return the documents as an electronic mail attachment.
- 12 25.2.6 Upon receipt of the voted ballot, the designated election official shall verify the
13 elector's signature pursuant to section 1-8-114.5, C.R.S. and Rule 29. Upon
14 verification of the elector's signature, the ballot shall be duplicated pursuant to
15 1-8-103.5(2) C.R.S. and processed.
- 16 25.3 Overall UOCAVA Requirements
- 17 25.3.1 ~~Absentee~~-MAIL-IN ballots sent by ETS or facsimile transmission shall be in text
18 format on 8 ½" x 11" white paper to increase the readability of the ballot and to
19 avoid possible misinterpretations of the elector's intended choice because of
20 poor transmission of the document.
- 21 25.3.2 Instructions sent by ETS or faxed to the elector with the blank ballot shall be in
22 text format on 8 ½" x 11" white paper and shall include the following
23 information:
- 24 (a) The dedicated fax number or email address for ETS to which the voted
25 ballot shall be returned (if applicable);
- 26 (b) The total number of pages transmitted;
- 27 (c) The total number of ballot pages;
- 28 (d) The telephone number or e-mail address where the eligible elector may
29 send questions regarding the ~~fax~~-~~absentee~~ ballot;
- 30 (e) A notice that the ballot shall not be duplicated for any other elector;
- 31 (f) A notice that once the ballot is returned by an elector, it will be counted
32 pursuant to section 1-8-116(4), C.R.S.; however, if an elector requests a
33 replacement ballot, the first ballot returned will be counted pursuant to
34 section 1-8-111(3), C.R.S.;

- 1 (g) A notice that the voted ballot must be received by the clerk and recorder or
2 Secretary of State no later than 7:00 p.m. Mountain Time on election day;
- 3 (h) A request for an e-mail address to which a confirmation notice of receipt
4 of the ballot may be sent at the discretion of the county clerk and recorder;
5 and
- 6 (i) Any other information deemed necessary by the Secretary of State or the
7 designated election official.

8 25.3.3 The designated election official shall fax a blank ballot with the instructions to
9 the fax number provided by the elector, or to ETS (if applicable). If the
10 transmission is unsuccessful, the designated election official shall attempt to fax
11 the ballot at least two more times.

12 25.3.4 ~~Absentee~~-MAIL-IN ballot applications returned via facsimile transmission or
13 electronic mail by the elector to the county clerk and recorder or the Secretary
14 of State via ETS shall be received in the clerk and recorder's office or the
15 Secretary of State's office no later than the close of business on the Friday
16 immediately preceding the election.

17 25.3.5 Any voted ballot by a Uniformed Services elector or an overseas elector
18 received by the office of the Secretary of State by 7:00 p.m. Mountain Time on
19 election day shall be forwarded to the appropriate county clerk and recorder by
20 overnight mail, fax, or courier no later than the next business day. The office of
21 the Secretary of State shall immediately notify the appropriate county clerk and
22 recorder of the receipt and forwarding of the ballot.

23 25.3.5.1 If a county is notified by the Secretary of State by 7:00 p.m. on
24 election day that an ~~absentee~~-MAIL-IN ballot has been received by the
25 office of the Secretary of State, the clerk and recorder shall retain a
26 minimum of ten (10) voted ballots, which shall be counted with the
27 ballot received by the Secretary of State to ensure voter secrecy.

28 25.3.6 Any ballot transmitted to an elector by ETS or facsimile shall contain a unique
29 identification number for tracking and auditing purposes.

30 25.3.7 A log shall be kept by the designated election official of each ballot transmitted
31 to an elector by ETS or facsimile indicating:

- 32 (a) The name of the elector;
- 33 (b) The fax number to which the ballot was sent, or email address (if
34 applicable);
- 35 (c) The unique identification number of the ballot;
- 36 (d) The date the ballot and instructions were transmitted; and

1 (e) The initials of the employee of the designated election official transmitting
2 the ballot.

3 25.3.7.1 The electronic transmission log as well as any other ETS or fax
4 records shall be maintained as part of the official election record.

5 25.3.8 The county clerk and recorder shall report to the Secretary of State's office no
6 later than sixty (60) days from the date of the election:

7 (a) The combined number of ~~absentee-MAIL-IN~~ ballots transmitted (faxed,
8 mailed, and transmitted via ETS)

9 (b) The combined number of ~~absentee-MAIL-IN~~ ballots that were returned
10 (faxed, mailed, and transmitted via ETS);

11 (c) The total number of ~~absentee-MAIL-IN~~ ballots that were counted (faxed,
12 mailed, and transmitted via ETS).

13
14 Rule 26 would be amended as follows:

15 **Rule 26. Rules Concerning Provisional Voting**

16 26.1 General Rules Regarding Provisional Voting

17 26.1.1 Eligible electors who have moved within the State of Colorado before the
18 registration deadline may vote a provisional ballot at the polling place on Election
19 Day or in the clerk and recorder's office or designated offices.

20 26.1.2 If the provisional ballot envelope is used as a voter registration form, it is subject
21 to the same requirements as any other voter registration form.

22 A. AN ELECTOR WHOSE PROVISIONAL BALLOT HAS BEEN MARKED WITH THE
23 REJECTION CODE RFE AND WAS NOT COUNTED BECAUSE THE ELECTOR IS
24 INELIGIBLE TO VOTE BECAUSE HE OR SHE WAS CONVICTED OF A FELONY AND
25 IS EITHER SERVING A SENTENCE OF CONFINEMENT OR DETENTION OR IS ON
26 PAROLE, SHALL NOT BE REGISTERED TO VOTE IN ACCORDANCE WITH
27 SECTION 1-2-606, C.R.S.

28 26.1.3 An elector who has requested an ~~absentee-MAIL-IN~~ ballot shall be permitted to cast
29 a provisional ballot upon his or her declaration that they have not and will not cast
30 any vote in the election other than by that provisional ballot.

31 26.1.4 Provisional ballots for voters who have requested ~~absentee-MAIL-IN~~ ballots shall
32 be separated from other provisional ballots and shall not be counted until all
33 ~~absentee-MAIL-IN~~ ballots cast in the election have been counted.

1 26.1.5 For the purposes of Article 8.5 of C.R.S. and this Rule 26, “statewide offices”
2 shall be defined as the following:

- 3 ● Governor-Lieutenant Governor (as a pair)
- 4 ● Attorney General
- 5 ● Secretary of State
- 6 ● Treasurer
- 7 ● Regent of the University of Colorado- At Large

8 26.2 Emergency Registration and use of Provisional Ballots in the County Clerk and
9 Recorder’s Office

10 26.2.1 If the elector applies for an emergency registration that cannot be qualified in
11 the clerk’s office at the time of the registration pursuant to section 1-2-217.5(4),
12 C.R.S., the elector shall be issued a provisional ballot. The elector’s registration
13 must be confirmed by the designated election official at the time that the
14 provisional ballots are verified or the provisional ballot shall not be counted.

15 26.2.2 If an elector whose name is not in the registration records, appears in person at
16 the county clerk and recorder’s office and states that he or she has timely
17 registered through an agency pursuant to section 1-2-504, C.R.S., can affirm to
18 the name, location of, and approximate date he or she completed the application
19 at the agency or provide an application receipt, and provides an ID as defined in
20 section 1-1-104(19.5), C.R.S., the elector shall be offered emergency
21 registration and be offered a regular ballot.

22 26.2.2.1 If the elector does not provide an ID the elector shall be offered a
23 provisional ballot. The county clerk and recorder shall note on the
24 provisional ballot envelope that the elector did not have an ID.

25 26.2.2.2 If the elector is able to produce an application receipt from the
26 agency registration, but does not provide an ID pursuant to section 1-1-
27 104(19.5), C.R.S., the elector shall surrender the receipt to the election
28 judge, and the county clerk and recorder shall attach the receipt to the
29 provisional ballot envelope.

30 26.2.3 If an elector whose name is not in the registration records, appears in person at
31 the county clerk and recorder’s office and states that he or she has timely
32 registered through a Voter Registration Drive (“VRD”) pursuant to section 1-2-
33 504, C.R.S., can affirm to the ~~name~~, location of, and approximate date he or she
34 completed the application with the VRD or provide an application receipt, and
35 provides an ID as defined in section 1-1-104(19.5), C.R.S., the elector shall be
36 offered emergency registration and be offered a regular ballot.

1 26.2.3.1 If the elector does not provide an ID the elector shall be offered a
2 provisional ballot. The county clerk and recorder shall note on the
3 provisional ballot envelope that the elector did not have an ID.

4 26.2.3.2 If the elector is able to produce an application receipt from the
5 VRD registration, but does not provide an ID pursuant to section 1-1-
6 104(19.5), C.R.S., the elector shall surrender the receipt to the election
7 judge, and the county clerk and recorder shall attach the receipt to the
8 provisional ballot envelope.

9 26.2.4 If the elector’s eligibility to vote cannot be verified, the provisional ballot shall
10 not count, but may constitute a registration for future elections.

11 26.3 Provisional Voting in the Polling Place

12 26.3.1 If the elector does not provide a date in the “Previous Residence Information”
13 section of the provisional ballot envelope stating when the elector moved to the
14 address he or she listed as his or her legal residence on the provisional ballot
15 envelope, the designated election official shall attempt to verify the provisional
16 ballot. If the provisional ballot can be verified, it shall be counted. If it cannot be
17 verified, it shall not be counted.

18 26.3.2 If the elector whose name does not appear on the pollbook states that he or she
19 applied to register to vote prior to the close of registration with a VRD or agency
20 pursuant to Section 1-2-504, C.R.S., the election judge shall:

- 21 ● Offer the elector a provisional ballot;
- 22 ● Ask the elector to surrender the application receipt;
- 23 ● Check the box on the provisional ballot envelope indicating that the voter
24 is a VRD or agency applicant, and
- 25 ● Attach the receipt to the outside of the provisional ballot envelope.

26 26.3.3 The word “provisional” shall be marked on the provisional ballot and on the
27 pollbook or signature card next to the elector’s name.

28 26.4 Verification of Provisional Ballots

29 26.4.1 When the designated election official has concluded that all voted provisional
30 ballots have been delivered to and received by the election office, the designated
31 election official shall determine the time that provisional verification and
32 processing begins in accordance with the deadlines set forth in title one and these
33 rules. The designated election official or designee shall complete preliminary
34 verification without opening the provisional ballot envelopes.

1 26.4.2 When verifying provisional ballots, the designated election official must check
2 the county voter registration database to see whether the elector has already voted
3 in the election.

4 26.4.3 When the designated election official has received both an ~~absentee~~ MAIL-IN ballot
5 and a provisional ballot from an elector, but there is a discrepancy between the
6 signature on the returned ~~absentee~~ MAIL-IN ballot envelope and the voter's
7 signature on file with the county clerk and recorder, the discrepancy must be
8 resolved. Before the provisional ballot may be counted, the elector must affirm
9 that the signature on the ~~absentee~~ MAIL-IN ballot envelope is not his or her
10 signature. Section 1-8.5-105(4) and (5), C.R.S.

11 26.4.4 Verification of an elector's eligibility to have his or her provisional ballot counted
12 shall be limited to the following sources to determine proof of voter registration:

13 (a) Sources provided by the Secretary of State or law enforcement agencies
14 regarding felons who are serving a sentence of detention or confinement
15 or on parole;

16 (b) The local election office voter registration database;

17 (c) The Secretary of State's voter registration database;

18 (d) The DMV Motor Voter database (Note: Possession of a driver's license is
19 not conclusive proof of voter registration; elector must have registered to
20 vote through the DMV.)

21 26.5 Counting of Provisional Ballots

22 26.5.1 If the information contained in the provisional ballot envelope provides adequate
23 criteria so that the designated election official is able to confirm under election
24 rule 26 that the elector is registered, the provisional ballot shall count.

25 26.5.2 Pursuant to section 1-2-509(3), C.R.S., if the designated election official receives
26 a provisional ballot from a voter who registered to vote but had an incomplete or
27 deficient voter registration application, and did not supply the required
28 information at the time of registration, at any time prior to voting, or on the
29 provisional ballot envelope, the provisional ballot shall not be counted. If the
30 voter does supply the required information prior to or at the time of voting, then
31 the provisional ballot may be counted.

32 26.5.3 Acceptance Codes (Any provisional ballot given an acceptance code shall have all
33 races counted unless otherwise indicated.

34 AOK Reviewed and confirmed voter's eligibility.

35 ADB Election official is knowledgeable that the elector was erroneously sent to
36 the wrong precinct or erroneously given the wrong ballot style in the

1 elector's correct precinct. Voted ballot will be duplicated and only races
2 and issues for which the elector is qualified to vote shall be counted.

3 AEJ Election judge who was appointed after close of early and ~~absentee~~MAIL-
4 IN voting and is working outside his or her precinct; judge shall vote on a
5 ballot in the precinct in which he or she is working; voted ballot will be
6 duplicated so that only the races and issues for which the judge is qualified
7 to vote shall be counted.

8 AAB Voter appeared in person and affirmed under oath that he or she applied
9 for an ~~absentee~~MAIL-IN ballot but he or she has not and will not cast the
10 ~~absentee~~MAIL-IN ballot. The designated election official shall determine
11 that voter did not previously cast an ~~absentee~~MAIL-IN ballot for that
12 election pursuant to Rule 26.

13 ACP Voter moved from the county in which the voter was registered to another
14 county in the state not less than thirty days before the election and voted in
15 the correct precinct in the new county of residence. The voter's address
16 will BE updated. Section 1-8.5-107(2)(a), C.R.S.

17 AFS Voter is registered in the county but is voting in the wrong precinct or the
18 voter moved from the county in which the voter was registered to another
19 county in the state less than thirty days before the election. Only the votes
20 for federal and statewide offices and statewide ballot issues and questions
21 upon which the voter may vote shall be counted. Section 1-8.5-108(2),
22 C.R.S.

23 AVD Voter registered through a voter registration drive and the application
24 receipt was surrendered to the election judge, OR THE ELECTOR AFFIRMED
25 AS TO THE APPROXIMATE DATE AND LOCATION OF THE REGISTRATION WITH
26 THE VOTER REGISTRATION DRIVE IN ACCORDANCE WITH SECTION 1-2-
27 217.5(2), C.R.S.

28 AAG Voter registered through an agency and application receipt was
29 surrendered to election judge, OR THE ELECTOR AFFIRMED AS TO THE DATE,
30 NAME AND LOCATION OF THE REGISTRATION WITH THE AGENCY IN
31 ACCORDANCE WITH SECTION 1-2-217.5(2), C.R.S.

32 ARD Voter had deficient or incomplete registration. The required information
33 was provided by voter on the provisional ballot envelope. Voter's
34 registration will be amended and registration will be complete. Section 1-
35 2-509(3), C.R.S.

36 26.5.4 Rejection Codes (Any ballot given a rejection code shall not be counted):

37 RFS (Rejection federal or state) No federal or state candidates or issues to
38 duplicate.

- 1 RNS (Rejection not signed) Provisional Ballot Affidavit not signed.
- 2 RIN (Rejection incomplete information provided) Required information is
3 incomplete and the designated election official is unable to confirm voter's
4 eligibility.
- 5 RNR (Rejection not registered) Voter did not register by the voter registration
6 deadline or by emergency registration, Colorado voter registration record
7 was not found, or voter was previously cancelled and has not been
8 reinstated pursuant to section 1-2-605(10), C.R.S.
- 9 REE (Rejection envelope empty) Provisional ballot envelope is empty.
- 10 RAB (Rejection voter voted ~~absentee~~ MAIL-IN BALLOT) Designated election
11 official has confirmed that voter voted an ~~absentee~~ MAIL-IN ballot.
- 12 REV (Rejection based on ballot cast in early voting) Voter voted early.
- 13 RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
- 14 RFE (Rejection felon not eligible to vote) Individual was convicted of a felony
15 and is either serving a sentence of confinement or detention or is on
16 parole.
- 17 RWC (Rejection elector not registered in county or State of Colorado) Non-
18 county or non-state resident; therefore voter not eligible to vote in the
19 county where the provisional ballot was voted.
- 20 RID (Rejection first time voter has not supplied identification upon registration
21 or thereafter prior to and during time voter voted) First Time Voter who
22 registered by mail or through a voter registration drive, is tagged as id
23 deficient, and did not provide id at the time of voting.
- 24 RRD (Rejection registration deficient) Voter had deficient or incomplete
25 registration and required information was not provided prior to or at the
26 time of filling in the provisional ballot envelope. Voter's eligibility cannot
27 be established. Section 1-2-509(3), C.R.S.
- 28 26.6 The provisional ballot log required by section 1-8.5-110 (4), C.R.S., may be prepared by
29 the designated election official in handwritten or computer-generated form.
- 30 26.7 Recount procedures for provisional ballots shall be the same as the recount procedures
31 for other ballots as directed by the Secretary of State.
- 32 26.8 Pursuant to section 1-8.5-102(2), C.R.S., the provisional ballot affidavit shall contain the
33 following language:

1 *I do solemnly affirm that I am a citizen of the United States, that I have attained the age*
2 *of eighteen years, and that I have resided in the State of Colorado and in my present*
3 *precinct at least thirty days before the election, or at my current residence address since*
4 *the date I moved as shown above. I further affirm that the address indicated in this*
5 *affidavit is my sole legal residence and that I claim no other place as my legal residence.*
6 *I affirm that if I applied for an ~~Absentee~~ MAIL-IN Ballot I have not and will not cast the*
7 *~~Absentee-MAIL-IN~~ Ballot that I requested. I further affirm under penalty of law that I*
8 *have not and will not cast any vote in this election except by the enclosed ballot, that I*
9 *will not vote in any other precinct, county or state, and that my ballot is enclosed in*
10 *accordance with the provisions of the “Uniform Election Code of 1992”, Article 1 to 13*
11 *of Title 1, C.R.S.*

12 26.9 Pursuant to section 1-8.5-103, C.R.S., the size of the provisional ballot envelope or
13 affidavit form shall be in such a manner as to provide to the elector complete and legible
14 information as shown on the state approved form. Any alterations to the standard format
15 shall be submitted to the secretary of state pursuant to the policy statement concerning
16 secretary of state approved forms.

17
18 Rule 29 would be amended as follows:

19 **Rule 29. Rules Concerning Procedures for the Verification of Signatures**

20 29.1 Missing Signature on Mail Ballot, Provisional Ballot or ~~Absentee-MAIL-IN~~ Ballot
21 Envelope

22 29.1.1 When the election judge reviews the mail ballot return envelope pursuant to
23 section 1-7.5-107.3, C.R.S., or ~~absentee-MAIL-IN~~ ballot return envelope pursuant
24 to section 1-8-114.5, C.R.S., or the provisional ballot return envelope pursuant to
25 section 1-8.5-105(3)(a), C.R.S., and notices that the envelope lacks a signature,
26 the election judge shall contact the eligible elector in writing no later than two
27 calendar days after election day. A copy of the written notification shall be kept
28 in an official file, which shall become part of the official election record. Nothing
29 in this rule shall be construed to prohibit the designated election official from
30 calling the elector; however, a phone call shall not substitute for notification to the
31 elector in writing.

32 29.1.2 The letter shall inform the eligible elector that they must come to the office of the
33 county clerk and recorder to sign the mail ballot, provisional ballot, or ~~absentee~~
34 MAIL-IN ballot envelope no later than eight (8) calendar days after election day.

35 29.1.3 The letter sent by the election official shall not constitute a violation of section 1-
36 13-801, C.R.S.

37 29.1.4 The form shall include the following language:

1 “Any person who knowingly violates any of the provisions of the election code
2 relative to the casting of ballots or who aids or abets fraud in connection with any
3 vote cast, or to be cast, or attempted to be cast shall be punished by a fine of not
4 more than five thousand dollars or by imprisonment in the county jail for not
5 more than eighteen months, or by both such fine and imprisonment. Section 1-
6 13-803, C.R.S.

7 29.2 In accordance with section 1-8-114.5, C.R.S., for ~~absentee~~-MAIL-IN ballots and section
8 1-7.5-107.3, C.R.S., for mail ballots, the election judges shall compare the signature on
9 the self-affirmation on each respective “Return Envelope” with the signature on file with
10 the county clerk and recorder or election official. Signatures shall require further
11 research if any of the following discrepancies are discovered:

12 Code 1 – An obvious change in the slant of the signature

13 Code 2 – A printed signature on one document and a cursive signature on the other
14 document

15 Code 3 – Differences in the size or scale of the signature

16 Code 4 – Differences in the individual characteristics of the signatures, such as how the
17 “t’s” are crossed, “I’s” are dotted, loops are made on “Y’s” or “J’s”

18 Code 5 – Differences in the voter’s signature style, such as how the letters are connected
19 at the top and bottom

20 Code 6 – Ballots or envelopes from the same household have been switched

21 Code 7 – ‘Other,’ including misspelled names & description of discrepancy

22 29.3 If further research is necessary, the election judge shall check the county clerk’s or
23 election official’s file for at least two additional documents signed by the voter, if
24 available. Additional information, written by the voter on the “Return Envelope”, such as
25 the voter’s address and date of signing may be compared for similarities. Any
26 similarities noted when comparing this other information may be used as part of the
27 signature verification decision process.

28 29.3.1 If it appears to the judges verifying the self-affirmation on the return envelopes
29 that members of the same household who have applied for ~~absentee~~-MAIL-IN
30 ballots or have been sent mail ballots have inadvertently switched envelopes or
31 ballots, the ballot or ballots shall be counted and no letter of advisement to the
32 elector is necessary.

33 29.4 Whenever a signature is disputed, the election judge shall document the discrepancy by
34 completing a log. The log shall provide a record of the research steps taken to resolve the
35 issue. The log will identify the voter using a unique tracking number. This tracking
36 number shall not contain the voter’s social security number; Colorado issued driver’s
37 license number, or the identification number issued by the Department of Revenue.

- 1 29.5 The log shall be approved by the Secretary of State pursuant to section 1-1-109, C.R.S.
- 2 29.6 There shall be no document containing the voter's signature attached to the research log.
- 3 29.7 If both sets of election judges agree that the signatures do not match, the county clerk
4 and recorder shall within two days after the election, send a letter to the eligible elector at
5 the address indicated in the registration records and the address where the ~~absentee-MAIL-~~
6 IN BALLOT or mail ballot was mailed explaining the discrepancy in signatures and a form
7 for the eligible elector to confirm that the elector returned a ballot to the county clerk and
8 recorder. (sections 1-7.5-107.3(2)(a) and 1-8-114.5(2)(a), C.R.S.). The voted ballot itself
9 should not under any circumstances be returned with this letter.
- 10 29.8 The form of the letter as well as the form sent to the elector shall be approved by the
11 Secretary of State pursuant to section 1-1-109, C.R.S.
- 12 29.9 The letter sent by the election official shall not constitute a violation of section 1-13-801
13 C.R.S.
- 14 29.10 The final signature verification resolution and ballot disposition shall be noted on the
15 research log.
- 16 29.11 Any uncounted ballot shall remain sealed in the return envelope and stored under seal
17 with all other uncounted ballots as part of the election record pursuant to section 1-7-802,
18 C.R.S., and may be removed only under the authority of a district attorney or by order of
19 a court having jurisdiction.

20

21 Rule 30 would be amended as follows:

22 **Rule 30. Rules Concerning Voter Identification**

23 30.1 Definitions

24 30.1.1 "Registration in person" means any registration personally completed by the voter
25 at any clerk's main or branch office or personally delivered by the voter to any
26 clerk's main or branch office, driver's license office, or other voter registration
27 agency.

28 30.1.2 "Mail Registration" or "Registration by mail" includes any registration not
29 personally delivered by the voter to any clerk's main or branch office, voter
30 registration agency, driver's license office, or other human services agency.
31 These registrations include, but are not limited to, postmarked registration forms
32 and voter registration drives.

33 30.1.3 As referenced in these rules, "tagging a voter" for ID before voting means
34 identifying a voter in the voter registration database as one who registered by mail

1 and did not supply required identification. Tagged voters require a copy of the
2 required identification to be enclosed with an ~~absentee~~ MAIL-IN or mail ballot.

3 30.1.4 A tagged voter may present the required voter ID or a number which is
4 subsequently verified to the county clerk and recorder at any time prior to
5 returning a voted mail or ~~absentee~~ MAIL-IN ballot to satisfy the provisions of Rule
6 30.1.3.

7 30.1.5 “SSN” as used in these rules shall mean either the entire Social Security Number
8 or the last four (4) digits of the Social Security Number.

9 30.1.6 “ID” as used in these rules shall mean identification as defined in compliance
10 with section 1-1-104(19.5), C.R.S., as a copy of one of the following:

- 11 ● A valid Colorado driver’s license;
- 12 ● A valid identification card issued by the Department of Revenue in
13 accordance with the requirements of Part 3 of Article 2 of Title 42, C.R.S.;
- 14 ● A valid U.S. passport;
- 15 ● A valid employee identification card with a photograph of the eligible
16 elector issued by any branch, department, agency, or entity of the United
17 States government or of this state, or by any county, municipality, board,
18 authority, or other political subdivision of this state;
- 19 ● A valid pilot’s license issued by the federal aviation administration or
20 other authorized agency of the United States;
- 21 ● A valid U.S. military identification card with a photograph of the eligible
22 elector;
- 23 ● A copy of a current utility bill, bank statement, government check,
24 paycheck, or other government document that shows the name and address
25 of the elector. (A cable bill, a telephone bill, documentation from a public
26 institution of higher education in Colorado containing at least the name,
27 date of birth, and legal residence address of the student elector, a paycheck
28 from a government institution, or a Certificate of Degree of Indian or
29 Alaskan Native Blood are sufficient forms of identification);
- 30 ● A valid Medicare or Medicaid card issued by the United States Health
31 Care Financing Administration;
- 32 ● A certified copy of a U.S. birth certificate for the elector issued in the
33 United States; ~~or~~
- 34 ● Certified documentation of naturalization; OR

- A VALID STUDENT IDENTIFICATION CARD WITH A PHOTOGRAPH OF THE ELIGIBLE ELECTOR ISSUED BY AN INSTITUTE OF HIGHER EDUCATION IN COLORADO, AS DEFINED IN SECTION 23-3.1-102(5), C.R.S.

30.1.7 As used in section 1-1-104(19.5)(a)(VII) “current” refers to current utility bill, current bank statement, and current government check, paycheck, or other government document that shows the name and address of the elector. Current means that the date of the document is within 60 days of the date submitted for identification purposes unless the document states a longer billing cycle.

30.2 Voter registration in person.

30.2.1 Registering in Person. The elector must provide:

- A valid Colorado Driver’s License number;
- if the voter does not have a valid eColorado driver’s license, the voter shall provide the number of the voter’s current and valid identification card issued by the Colorado Department of Revenue.
- If the voter has not been issued a valid Colorado Driver’s License or ID card issued by the Department of Revenue, then the voter shall provide at least the four last digits of the voter’s social security number.

Authority: Section 1-2-204(2)(f.5), C.R.S.; ~~SB06-170~~

30.2.2 A voter is not required to show or present his current and valid Colorado driver’s license or ID. It is sufficient for the voter to provide the number.

30.2.3 If an applicant for voter registration has not been issued a current and valid Colorado driver’s license or a current and valid identification card issued by the Department of Revenue or a social security number, the election official shall nevertheless register the voter. The applicant shall be assigned a unique identification number that will serve to identify the applicant for voter registration purposes. Section 1-2-204 (2.5), C.R.S.

30.3 Voter Registration by Mail

30.3.1 Registering by Mail. (Including Voter Registration Drives).

- (a) The voter must provide one of the following identification numbers:
- (b) The person’s Colorado Driver’s License number or ID number issued by the Department of Revenue; if the voter does not have a current and valid Colorado Driver’s License or ID card issued by the Department of Revenue, the voter shall provide the last four digits of the voter’s social security number.

1 (c) If a voter has not been issued a Colorado Driver's License number, ID
2 card issued by the Department of Revenue or a Social Security card, the
3 voter must provide a copy of one of the forms of identification listed in
4 30.1.6.

5 Authority: Sections 1-2-501(2)(a), C.R.S. and 1-1-104(19.5), C.R.S.

6 30.3.2 Prior to the implementation of the statewide voter registration database, For any
7 voter registration application received by mail that does not have enclosed a
8 copy of the Colorado Driver's License number, number of an identification card
9 issued by the Department of Revenue, or Social Security number listed, the ID
10 number shall be verified against the Department of Motor Vehicle Motor/Voter
11 Database and the Secretary of State voter registration database. When access to
12 the Social Security database becomes available, that database shall also be
13 utilized. If a number cannot be verified and the voter failed to supply one of the
14 forms of ID listed in 30.1.6, the voter's record will be tagged. (Upon creation of
15 the statewide voter registration system, the check will be performed
16 automatically.)

17 30.3.3 If, for a registration by mail, a copy of an ID is enclosed per section
18 1-1-104(19.5), C.R.S., no further verification against the Department of Motor
19 Vehicle Motor/Voter Database, the Secretary of State voter registration database
20 or the Social Security database is required. The voter shall not be tagged and
21 shall be allowed to vote by mail or ~~absentee~~-MAIL-IN ballot without submitting
22 additional identification requirements.

23 30.3.4 Subject to Rule 30.5.1, if the identification number supplied does not match the
24 identification number on the database record for the name and date of birth, the
25 registration by mail shall not be considered verified. However, if the voter has
26 made a minor error, the Clerk and Recorder may use good judgment and correct
27 the error, and consider the voter verified. Minor errors include, but are not
28 limited to, a transposition of two numbers, or accidentally adding or omitting a
29 number.

30 30.4 Verification of Identification:

31 30.4.1 Verification shall include a match of name, date of birth and ID number on an
32 existing state identification record. A match of only one or two of these items
33 shall not be considered verification. During verification, names given which are
34 similar common variants or nicknames of the name shall be acceptable.

35 30.5 Tagging a voter:

36 30.5.1 Only a voter who has registered by mail may be tagged; a person who registers
37 in person shall not be tagged.

38 30.5.2 A voter who registers by mail and provides a copy of an acceptable ID as
39 provided in section 1-1-104(19.5) shall not be tagged. A social security card is

- 1 not listed as ID in section 1-1-104(19.5).
- 2 30.5.3 If a voter registers by mail and supplies a Colorado Driver’s License number or
3 Colorado Department of Revenue ID number (but not a copy) and/or the social
4 security number, and if at least one of the numbers can be verified with an
5 existing state identification record bearing the same number, name and date of
6 birth, the voter shall not be tagged.
- 7 30.5.4 A voter, who registers by mail and does not supply a copy of an acceptable ID
8 as provided in 1-1-104(19.5) and does not list his/her driver’s license number,
9 Colorado Department of Revenue ID number or social security number, shall
10 not be registered.
- 11 30.5.5 If a voter registers by mail and supplies either a Colorado Driver’s License
12 number or Colorado Department of Revenue ID Number (but not a copy) and/or
13 social security number , but no number can be verified with an existing state
14 identification record bearing the same number, name and date of birth against
15 the Driver’s License database, Secretary of State voter database or Social
16 Security database once access to the Social Security database becomes
17 available, the voter shall be tagged.
- 18 30.5.6 The tag status for a voter shall be removed if the voter votes in person showing
19 an acceptable ID or votes by mail ~~or absentee~~ and encloses a valid ID.
- 20 30.5.7 If the identification number supplied is discovered as incorrect upon
21 verification, and the county clerk and recorder discovers the correct number, the
22 clerk and recorder may enter the correct number on the voter’s permanent voter
23 registration record, but the voter shall be tagged.
- 24 30.6 If –a voter registering by mail does not provide a Colorado Driver’s License number,
25 Colorado identification card number or the last four digits of the voter’s social security
26 number on the voter registration application, and the county clerk and recorder discovers
27 such identification number, the clerk and recorder may enter the applicable identification
28 number on the voter’s permanent voter registration record. Any number entered on the
29 voter’s permanent voter registration record by the clerk and recorder does not remove the
30 tag status of a voter. Such voter is still required to provide valid identification prior to
31 voting in person, by mail ballot or by ~~absentee~~ MAIL-IN ballot.
- 32 30.7 Addresses on identification
- 33 30.7.1 Some forms of identification may not contain an address. If the address appears
34 on the identification, the address must be in Colorado. If ID presented lists
35 only a box number or Post Office box number instead of a residence address,
36 the registrar shall accept the voter’s affirmation, as long as the city is in
37 Colorado.
- 38 30.7.2 Utility bills, bank statements, government checks, government paychecks or
39 other government documents must show the name of the voter and Colorado

- 1 address.
- 2 30.8 A suspended license is considered current and valid. A revoked or expired license is not
3 considered current and valid and is not acceptable.
- 4 30.9 The Colorado Driver’s License or Department of Revenue issued ID referred to in section
5 1-2-217.5(1)(b), C.R.S., or elsewhere in statute, where not specifically stated, must be
6 current and valid.
- 7 30.10 Pursuant to section 1-1-104(19.5)(a), C.R.S., if an ID that requires a photograph does not
8 contain a photograph, it is not an acceptable ID for registration by mail or voting
9 purposes.
- 10 30.11 Identification for Voting in Person
- 11 30.11.1 Voting in Person. (Including early voting, polling place voting).
- 12 (a) The acceptable forms of ID for voting in person are listed in Rule 30.1.6
- 13 (b) A Social Security Number (or last four digits) is NOT a legal form of ID for
14 voting in person.
- 15 Authority: Sections 1-7-201 and 1-1-104(19.5), C.R.S.
- 16 30.11.2 When the voter shows ID pursuant to section 1-1-104(19.5), C.R.S., the election
17 judge shall check to ensure that the name matches, and that the address, if one is
18 listed, is in the State of Colorado. During verification, names given which are
19 similar common variants or nicknames of the name shall be acceptable.
- 20 30.12 Identification for Voting by Mail
- 21 30.12.1 Voting By Mail (Including ~~Absentee~~ MAIL-IN)
- 22 (a) The acceptable forms of ID for voting by mail for first time voters are listed
23 in Rule 30.1.6.
- 24 (b) A Social Security Number (or last four digits) is NOT a legal form of ID for
25 voting by mail.
- 26 30.13 Identification presented by the voter when registering to vote by mail, or presented by the
27 voter when returning the voted mail ballot or ~~absentee-MAIL-IN~~ ballot, is not required to
28 be scanned or imaged into the permanent voter registration database, but shall be retained
29 by the designated election official for a period of 25 months after the date of the election.
- 30 30.14 If a voter has been directed to return identification with his or her voted ballot, the
31 election judge shall open the returned envelope to retrieve the required information. If
32 the required information cannot be found in the return envelope, the election judge shall
33 open the secrecy envelope/sleeve to find the required identification in an effort to not

1 disenfranchise the voter.

2 30.15 If a tagged voter requests an ~~absentee-MAIL-IN~~ ballot, the local election official shall send
3 such ballot with written instructions advising the voter of the requisite forms of
4 identification needed to be provided with the ~~absentee-MAIL-IN~~ ballot. The local election
5 official shall send the ~~absentee-MAIL-IN~~ ballot by the deadline set forth in section 1-8-
6 104(3), C.R.S. If an ~~absentee-MAIL-IN~~ ballot is returned without ID as defined in Rule
7 ~~2-030.1.6~~, then the ballot shall be treated as a provisional ballot and verified pursuant to
8 Rule 26.4.

9

10 Rule 37.1.3 would be amended as follows:

11 37.1.3 Counties of the State of Colorado that use a paper ballot voting system or a central count
12 voting system (including mail-in ~~absentee~~-ballots and mail-in ballots), may meet the
13 requirements of this rule by:

14 (a) establishing a voter education program specific to that voting system that notifies
15 each voter of the effect of casting multiple votes for an office; and

16 (b) providing the voter with instructions on how to correct the ballot before it is cast
17 and counted (including instructions on how to correct the error through the issuance
18 of a replacement ballot if the voter was otherwise unable to change the ballot or
19 correct any errors).

20

21 Rule 38 would be amended as follows:

22 **Rule 38. Minimum Security Procedures for Transmission of Election Records by Secure,**
23 **Dedicated Teleprocessing Lines Employed by Vote Centers. See section 1-5-102.7,**
24 **C.R.S.**

25 38.1 Definitions.

26 38.1.1 “Vote Center” means a polling place at which any registered elector in the
27 political subdivision holding the election may vote, regardless of the precinct in
28 which the elector resides.

29 38.1.2 “Teleprocessing Lines” means secure, dedicated communication transmission
30 facilities used for the purpose of transferring Elector Data between Vote Centers
31 and a centralized computerized pollbook maintained by the county clerk and
32 recorder, to ensure the security and integrity of voting information so that no
33 deviation can go undetected.

34 38.1.3 “Elector Data” means voting information, including but not limited to, voter
35 registration, voting history, and voting tabulations.

1 38.1.4 “Electronic Pollbook” is a list of eligible electors in electronic format who are
2 permitted to vote at a polling place in an election conducted under the Election
3 Code, which shall be processed by a computer at a Vote Center to be
4 immediately accessible to all other computers at all Vote Centers in the county.

5 38.2 This Rule applies to each designated election official who transmits election records via
6 Teleprocessing Lines to a centralized Electronic Pollbook maintained by the county clerk
7 and recorder for the purpose of running an election and compiling complete returns.

8 38.3 MINIMUM CONTINGENCY AND SECURITY PROCEDURES

9 38.3.1 The designated election official shall establish written ~~minimum~~ security
10 procedures covering the transference of Vote Center teleprocessing information.

11 38.3.2 Such procedures shall include security covering the transmission of Elector
12 Data processed through the Electronic Pollbook and reconciliation of the
13 registration and history of voters casting ballots at a Vote Center.

14 38.3.3 SUCH PROCEDURES SHALL INCLUDE CONTINGENCY PROCEDURES FOR NETWORK
15 AND POWER FAILURE. SUCH PROCEDURES SHALL AT A MINIMUM INCLUDE
16 PROCEDURES TO ADDRESS ALL SINGLE POINT FAILURES INCLUDING:

17 A. NETWORK FAILURE;

18 B. POWER FAILURE THAT LASTS LESS THAN ONE (1) HOUR; AND

19 C. POWER FAILURE THAT LASTS MORE THAN ONE (1) HOUR.

20 38.3.4 ACCEPTABLE ALTERNATIVES FOR ADDRESSING SUCH FAILURES INCLUDE ANY OF
21 THE FOLLOWING:

22 A. AN ELECTRONIC BACKUP OF THE CURRENT POLLBOOK IN ONE OF THE
23 FOLLOWING FORMATS:

24 I. A PORTABLE DOCUMENT FILE (PDF);

25 II. A SPREADSHEET THAT IS LIMITED TO 64,000 LINES IF IN EXCEL; OR

26 III. A DATABASE WITH A BASIC LOOK-UP INTERFACE.

27 B. A SUFFICIENT NUMBER OF COMPUTERS PER VOTE CENTER TO ENSURE THAT
28 THE VOTER CHECK-IN CONTINUES IN AN EFFICIENT MANNER. THE COMPUTERS
29 SHALL HAVE THE ABILITY TO FUNCTION ON BATTERIES OR AN EXTERNAL
30 POWER SOURCE FOR UP TO TWO (2) HOURS; OR

31 C. A PAPER BACKUP OF THE POLLBOOK WITH THE MINIMUM INFORMATION
32 REQUIRED TO VERIFY A VOTER’S ELIGIBILITY.

33 38.3.5 IN ADDITION TO ACCEPTABLE BACKUP POLLBOOK PROCEDURES, THE SECURITY

1 PLAN SHALL ADDRESS CONTINGENCY PROCEDURES TO PROTECT AGAINST
2 ACTIVITIES SUCH AS VOTING TWICE, INCLUDING BUT NOT LIMITED TO THE USE OF
3 AN AFFIDAVIT THAT THE VOTER HAS NOT AND WILL NOT CAST ANOTHER BALLOT.

4 38.4 MINIMUM ELECTRONIC POLLBOOK REQUIREMENTS

5 38.4.1 THE DESIGNATED ELECTION OFFICIAL SHALL ADHERE TO THE FOLLOWING MINIMUM
6 PROCEDURES AND SHALL SUBMIT DOCUMENTATION OF COMPLIANCE AND OF THE
7 PRE-ELECTION TESTING TO THE SECRETARY OF STATE NO LATER THAN SIXTY (60)
8 DAYS PRIOR TO THE FIRST DAY ON WHICH THE ELECTRONIC POLLBOOK IS TO BE
9 USED IN THE ELECTION.

10 38.4.2 IN EVERY VOTE CENTER IN WHICH AN ELECTRONIC POLLBOOK IS USED, THERE
11 SHALL BE A MINIMUM OF 5 COMPUTERS FOR EVERY 10,000 VOTERS.

12 38.4.2 THE SYSTEM SHALL CONTAIN ENOUGH BANDWIDTH TO HANDLE THE PROCESSING
13 TIME, TAKING INTO ACCOUNT SECURED TRANSACTION METHOD, FOR ANY
14 COMPUTER ON THE SYSTEM FOR A MAXIMUM OF ONE (1) MINUTE PER VOTER.

15 38.4.3 THE COUNTY SHALL SUBMIT THE SYSTEM DATA TRANSFER REQUIREMENTS TO
16 COMPLETELY PROCESS A SINGLE VOTER RECORD. THIS SHALL INCLUDE AT A
17 MINIMUM THE FOLLOWING:

18 A. THE DATA STREAM INFORMATION ON BOTH SEND AND RECEIVING DATA FOR
19 ALL POINTS OF THE TRANSACTION UNTIL THE TRANSACTION IS COMPLETE;

20 B. INFORMATION ON ALL POINTS [OR MOMENTS?] WHERE THE CONNECTION IS
21 CLOSED AND THE DATA STREAM RELEASED BETWEEN THE REMOTE COMPUTER
22 AND THE SERVER; AND

23 C. THE PROPOSED METHOD OF SECURING TRANSMISSIONS ACROSS PUBLIC
24 NETWORKS.

25 38.4.4 THE COUNTY SHALL SUBMIT A DETAILED LIST OF ALL VOTE CENTERS, WITH A
26 PROPOSED NUMBER OF WORKSTATIONS CONNECTING TO THE DATABASE AND THE
27 PROPOSED CONNECTION (INCLUDING BANDWIDTH AND SECURITY) FOR EACH
28 LOCATION.

29 38.5 ELECTRONIC POLLBOOK PRE-ELECTION TESTING PROCEDURES

30 38.5.1 THE ELECTRONIC POLLBOOK APPLICATION SHALL BE TESTED TO ENSURE THAT IT
31 MEETS THE MINIMUM SYSTEM REQUIREMENTS PRIOR TO THE FIRST ELECTION IN
32 WHICH THE IT IS USED.

33 A. THE APPLICATION SHALL ALSO BE TESTED AFTER THE IMPLEMENTATION OF
34 ANY SIGNIFICANT SYSTEM MODIFICATIONS THAT WOULD CAUSE CONCERNS
35 THAT THE SYSTEM WOULD PERFORM DIFFERENTLY THAN IT HAD PRIOR TO
36 IMPLEMENTATION OF TE CHANGES.

1 B. IF NO CHANGES HAVE OCCURRED SINCE THE LAST TEST DOCUMENTATION
2 FILED, THE COUNTY SHALL FILE A STATEMENT TO THAT EFFECT.

3 38.5.2 THE TEST SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING:

4 A. A LOAD TEST SHALL BE DEMONSTRATED THROUGH EITHER SIXTY PERCENT
5 (60%) OF ACTUAL COMPUTERS RUNNING AT PROPOSED BANDWIDTH AND
6 SECURITY SETTINGS, OR BY SIMULATING A LOAD TEST WITH COTS
7 TECHNOLOGY DESIGNED FOR LOAD TESTING SUCH AS MERCURY;

8 B. A CONTINGENCY/FAILURE TEST SHALL BE DEMONSTRATED AND DOCUMENTED
9 ILLUSTRATING THE EFFECTS OF FAILURES IDENTIFIED IN RULE 8.3.3; AND

10 C. ALL TESTS SHALL BE CONDUCTED WITH CLIENTS AND SERVERS IN NORMAL,
11 TYPICAL, DEPLOYED OPERATING MODE.

12 38.5.3 THE DESIGNATED ELECTION OFFICIAL SHALL SUBMIT DOCUMENTATION OF THE
13 TESTING WHICH SHALL INCLUDE THE FOLLOWING:

14 A. A FORMAL TEST PLAN CONTAINING ALL TEST SCRIPTS USED;

15 I. THE TEST PLAN SHALL INCLUDE TEST ENVIRONMENT CONTAINING MAKE,
16 MODEL, TYPE OF HARDWARE AND SOFTWARE VERSIONS USED IN
17 TESTING.

18 II. THE TEST PLAN SHALL ALSO INCLUDE THE NUMBER OF CLIENT
19 COMPUTERS, SERVERS AND PHYSICAL LOCATIONS INVOLVED IN TESTING.

20 B. TEST LOGS OF ALL EVENTS THAT WERE OBSERVED DURING TESTING
21 INCLUDING:

22 I. THE SEQUENCE OF ACTIONS NECESSARY TO SET UP THE TESTS;

23 II. THE ACTIONS NECESSARY TO START THE TESTS;

24 III. THE ACTIONS TAKEN DURING THE EXECUTION OF THE TESTS;

25 IV. ANY MEASUREMENTS TAKEN OR OBSERVED DURING THE TESTS;

26 V. ANY ACTIONS NECESSARY TO STOP AND/OR SHUT DOWN THE TESTS;

27 VI. ANY ACTIONS NECESSARY TO BRING THE TESTS TO A HALT; AND

28 VII. ANY ACTIONS NECESSARY OR TAKEN TO DEAL WITH ANOMALIES
29 EXPERIENCED DURING TESTING.

30 C. PERFORMANCE LOGS AND REPORTS TAKEN FROM BOTH SERVER(S) AND
31 WORKSTATION(S) DURING THE TESTING WHICH CONTAIN PERFORMANCE
32 INFORMATION OF:

1 I. NETWORK USAGE (BANDWIDTH);

2 II. PROCESSOR UTILIZATION;

3 III. RANDOM ACCESS MEMORY (RAM) UTILIZATION; AND

4 IV. ANY ADDITIONAL PERFORMANCE MONITORING REPORTS NECESSARY TO
5 EXPLAIN THE PROCESS TAKEN AND TO SUPPORT THE FINDINGS OF THE
6 TESTS.

7 D. ALL TEST LOGS SHALL CONTAIN DATE, TIME, OPERATOR, TEST STATUS (OR
8 OUTCOME), AND ANY ADDITIONAL INFORMATION TO ASSIST THE SECRETARY
9 IN MAKING A DETERMINATION.

10 38.46 ~~Such~~ WRITTEN procedures AND REPORTS REQUIRED BY THIS RULE 38 shall be submitted in
11 writing to the Secretary of State and received by that Office for approval no later than
12 sixty (60) days before the election date. The Secretary of State shall either approve the
13 procedures submitted or notify the designated election official of recommended changes.

14 38.57 If the Secretary of State rejects or approves the written procedures, the Secretary of State
15 shall provide written notice of such rejection/approval, including specifics of non-
16 compliance with this Rule, within fifteen (15) days of receiving the written procedures.

17 38.68 IF THE SECRETARY OF STATE REJECTS THE WRITTEN PROCEDURES, ~~The~~ designated
18 election official shall submit a revised procedure within fifteen (15) days thereafter.

19 38.79 The Secretary of State shall permit the filing of the revised procedures at a later date if it
20 is determined that compliance with the fifteen day requirement is impossible.

21 Succeeding subsections of Rule 38 would be renumbered accordingly

22
23 Rule 40.3.1 would be amended as follows:

24 40.3.1 The certification program shall include core requirements. All training outlined herein
25 shall be provided under the direction of the Secretary of State. Persons applying for
26 certification shall complete at least eight core classes. The core classes shall generally
27 include but are not limited to:

28 (a) The basic conduct of elections

29 (b) Testing and maintenance of voting equipment

30 (c) Canvass procedures

31 (d) ~~Absentee~~ MAIL-IN voting

32 (e) Pollworker training and recruiting

- 1 (f) SCORE training
- 2 (g) Ethics
- 3 (h) Accessibility for people with disabilities
- 4 (i) Provisional Voting

5

6 Rule 41.2 would be amended as follows:

7 41.2 Detailed Ballot Log

8 41.2.1 The designated election official shall keep a detailed log of all ballots. The
9 designated election official shall begin the log as soon as ballots are ordered and
10 received. The log shall include the polling location and/or precinct number(s),
11 ballot style(s), and account for every ballot that is received and distributed. The
12 detailed ballot log shall be reconciled at the conclusion of each workday.

13 ~~4241.2.2~~ The designated election official shall keep and reconcile daily logs of ~~absentee~~
14 MAIL-IN, mail and early voting ballots.

15 41.2.3 The designated election official shall indicate in the detailed log the number of
16 paper ballots that are sent to each polling location for use on election day.

17 41.2.4 All required logs may be kept either by electronic or manual means.

18

19 Rule 41.5.1 would be amended as follows:

20 41.5.1 In order for the canvass board established pursuant to section 1-10-101, C.R.S., to
21 perform its duties, pursuant to section 1-10-101.5, C.R.S., the designated election
22 official shall provide the following information:

23 (a) The name of each candidate receiving votes, the office, and the total number of
24 votes received;

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

26 (c) The number of voters who voted early;

27 (d) The number of ~~absentee~~-MAIL-IN or mail ballots cast, including the number accepted
28 and rejected;

29 (e) The number of provisional ballots counted.

30 Rule 41.6.3 would be amended as follows:

1 41.6.3 The official abstract shall include, by precinct/ballot style or vote center, where
2 applicable:

- 3 (a) The statement of votes counted by race and ballot question or issue;
- 4 (b) The total active registered electors in the precinct and the total for the jurisdiction
5 holding the election;
- 6 (c) The total number of electors voting in each precinct, and the total for the
7 jurisdiction holding the election;
- 8 (d) The number of voters who voted early;
- 9 (e) The number of emergency registrations;
- 10 (f) The number of ~~absentee~~-MAIL-IN or mail ballots counted and the number rejected;
- 11 (g) The number of provisional ballots counted and the number rejected listed by each
12 rejection code pursuant to Rule 26.5.4; and
- 13 (h) The number of damaged and spoiled ballots.

14

15 Rule 41.9.1 would be amended as follows:

16 41.9.1 After the canvass process is completed, the designated election official shall
17 give credit to each voter who votes ~~absentee~~, by mail, at an early voting site, or
18 at a polling location.

19

20 Rule 42 would be amended as follows:

21 **Rule 42. Rules Concerning Use of Facsimile for Administrative or Medical Emergency**
22 **Outside of the UOCAVA Context.**

23 42.1 Pursuant to section 1-8-115, C.R.S., the designated election official may use means of
24 electronic transfer to provide an ~~absentee~~-MAIL-IN ballot to the eligible elector for an
25 administrative or medical emergency following the procedures outlined in section 1-8-
26 115 C.R.S., and this rule.

27 42.2 “Electronic Transfer” shall mean the use of facsimile and shall not include the use of e-
28 mail under section 1-8-115, C. R. S.

29 42.3 If an ~~absentee~~-MAIL-IN ballot is delivered to an elector by facsimile transmission, the
30 elector may return the ~~absentee~~-ballot by facsimile transmission.

31 42.4 ~~Absentee~~-MAIL-IN ballots sent by facsimile transmission shall include all races, ballot

1 issues, and questions on which the elector may vote. Counties are encouraged to work
2 with their vendors to develop a ballot that is clearly legible to the elector to increase the
3 readability of the ballot and to avoid possible misinterpretations of the elector's intended
4 choice because of poor transmission of the document.

5 42.5 Instructions faxed to the elector with the ~~absentee~~-ballot shall include the following
6 information:

- 7 (a) The name of the elector;
- 8 (b) The recipient's fax number;
- 9 (c) The total number of pages to be transmitted;
- 10 (d) The total number of ballot pages;
- 11 (e) The telephone number or e-mail address where the eligible elector may send
12 questions regarding the ~~faxed absentee~~ ballot;
- 13 (f) A notice that the recipient shall not duplicate the ballot for any other voter;
- 14 (g) The fax number where the eligible elector may return their completed ~~facsimile~~
15 ~~absentee~~-ballot.
- 16 (h) Return address information for the designated election official and instructions to
17 mark, "official ballot enclosed" on the elector's return envelope;
- 18 (i) A notice that the ballot must be received by the designated election official by mail,
19 hand delivery or received by fax no later than 7:00 p.m. Mountain Standard Time on
20 election day; and
- 21 (j) Instructions for returning the medical/administrative emergency form.
- 22 (k) A notice that the ballot will not be a confidential ballot.

23 42.6 The transmission shall also include an ~~absentee~~-MAIL-IN ballot self-affirmation pursuant
24 to 1-8-114 (1) C. R. S.

25 42.7 The fax transmission log as well as any other fax record shall be part of the official
26 election record.

27 42.7.1 A Fax Transmission log shall be maintained by the designated election official of
28 each ballot sent to a voter by facsimile indicating:

- 29 (a) The name of the voter;
- 30 (b) The fax number to which the ballot was sent;
- 31 (c) The unique identification number of the faxed ballot;

1 (d) The date the ballot and instructions were faxed; and

2 (e) The initials of the designated election official's employee sending the fax.

3 42.8 The designated election official shall fax the blank ballot with the instructions to the fax
4 number provided by the elector. If the transmission is unsuccessful, the designated
5 election official shall attempt to fax at least two more times and make reasonable effort, if
6 possible, to ensure the transmission was successful.

7 42.9 Upon receipt of the ballot, when the information from the signed affidavit has been
8 verified, a bipartisan team of judges shall duplicate the ballot. Duplicating judges shall
9 not reveal how the elector has cast his or her ballot.

10 42.10 Medical Emergency

11 42.10.1 For purposes of section 1-8-115(1)(a), C.R.S., "second degree" is defined as
12 spouse, parents, children, brothers and sisters, grandparents, and grandchildren
13 related by blood or marriage.

14 42.10.2 FOR THE PURPOSES OF SECTION 1-8-115(1)(A), C.R.S., THE DEADLINE TO APPLY
15 FOR A MAIL-IN BALLOT SHALL BE THE LAST DAY TO APPLY FOR A MAIL-IN BALLOT
16 BY MAIL IN ACCORDANCE WITH SECTION 1-8-104(3), C.R.S.

17 42.11 Administrative Emergency. If the designated election official is unable to provide an
18 ~~absentee-MAIL-IN~~ ballot to an elector by any other means, the designated election official
19 shall seek authority from the Secretary of State to provide an ~~absentee-MAIL-IN~~ ballot to
20 the elector pursuant to section 1-8-115(4), C.R.S., using fax transmission.

21 42.11.1 This Rule 42.11 shall apply only to eligible electors who are properly registered
22 and have timely filed for an ~~absentee-MAIL-IN~~ ballot application.

23 42.11.2 The Secretary of State shall designate a point of contact for each election for
24 Emergency Electronic Transfer Requests no later than twenty-one (21) days
25 prior to an election. The Secretary of State shall notify the counties by e-mail
26 who the designated point of contact shall be, and post the contact information
27 for the designated point of contact on the Secretary of State's website.

28 42.11.3 The designated election official shall submit the request in writing from the
29 Secretary of State using the Emergency Electronic Transfer form. E-mail is the
30 preferred method of communication. If possible, the designated election official
31 shall attempt to consolidate requests to the Secretary of State.

32 42.11.4 The form for requesting an emergency electronic transfer shall be posted on the
33 Secretary of State's website. The form must contain the following information:

34 (a) Contact information, including name, address, phone number, fax number,
35 and e-mail address for the designated election official or their designee;

- 1 (b) Date and time of request sent by designated election official;
- 2 (c) Confirmation e-mail to designated election official by Secretary of State
3 upon receipt of request
- 4 (d) Justification as to why the ballot(s) need to be sent by fax, which includes
5 the following required information:
- 6 (1) The elector's name;
- 7 (2) When the elector applied for the ~~absentee~~-MAIL-IN ballot;
- 8 (3) The date when the designated election official sent the ~~absentee~~-MAIL-
9 IN ballot to the elector (if applicable);
- 10 (4) The date the elector contacted the designated election official with
11 information regarding failure to receive the ballot;
- 12 (5) A suggested timeframe for the Secretary of State to respond;
- 13 (6) The quantity of ballots to be sent by fax; and
- 14 (7) Approval or disapproval by the Secretary of State; if denied, reason for
15 the denial.
- 16 (e) Confirmation e-mail from the designated election official to Secretary of
17 State upon receipt of approval or disapproval.
- 18 42.11.5 The Secretary of State shall respond in writing to the designated election official
19 as soon as possible, but no later than eight (8) business hours after receipt of the
20 request.
- 21 42.11.6 The Secretary of State shall have the ability to issue a blanket approval by
22 electronic transfer.
- 23 42.12 Timeliness of filing applications for emergency ~~absentee~~-MAIL-IN ballots
- 24 42.12.1 Requests for emergency ~~absentee~~-MAIL-IN ballots issued for medical
25 reasons pursuant to Section 1-8-115 (1)(a) must be received by the designated
26 election official no later than 5:00 p.m. on the day of election.
- 27 42.12.2 Requests for emergency ~~absentee~~-MAIL-IN ballots issued for administrative
28 reasons pursuant to Section 1-8-115 (2) must be received by the designated
29 election official no later than 7:00 P.M. on the day of the election.
- 30 42.12.3 Requests for ~~E~~Emergency ~~absentee~~-MAIL-IN ballots shall not be processed
31 if the request is received after the required deadline.
- 32

1 Rule 43.8.3.3 would be amended as follows:

2 43.8.3.3 The requirements for an employee to be given access to a code, combination,
3 password, or encryption key are as follows:

4 a. Access to the storage area for voting equipment and the ~~absentee-MAIL-IN~~ ballot
5 counting areas shall be restricted to employees as defined in Rule 43.1.4.

6 b. Access to the ~~absentee-MAIL-IN~~ ballot storage area and counting room or
7 tabulation workstations shall be restricted to ten (10) employees as defined in
8 Rule 43.1.4.

9 c. Except for emergency personnel, no other individuals shall be present in
10 these locations unless supervised by one or more employees as defined in Rule
11 43.1.4.

12 i. Each individual who has access to the central election management system
13 or central tabulator shall have their own unique username and
14 password. No individual shall use any other individual's username or
15 password. Shared accounts shall be prohibited.

16 ii. The county shall maintain a log of each person who enters the ballot
17 storage room, including the person's name, signature, and date and time of
18 entry. If access to the ballot storage room is controlled by use of key card
19 or similar door access system that is capable of producing a printed paper
20 log including the person's name and date and time of entry, such a log
21 shall meet the requirements of this rule.

22

23 Rule 43.8.5.1 would be amended as follows:

24 43.8.5.1 Unless otherwise instructed, continuous video security surveillance recordings of
25 specified areas shall be made beginning at least sixty (60) days prior to the election and
26 continuing through at least thirty (30) days after the election, unless there is a recount or
27 contest. If a recount or contest occurs, the recording shall continue through the
28 conclusion of all such activity. The following are the specific minimum requirements:

29 a. Counties over 50,000 registered voters shall make continuous video security
30 surveillance recordings of the following areas:

31 i. All areas in which election software is used, including but not limited to
32 programming, downloading memory cards, uploading memory cards,
33 tallying results, and results reporting.

34 ii. All areas used for processing ~~absentee-MAIL-IN~~ ballots, including but not
35 limited to areas used for Signature Verification, tabulation, or storage of
36 voted ballots beginning at least thirty-five (35) days prior to the election

1 and continuing through at least thirty (30) days after the election, unless
2 there is a recount or contest. If a recount or contest occurs, the recording
3 shall continue through the conclusion of all such activity.

4 iii. The storage area for all voting equipment.

5 b. Counties under 50,000 registered voters shall make continuous video security
6 surveillance recordings of the following areas:

7 i. All areas in which election software is used, including but not limited to
8 programming, downloading memory cards, uploading memory cards,
9 tallying results, and results reporting.

10
11 Rule 43.8.8.3 would be amended as follows:

12 43.8.8.2 In the event of a serious or catastrophic equipment failure or equipment being
13 removed from service at one or more polling locations, or there is not adequate backup
14 equipment to meet the requirements of Section 1-5-501, C.R.S., the county clerk and
15 recorder shall contact the Secretary of State for authorization to use provisional ballots or
16 ~~absentee-MAIL-IN~~ ballots as an emergency voting method.
17
18

19 Rule 44.2.4 would be amended as follows:

20 ~~4344~~.2.4 After completing the training, the organizer shall sign an Acknowledgement that
21 the training has been completed and that he or she has been duly informed of
22 rules, laws and penalties relating to voter registration drives.

23 *[Note: Rule 44.2.4 is amended solely for the purposes of correcting numbering]*
24

25 Rule 45.1.12 would be amended as follows:

26 45.1.12 "Remote site" means any physical location identified by a Designated Election Official
27 as a location where the jurisdiction shall be conducting the casting of ballots for a given
28 election. A remote site includes locations such as precinct polling places, vote centers,
29 early voting, ~~absentee-MAIL-IN~~ ballot counting, etc.
30

31 New Rule 45.2.3 would be adopted as follows:
32

33 45.2.3 DOCUMENTS INCORPORATED BY REFERENCE

34 45.2.3.1 ALL DOCUMENTS INCORPORATED BY REFERENCE IN THIS RULE 45 DO NOT

1 INCLUDE ANY LATER AMENDMENTS OR EDITIONS OF THE DOCUMENT.

2 45.2.3.2 ALL DOCUMENTS INCORPORATED BY REFERENCE IN THIS RULE 45 MAY BE
3 VIEWED ON THE "VOTING SYSTEMS" PAGE OF THE "ELECTIONS CENTER" ON THE
4 SECRETARY OF STATE WEBSITE AT WWW.SOS.STATE.CO.US, OR BY CONTACTING THE
5 SECRETARY OF STATE VOTING SYSTEMS SPECIALIST /1700 BROADWAY – SUITE
6 270/DENVER, CO 80290.

7
8 Rule 45.5.2.1.3 would be amended as follows:

9 45.5.2.1.3 The voting system shall accurately integrate election day voting results with
10 ~~absentee~~ MAIL-IN, early voting and provisional ballot results.

11
12 Rule 45.5.2.4.3 would be amended as follows:

13 45.5.2.4.3 ~~As of March 31, 2008, any ALL~~ voting system providers submitting a voting
14 system for certification AFTER MARCH 31, 2008, shall, prior to applying for certification,
15 have completed and provided documentation of an independent analysis of the system
16 coordinated through the Secretary of State's office. The independent analysis shall
17 include:

18
19 Rule 45.5.2.6 would be amended as follows:

20 45.5.2.6 Security Requirements

21 45.5.2.6.1 All voting systems submitted for certification shall meet the following
22 minimum system security requirements:

23 (a) The voting system shall accommodate a general system of access by least
24 privilege and role based access control. The following requirements shall
25 apply:

26 (i) The operating system Administrative Account shall not have
27 access to read or write data to the database and shall not have the
28 ability or knowledge of the database administrator password;

29 (ii) The operating system administrative account shall not be required
30 to use any function of the voting system during normal operations;

31 (iii) A unique system user/operator account shall be created for
32 operating system use that is restricted from the following aspects
33 of the operating system:

- 1 a. No access to system root directory;
- 2 b. No access to operating system specific folders;
- 3 c. No access to install or remove programs; and
- 4 d. No access to modify other user accounts on the system.
- 5 (iv) A unique application administrative account shall be created which
- 6 has full access and rights to the application and database;
- 7 (v) A unique application user/operator account shall be created with
- 8 limited rights specifically designed to perform functional operation
- 9 within the scope of the application. This user/operator shall be
- 10 restricted in the creation or modification of any user/operator
- 11 accounts; and
- 12 (vi) Voting system provider shall not have administrative account, or
- 13 administrative account access.
- 14 (b) The voting system shall meet the following requirements for network
- 15 security:
- 16 (i) All components of the voting system shall only be operated on a
- 17 closed network only for the use of the voting system;
- 18 (ii) All components of the voting system shall include the limited use
- 19 of non-routable IP address configurations for any device connected
- 20 to the closed network. For the purposes of this requirement non-
- 21 routable IP addresses are those defined in the RFC 1918 Address
- 22 base; and
- 23 (iii) The voting system shall be tested to contain provisions for
- 24 updating security patches, software and/or service packs without
- 25 access to the open network.
- 26 (c) ~~After March 31, 2008, a~~All voting systems submitted for certification
- 27 AFTER MARCH 31, 2008, shall meet the following requirements for
- 28 database security:
- 29 (i) All voting systems submitted for certification using Oracle 9i,
- 30 Oracle 10g, or Microsoft SQL shall be hardened to the existing and
- 31 published NSA guidelines for databases as follows:
- 32
- 33 a. Oracle 9i and Oracle 10g databases shall be hardened to the
- 34 Center for Internet Security Benchmark for Oracle 9i/10g
- 35 Ver. 2.0;

- 1 b. Microsoft SQL databases shall be hardened to the NSA
2 Guide to the Secure Configuration and Administration of
3 Microsoft SQL Server 2000.
- 4 (ii) All other voting system databases submitted for certification shall
5 have the voting systems databases hardened to database
6 manufacturer's existing hardening requirements; or
- 7 (iii) If the manufacturer has not established requirements for the
8 specifically designed system, the voting systems submitted for
9 certification shall have the voting systems databases hardened to
10 the voting system providers' specifications.
- 11 (iv) All voting systems submitted for certification shall have all voting
12 systems databases restricted to allowing access to database
13 authentication from application only (or through application only);
- 14 (v) All data stored at rest in any voting system database shall be
15 encrypted in accordance with section (vi) of this requirement; and
- 16 (vi) All Cryptography modules shall be documented by the voting
17 system provider to be certified to US Federal Information
18 Processing Standard (FIPS-140-2), and validated to FIPS 180
19 standards.
- 20 (d) The voting system shall meet the following requirements for operating
21 system security:
- 22 (i) ~~After March 31, 2008, a~~All voting systems being submitted for
23 certification AFTER MARCH 31, 2008 shall have all operating
24 systems hardened to NSA guidelines for operating systems as
25 follows:
- 26 a. Apple max OS X systems shall be hardened to the NSA
27 Apple Mac OS X v10.3.x "Panther" Security Configuration
28 Guide Version 1.1;
- 29 b. Apple Server Operating Systems shall be hardened to the
30 NSA Apple Mac OS X Server v10.3.x "Panther" Security
31 Configuration Guide;
- 32 c. Microsoft Windows XP Operating systems shall be
33 hardened to the NSA Windows XP Security Guide Version:
34 2.2 and the NSA Windows XP Security Guide Addendum
35 Version 1.0;
- 36 d. Microsoft Windows 2000 operating systems shall be
37 hardened to the following NSA Guides:

- 1 i. Guide to the Secure Configuration and
2 Administration of Microsoft Internet Information
3 Services 5.0 Version 1.4;
- 4 ii. Guide to the Secure Configuration and
5 Administration of Microsoft ISA Server 2000
6 Version 1.5;
- 7 iii. Guide to Securing Microsoft Windows 2000 Active
8 Directory Version 1.0;
- 9 iv. Guide to the Secure Configuration and
10 Administration of Microsoft Windows 2000
11 Certificate Services Version 2.1.1;
- 12 v. Guide to Securing Microsoft Windows 2000 DHCP
13 Version 1.3;
- 14 vi. Guide to Securing Microsoft DNS Version 1.0;
- 15 vii. Guide to Securing Microsoft Windows 2000
16 Encrypting File System Version 1.0;
- 17 viii. Guide to Securing Microsoft Windows 2000 File
18 and Disk Resources Version 1.0.1;
- 19 ix. Guide to securing Microsoft Windows 2000 Group
20 Policy Version 1.1;
- 21 x. Group Policy Reference Version 1.0.8;
- 22 xi. Guide to Securing Microsoft Windows 2000 Group
23 Policy: Security Configuration Tool Set Version
24 1.2.1;
- 25 xii. Microsoft Windows 2000 IPSec Guide Version 1.0;
- 26 xiii. Guide to Windows 2000 Kerberos Settings Version
27 1.1;
- 28 xiv. Microsoft Windows 2000 Network Architecture
29 Guide Version 1.0;
- 30 xv. Microsoft Windows 2000 Router Configuration
31 Guide Version 1.02;
- 32 xvi. Guide to Securing Microsoft Windows 2000
33 Schema Version 1.0;

- 1 xvii. Guide to Securing Microsoft Windows 2000
2 Terminal Services Version 1.0; and
- 3 xviii. Guide to Securing Windows NT/9x Clients in a
4 Windows 2000 Network Version 1.0.2;
- 5 e. Microsoft Windows Server 2003 operating systems shall be
6 hardened to the NSA Microsoft Windows Server 2003
7 Security Guide Version 2.1 and The Microsoft Windows
8 Server 2003 Security Guide Addendum Version 1.0;
- 9 f. Sun Solaris 8 operating systems shall be hardened to the
10 NSA Guide to the Secure Configuration of Solaris 8
11 Version 1.0; and
- 12 g. Sun Solaris 9 operating systems shall be hardened to the
13 NSA Guide to the Secure Configuration of Solaris 9
14 Version 1.0.
- 15 (ii) All other voting system operating systems submitted for
16 certification after March 31, 2008 shall have all operating systems
17 hardened to existing manufacturer's hardening requirements; or
- 18 (iii) If the manufacturer has not established requirements for the
19 specifically designed system, ~~after March 31, 2008~~, all voting
20 systems being submitted for certification AFTER MARCH 31, 2008
21 shall have all operating systems hardened to the voting system
22 providers' specifications;
- 23 (iv) The voting system provider shall provide documentation
24 containing a list of minimum services and executables that are
25 required to run the voting system application;
- 26 (v) The voting system provider shall configure the voting system
27 operating system of the workstation and/or server used for the
28 election management software to the following requirements:
- 29 a. The ability for the system to take an action upon inserting a
30 removable media (Autorun) shall be disabled; and
- 31 b. The voting system shall only boot from the drive or device
32 identified as the primary drive. The voting system shall not
33 boot from any alternative device.
- 34 (vi) The voting system provider shall use a virus
35 protection/prevention application on the election
36 management server(s) /workstations which shall be

1 capable of manual updates without the use of the
2 internet.

3 (e) The voting system shall meet the following requirements for password
4 security:

5 (i) All passwords shall be stored and used in a non-reversible
6 format;

7 (ii) Passwords to database shall not be stored in database;

8 (iii) Password to database shall be owned and known only known by
9 the application;

10 (iv) The application's database management system shall require
11 separate passwords for the administrative account and each
12 operator account with access to the application;

13 (v) The system shall be designed in such a way that the use of the
14 administrative account password shall not be required for normal
15 operating functions at any remote location;

16 (vi) The system shall be designed in such a way to facilitate the
17 changing of passwords for each election cycle;

18 (vii) The use of blank or empty passwords shall not be permitted at any
19 time with the exception of a limited one-time use startup password
20 which requires a new password to be assigned before the system
21 can be used; and

22 (viii) ~~As of March 31, 2008 a~~All voting systems submitted for
23 certification AFTER MARCH 31, 2008 shall have all components of
24 voting system capable of supporting passwords of a minimum of 8
25 characters, which shall be capable of including numeric, alpha and
26 special characters in upper case or lower case used in any
27 combination.

28 (f) ~~As of March 31, 2008 a~~All voting system software submitted for
29 certification AFTER MARCH 31, 2008 shall be in compliance with known
30 software coding standards applicable to the base language of the
31 application. The voting system shall meet the following minimum
32 requirements for software security:

33 (i) Self-modifying, dynamically loaded or interpreted code is
34 prohibited, except under the security provisions required by federal
35 testing. External modification of code during execution shall be
36 prohibited. Where the development environment (programming
37 language and development tools) includes the following features,

1 the software shall provide controls to prevent accidental or
2 deliberate attempts to replace executable code:

- 3 a. Unbounded arrays or strings (includes buffers used to move
4 data);
- 5 b. Pointer variables; and
- 6 c. Dynamic memory allocation and management.

7 (ii) ~~By March 31, 2008, a~~ All voting systems submitted for certification
8 AFTER MARCH 31, 2008 shall have application software designed in
9 a modular fashion. COTS software is not required to be inspected
10 for compliance with this requirement. For the purpose of this
11 requirement, “modules” may be compiled or interpreted
12 independently. Modules may also be nested. The modularity rules
13 described here apply to the component sub-modules of a library.
14 The principle to be followed is that the module contains all the
15 elements to compile or interpret successfully and has limited
16 access to data in other modules. The design concept is simple
17 replacement with another module whose interfaces match the
18 original module. All modules shall be designed in accordance with
19 the following requirements for systems submitted for certification
20 after March 31, 2008:

- 21 a. Each module shall have a specific function that can be
22 tested and verified independently of the remainder of the
23 code. In practice, some additional modules (such as library
24 modules) may be needed to compile the module under test,
25 but the modular construction allows the supporting
26 modules to be replaced by special test versions that support
27 test objectives.
- 28 b. Each module shall be uniquely and mnemonically named,
29 using names that differ by more than a single character. In
30 addition to the unique name, the modules shall include a set
31 of header comments identifying the module’s purpose,
32 design, conditions, and version history, followed by the
33 operational code. Headers are optional for modules of
34 fewer than ten executable lines where the subject module is
35 embedded in a larger module that has a header containing
36 the header information. Library modules shall also have a
37 header comment describing the purpose of the library and
38 version information.
- 39 c. All required resources, such as data accessed by the
40 module, should either be contained within the module or

1 explicitly identified as input or output to the module.
2 Within the constraints of the programming language, such
3 resources shall be placed at the lowest level where shared
4 access is needed. If that shared access level is across
5 multiple modules, the definitions should be defined in a
6 single file (called header files in some languages, such as
7 C) where any changes can be applied once and the change
8 automatically applies to all modules upon compilation or
9 activation.

10 d. Each module shall have a single entry point, and a single
11 exit point, for normal process flow. For library modules or
12 languages such as the object-oriented languages, the entry
13 point is to the individual contained module or method
14 invoked. The single exit point is the point where control is
15 returned. At that point, the data that is expected as output
16 shall be appropriately set. The exception for the exit point
17 is where a problem is so severe that execution cannot be
18 resumed. In this case, the design shall explicitly protect all
19 recorded votes and audit log information and shall
20 implement formal exception handlers provided by the
21 language.

22 e. Process flow within the modules shall be restricted to
23 combinations of the control structures defined below. This
24 shall apply to any language feature where program control
25 passes from one activity to the next, such as control scripts,
26 object methods or sets of executable statements, even
27 though the language itself is not procedural.

28 i. In the constructs, any ‘process’ may be replaced by a
29 simple statement, a subroutine or function call, or any
30 of the control constructs.

31 ii. Using the replacement rule to replace one or both of the
32 processes in the Sequence construct with other
33 Sequence constructs, a large block of sequential code
34 may be formed. The entire chain is recognized as a
35 Sequence construct and is sometimes called a BLOCK
36 construct. Sequences shall be marked with special
37 symbols or punctuation to delimit where it starts and
38 where it ends.

39 iii. A special case of the GENERAL LOOP is the FOR
40 loop. The FOR loop may be programmed as a DO-
41 WHILE loop. The FOR loop shall execute on a counter.
42 The control FOR statement shall define a counter

- 1 variable or variables, a test for ending the loop, and a
2 standard method of changing the variable(s) on each
3 pass such as incrementing or decrementing.
- 4 iv. The use of the FOR loop shall avoid common errors
5 such as a loop that never ends. The GENERAL LOOP
6 shall not be used where one of the other loop structures
7 will serve. However, if defined in the language, it may
8 be useful in defining some loops where the exit needs to
9 occur in the middle. Also, in other languages the
10 GENERAL LOOP logic may be used to simulate the
11 other control constructs. The use of the GENERAL
12 LOOP shall require the strict enforcement of coding
13 conventions to avoid problems.
- 14 v. The voting system software code shall use uniform
15 calling sequences. All parameters shall either be
16 validated for type and range on entry into each unit or
17 the unit comments shall explicitly identify the type and
18 range for the reference of the programmer and tester.
19 Validation may be performed implicitly by the compiler
20 or explicitly by the programmer.
- 21 vi. The voting system software code shall have the return
22 explicitly defined for callable units such as functions or
23 procedures (do not drop through by default) for C-based
24 languages and others to which this applies, and in the
25 case of functions, shall have the return value explicitly
26 assigned. Where the return is only expected to return a
27 successful value, the C convention of returning zero
28 shall be used. If an uncorrected error occurs so the unit
29 shall return without correctly completing its objective, a
30 non-zero return value shall be given even if there is no
31 expectation of testing the return. An exception may be
32 made where the return value of the function has a data
33 range including zero.
- 34 vii. The voting system software code shall not use macros
35 that contain returns or pass control beyond the next
36 statement.
- 37 viii. For those languages with unbound arrays, the voting
38 system software shall provide controls to prevent
39 writing beyond the array, string, or buffer boundaries.
- 40 ix. For those languages with pointers or which provide for
41 specifying absolute memory locations, the voting

- 1 system software shall provide controls that prevent the
2 pointer or address from being used to overwrite
3 executable instructions or to access inappropriate areas
4 where vote counts or audit records are stored.
- 5 x. For those languages supporting case statements, the
6 voting system software shall have a default choice
7 explicitly defined to catch values not included in the
8 case list.
- 9 xi. The voting system software shall provide controls to
10 prevent any vote counter from overflowing. An
11 assumption that the counter size is large enough such
12 that the value will never be reached does not meet this
13 requirement.
- 14 xii. The voting system software code shall be indented
15 consistently and clearly to indicate logical levels.
- 16 xiii. Excluding code generated by commercial code
17 generators, the voting system software code is written
18 in small and easily identifiable modules, with no more
19 than 50% of all modules exceeding 60 lines in length,
20 no more than 5% of all modules exceeding 120 lines in
21 length, and no modules exceeding 240 lines in length.
22 "Lines" in this context, are defined as executable
23 statements or flow control statements with suitable
24 formatting and comments.
- 25 xiv. Where code generators are used, the voting system
26 software source file segments provided by the code
27 generators shall be marked as such with comments
28 defining the logic invoked and, a copy of the source
29 code provided to the accredited test lab with the
30 generated source code replaced with an unexpanded
31 macro call or its equivalent.
- 32 xv. The voting system software shall have no line of code
33 exceeding 80 columns in width (including comments
34 and tab expansions) without justification.
- 35 xvi. The voting system software shall contain no more than
36 one executable statement and no more than one flow
37 control statement for each line of source code.
- 38 xvii. In languages where embedded executable statements
39 are permitted in conditional expressions, the single
40 embedded statement may be considered a part of the

1 conditional expression. Any additional executable
2 statements should be split out to other lines.

3 xviii. The voting system software shall avoid mixed-mode
4 operations. If mixed mode usage is necessary, then all
5 uses shall be identified and clearly explained by
6 comments.

7 xix. Upon exit() at any point, the voting system software
8 shall present a message to the operator indicating the
9 reason for the exit().

10 xx. The voting system software shall use separate and
11 consistent formats to distinguish between normal status
12 and error or exception messages. All messages shall be
13 self-explanatory and shall not require the operator to
14 perform any look-up to interpret them, except for error
15 messages that require resolution by a trained technician.

16 xxi. The voting system software shall reference variables by
17 fewer than five levels of indirection.

18 xxii. The voting system software shall have functions with
19 fewer than six levels of indented scope, counted as
20 follows:

```
21 int function()  
22 {  
23     if (a = true)  
24     1 {  
25         if ( b = true )  
26     2 {  
27             if ( c = true )  
28     3 {  
29                 if ( d = true )  
30     4 {  
31                     while(e > 0 )  
32     5 {
```

code

}

}

}

}

}

}

xxiii. The voting system software shall initialize every variable upon declaration where permitted.

xxiv. The voting system software shall have all constants other than 0 and 1 defined or enumerated, or shall have a comment which clearly explains what each constant means in the context of its use. Where “0” and “1” have multiple meanings in the code unit, even they shall be identified.

xxv. The voting system software shall only contain the minimum implementation of the “a = b ? c : d” syntax. Expansions such as “j=a?(b?c:d):e;” are prohibited.

xxvi. The voting system software shall have all assert() statements coded such that they are absent from a production compilation. Such coding may be implemented by ifdef()s that remove them from or include them in the compilation. If implemented, the initial program identification in setup should identify that assert() is enabled and active as a test version.

f. Control Constructs within the modules shall be limited to the acceptable constructs of Sequence, If-Then-Else, Do-While, Do-Until, Case, and the General Loop (including the special case for loop).

i. If the programming language used does not provide these control constructs, the voting system provider shall provide comparable control structure logic. The constructs shall be used consistently throughout the code. No other constructs shall be used to control program logic and execution.

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- ii. While some programming languages do not create programs as linear processes, stepping from an initial condition through changes to a conclusion, the program components may nonetheless contain procedures (such as “methods” in object-oriented languages). In these programming languages, the procedures shall execute through these control constructs or their equivalents, as defined and provided by the voting system provider.

 - iii. Operator intervention or logic that evaluates received or stored data shall not redirect program control within a program routine. Program control may be redirected within a routine by calling subroutines, procedures, and functions, and by interrupt service routines and exception handlers (due to abnormal error conditions). Do-While (False) constructs and intentional exceptions (used as GoTos) are prohibited.
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- g. All modules of the voting system software shall use the following naming conventions:
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 - i. Object, function, procedure, and variable names shall be chosen to enhance the readability and intelligibility of the program. Names shall be selected so that their parts of speech represent their use, such as nouns to represent objects and verbs to represent functions.
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 - ii. Names used in code and in documentation shall be consistent.
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 - iii. Names shall be unique within an application. Names shall differ by more than a single character. All single-character names are forbidden except those for variables used as loop indexes. In large systems where subsystems tend to be developed independently, duplicate names may be used where the scope of the name is unique within the application. Names shall always be unique where modules are shared.
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 - iv. Language keywords shall not be used as names of objects, functions, procedures, variables, or in any manner not consistent with the design of the language.
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 - h. All modules of the voting system software shall adhere to basic coding conventions. The voting system providers shall identify the published, reviewed, and industry-accepted coding conventions used.
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- i. All modules of the voting system software shall use the following comment conventions:
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 - i. All modules shall contain headers. For small modules of 10 lines or less, the header may be limited to identification of unit and revision information. Other header information should be included in the small unit headers if not clear from the actual lines of code. Header comments shall provide the following information:
 - 1. The purpose of the unit and how it works;
 - 2. Other units called and the calling sequence;
 - 3. A description of input parameters and outputs;
 - 4. File references by name and method of access (i.e., read, write, modify or append);
 - 5. Global variables used; and
 - 6. Date of creation and a revision record.
 - ii. Descriptive comments shall be provided to identify objects and data types. All variables shall have comments at the point of declaration clearly explaining their use. Where multiple variables that share the same meaning are required, the variables may share the same comment.
 - iii. In-line comments shall be provided to facilitate interpretation of functional operations, tests, and branching.
 - iv. Assembly code shall contain descriptive and informative comments such that its executable lines can be clearly understood.
 - v. All comments shall be formatted in a uniform manner that makes it easy to distinguish them from executable code.
 - j. All modules of the system shall meet the following requirements for installation of software, including hardware with embedded firmware.

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- i. If software is resident in the system as firmware, the voting system provider shall require and state in the system documentation that every device is to be retested to validate each ROM prior to the start of elections operations.
 - ii. To prevent alteration of executable code, no software shall be permanently installed or resident in the voting system unless the system documentation states that the jurisdiction shall provide a secure physical and procedural environment for the storage, handling, preparation, and transportation of the system hardware.
 - iii. The voting system bootstrap, monitor, and device-controller software may be resident permanently as firmware, provided that this firmware has been shown to be inaccessible to activation or control by any means other than by the authorized initiation and execution of the vote counting program, and its associated exception handlers.
 - iv. The election-specific programming may be installed and resident as firmware, provided that such firmware is installed on a component (such as a computer chip) other than the component on which the operating system resides.
 - v. After initiation of election day testing, no source code or compilers or assemblers shall be resident or accessible.
 - vi. Independent analysis will test for the following conditions and report on absence or presence of the following input validations in accordance with section 45.5.2.4.3:
 - 1. Path manipulation;
 - 2. Cross Site Scripting.Basic X;
 - 3. Resource Injection;
 - 4. OS Command Injection (also called “Shell Injection”); and
 - 5. SQL Injection.

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- vii. Independent analysis will test for the following conditions and report on absence or presence of the following range errors in accordance with section 45.5.2.4.3:
 - 1. Stack Overflow;
 - 2. Heap Overflow;
 - 3. Format string vulnerability; and
 - 4. Improper Null Termination.

 - viii. Independent analysis will test for following conditions and report on absence or presence of the following API abuses in accordance with section 45.5.2.4.3:
 - 1. Heap Inspection; and
 - 2. String Management/ Manipulation.

 - ix. Independent analysis will test for following conditions and report on absence or presence of the following Time and State conditions in accordance with section 45.5.2.4.3:
 - 1. Time-of-check/Time-of-use race condition; and
 - 2. Unchecked Error Condition.

 - x. Independent analysis will test for following conditions and report on absence or presence of the following code quality conditions accordance with section 45.5.2.4.3:
 - 1. Memory Leaks;
 - 2. Unrestricted Critical Resource Lock;
 - 3. Double Free;
 - 4. Use After Free;
 - 5. Uninitialized variable;
 - 6. Unintentional pointer scaling;
 - 7. Improper pointer subtraction; and
 - 8. Null Dereference.

1 xi. Independent analysis will test for following conditions
2 and report on absence or presence of the following
3 encapsulation conditions in accordance with section
4 45.5.2.4.3:

- 5 1. Private Array-Typed Field Returned from a Public
6 Method;
- 7 2. Public Data Assigned to Private Array-Typed Field;
- 8 3. Overflow of static internal buffer; and
- 9 4. Leftover Debug Code.

10 xii. The Application shall not open database tables for
11 direct editing.

12 k. ~~As of March 31, 2008, the~~ ALL voting systems submitted
13 for certification AFTER MARCH 31, 2008 shall meet the
14 following minimum requirements for removable storage
15 media with data controls:

16 i. All voting data stored which includes vote records,
17 ballot images, tally data and cast votes shall be
18 authenticated and validated in accordance with
19 cryptography requirements of subsection (c)(vii) of this
20 requirement;

21 ii. All non-voting data stored shall be authenticated,
22 encrypted, and validated in accordance with
23 cryptography requirements of subsection (c)(vii) of this
24 requirement; and

25 iii. Antivirus software shall be present and scan removable
26 media upon insertion of media or media device on
27 server and/or workstations hosting the elections
28 management software.

29
30 Rule 45.5.2.8.1 would be amended as follows:

31 45.5.2.8.1 Specific minimum accessibility requirements include those specified in section 1-5-
32 704 C.R.S., Secretary of State Rule 34, Rule 35 and the following:

33 (a) Buttons and controls shall be distinguishable by both shape and color;

34 (b) Audio ballots shall meet the following standards:

1 (i) The voting system shall allow the voter to pause and resume the audio
2 presentation.

3 (ii) The audio system shall allow voters to control within reasonable limits,
4 the rate of speech.

5 (c) No voting system or any of its accessible components shall require voter
6 speech for its operation;

7 (d) All Touchscreen technology shall be tested for use of fingers as well as non-
8 human touch that is both wet and dry;

9 (e) Voting systems shall include at least the ability to activate and navigate by
10 means of push buttons, dials, wheels, keypads, and/or touch screens. ~~By~~
11 ~~March 31, 2008, ALL~~ voting systems submitted for certification AFTER MARCH
12 31, 2008 shall also include any form of either switches, sip and puff devices,
13 or additional blink control devices; and

14 (f) Adjustability of color settings, screen contrasts and/or screen angles/tilt may
15 be made by either the poll worker or voter if the system uses a display screen.
16 A minimum of two color settings, two contrast settings and two angles shall
17 be available for all display screens.

18

19 Rule 45.5.2.9.17 would be amended as follows:

20 45.5.2.9.17 ~~As of March 31, 2008, ALL~~ voting systems submitted for certification AFTER MARCH
21 31, 2008 shall stop the V-VPAT printer of all forward operations of the DRE if the
22 printer is not working due to paper jams, out of supply of consumables, or other
23 issue which may cause the correct readable printing of information on the V-VPAT
24 record as designed.

25

26 Rule 45.6.1.2 would be amended as follows:

27 45.6.1.2 The demonstration period does not have a pre-determined agenda for the voting
28 system provider to follow; however, presentations should be prepared to address and
29 demonstrate with the specific system the following items as they pertain to each area
30 and use within the voting system:

31 (a) System overview;

32 (b) Verification of complete system matching EAC certification;

33 (c) Ballot definition creation;

- 1 (d) Printing ballots on demand;
- 2 (e) Hardware diagnostics testing;
- 3 (f) Programming election media devices for various count methods:
 - 4 (i) ~~Absentee~~Mail-in Ballots;
 - 5 (ii) Early Voting;
 - 6 (iii) Precinct/Poll Place;
 - 7 (iv) Provisional; and
 - 8 (v) Vote Center.
- 9 (g) Sealing and securing system devices;
- 10 (h) Logic and accuracy testing;
- 11 (i) Processing ballots;
- 12 (j) Accessible use;
- 13 (k) Accumulating results;
- 14 (l) Post-election audit;
- 15 (m) Canvass process handling;
- 16 (n) Audit steps and procedures throughout all processes;
- 17 (o) Certification of results; and
- 18 (p) Troubleshooting.

19

20 Rule 45.6.2.3.6 would be amended as follows:

21 45.6.2.3.6 The voting system provider is required to produce ballots in quantities identified
22 below for each of the elections. Enough ballots need to be created to conduct the
23 testing of the voting system as defined in this rule. One complete set of ballots will
24 be tested in each of the applicable counter types (or groups) indicated below:

- 25 (a) Poll Place or Vote Center - ballots are flat – no score marks;
- 26 (b) Early Voting – ballots are flat – no score marks;

1 (c) ~~Absentee-MAIL-IN~~ MAIL-IN BALLOTS – ballots are scored and folded to fit in standard
2 Colorado ~~Absentee Mailing~~ MAIL-IN BALLOT Envelopes; and

3 (d) Provisional – ballots are flat- no score marks.
4

5 Rule 45.6.2.3.10 would be amended as follows:

6 45.6.2.3.10 Ballots shall be cast and counted in all applicable counter types (or counter groups)
7 as necessary based on the parts included in the voting system. These are at a
8 minimum: Poll Place (or Vote Center), ~~Absentee-MAIL-IN~~, Provisional, and Early
9 Voting. Ballots may be run through components 10 or more times depending on
10 components and counter group being tested to achieve a minimum number of
11 ballots cast as follows for each group:

12 (a) Polling Place / OS = 1,500;

13 (b) Polling Place / DRE = 500;

14 (c) Vote Center/ OS = 5,000;

15 (d) Vote Center / DRE = 500

16 (e) Early Voting / OS = 5,000;

17 (f) Early Voting / DRE = 250;

18 (g) ~~Absentee-MAIL-IN~~ = 10,000; and

19 (h) Provisional = 5,000.
20

21 Rule 46 would be repealed as follows:

22 **Rule 46. Rules Concerning Vacancies in Nomination - REPEALED**

23 ~~46.1—If a vacancy occurs and is filled by the appropriate vacancy committee more than 18 days~~
24 ~~but less than 70 days before a general election pursuant to section 1-4-1002(2.3)(a),~~
25 ~~C.R.S., (2005) the designated election official shall make a reasonable attempt to have~~
26 ~~the replacement candidate's name printed on the official ballots.~~

27 ~~46.1.1 For the purposes of this Rule 46, a vacancy shall be considered filled on the date~~
28 ~~that the replacement candidate files an acceptance of nomination with the~~
29 ~~appropriate filing officer pursuant to section 1-4-1002(5)(a), C.R.S., (2005).~~

30 ~~46.1.2 Notwithstanding other events, if absentee or polling place ballots have been~~
31 ~~printed and are in the possession of the designated election official, the designated~~

1 ~~election official shall not be required to print or issue replacement ballots.~~

2 ~~46.2 If the designated election official is unable to provide corrected ballots, after reasonably~~
3 ~~attempting to ensure that the replacement candidate's name is printed on the ballots~~
4 ~~pursuant to Rule 46.1, the designated election official shall meet all requirements~~
5 ~~provided in section 1-4-1002(2.3)(b), C.R.S., (2005), and all votes cast for the~~
6 ~~withdrawing candidate shall be counted for the replacement candidate.~~

7 ~~46.2.1 If a replacement candidate receives a plurality of votes cast at the general election,~~
8 ~~the replacement candidate shall be certified as the winning candidate.~~

9 ~~This entire Rule 46 expires on December 7, 2006 in accordance with section 24-4-103(6). C.R.S.~~

10 Subsequent rules would not be renumbered