



NOTICE OF PROPOSED RULEMAKING

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

May 14, 2010

Pursuant to the requirements of section 24-4-103(3)(a), C.R.S., (2009), notice of proposed rulemaking is hereby given by the Secretary of State. A rulemaking hearing will be held on **June 15, 2010 from 2:00pm to 4:00pm** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of revisions and amendments to the "Election Rules" of the Colorado Secretary of State, 8 C.C.R. 1505-1.

Subject of the Proposed Rulemaking

Amendments and revisions to the Colorado Secretary of State Election Rules as may be necessary or appropriate to improve the administration of elections in Colorado. The revisions and amendments to be considered include rules concerning recount procedures, uniform ballot counting standards, voter registration applications, procedures for assessing polling place accessibility, mail-in voting, verification of provisional ballots, and technical corrections and clarifications. The Secretary of State shall also consider rules necessary to implement amendments to the election laws made during the 2010 second regular session of the 67th General Assembly and such other rule amendments as may be necessary to answer questions arising under Title 1 of the Colorado Revised Statutes.

Authority for Proposed Rulemaking

Revisions and amendments to the "Election Rules" of the Colorado Secretary of State, 8 C.C.R. 1505-1, are proposed pursuant to the following statutes:

1. Section 1-1-107(2)(a), C.R.S., (2009), which authorizes the Secretary of State "[t]o promulgate, publish and distribute . . . such rules as the secretary finds necessary for the proper administration and enforcement of the election laws."
2. Section 1-1.5-104(1)(e), C.R.S., (2009), which authorizes the Secretary of State to "[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the "Help America Vote Act of 2002", 42 U.S.C. 15301-15545]."

Copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 270, Denver, Colorado, 80290, or by calling (303) 894-2200, extension 6329. The proposed rules are also posted on the Secretary of State website at www.sos.state.co.us.

A final copy of the proposed rules for consideration at the public rulemaking hearing will be posted on the Secretary of State website and made available to the public no later than **June 10, 2010** in accordance with section 24-4-103(4)(a), C.R.S., (2009), which states 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.”

The rulemaking hearing on June 15, 2010 will be held in accordance with section 24-4-103, C.R.S. (2009). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at or before the commencement of the hearing on June 15, 2010 at 2:00pm in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at www.sos.state.co.us on the “Information Center” page under “Broadcast and Recorded Meetings.” For additional information, please contact Andrea Gyger, Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 14th Day of May, 2010.



William A. Hobbs
Deputy Secretary of State

For

Bernie Buescher
Colorado Secretary of State



Proposed Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Election Rules

May 14, 2010

1. Basis and Purpose

This proposed statement pertains to the amendments to the Colorado Secretary of State Election Rules for the administration of Colorado State Constitution Article VII, and Title 1 of the Colorado Revised Statutes. The amendments are proposed to achieve the uniform and proper administration and enforcement of the election laws of the State of Colorado, including the requirements of the federal Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252. See sections 1-1.5-101 *et seq.*, C.R.S. (2009).

The proposed amendments to these rules are necessary for the implementation of Article VII of the Colorado Constitution and Title 1 of the Colorado Revised Statutes. Such proposed revisions are necessary to improve the administration of elections in Colorado, to increase the transparency and security of the election process, and to answer questions arising under Title 1 of the Colorado Revised Statutes.

The Secretary of State finds that the proposed amendments and revisions to specific rules are necessary as follows:

- New Rule 2.8.3 would be adopted to clarify that for the purpose of submitting voter registration applications by fax, email or online voter registration, the close of business shall be 11:59 MT.
- Amendments to Rules 5.4, 14.4.4, 14.7.3(b), 27.1.7, 27.1.8, 27.3.2, 27.7.1, and 27.8.2.1 are necessary to make technical corrections and clarifications.
- New Rule 7.7 would establish polling place accessibility assessment procedures and associated deadlines.
- Repeal of Rule 12.1.1.1(b) would remove language from secrecy sleeve or secrecy sleeve envelope voter instructions in accordance with amendments to Section 1-7.5-107, C.R.S., made by HB 10-1116. Specifically, HB 10-1116 removed language from statute that stated if the return envelope does not contain identification that the ballot shall be treated as a provisional ballot. Specific procedures for handling a ballot returned without identification were adopted in HB 09-1337.

- Amendments to Rule 12.4.1(a) would implement changes to Section 1-7.5-105(1), C.R.S., by HB 10-1116. Specifically, HB 10-1116 harmonized the deadline for regular special district election plans with all other non-partisan plan deadlines.
- Amendments to Rules 12.4.2(a) and 12.9 would implement changes to Sections 1-7.5-107.3 and 1-8-114.5, C.R.S., relating to signature verification made by HB 10-1116. Specifically, HB 10-1116 provides for signature verification in every election conducted by or coordinated with the county.
- Amendments to Rule 12.10.1 would implement the people first language requirements of HB 10-1137.
- Amendments to Rule 13.8 would clarify how a mail-in ballot shall be verified and counted when the return envelope does not contain proper identification from an elector required to provide his/her identification. Specific procedures for handling a ballot returned without identification were adopted in HB 09-1336.
- Repeal of Rule 14.6.9 would revise the process for review of voter intent.
- Amendments to Rules 26.4.6 and Rule 29.2 would implement changes to Sections 1-7.5-107.3 and 1-8-114.5, C.R.S., relating to signature verification made by HB 10-1116. Specifically, HB 10-1116 repealed obsolete provisions regarding signatures on file with the clerk, leaving the statewide voter registration system as sole source of the signature.
- Amendments to Rule 27.1.3 would clarify that a damaged ballot includes a ballot containing any foreign substance that may interfere with an optical scan machine and a ballot completed in a medium other than that specified in the ballot instructions.
- Amendments to Rule 27.4.2 would revise central count optical scan procedures. Specifically, the amendments would require an initial review of every ballot. Damaged ballots would be noted as such, duplicated, and kept separate from the standard run ballots for the precinct. Additionally, the amendments clarify that a voter's intent shall be reviewed for every ballot that requires duplication.
- Amendments to Rule 27.6 would establish that every duplicated ballot shall be subject to the process for determining voter intent and that such ballots shall be counted with all other ballots, however, duplicated ballots must be maintained separately for greater accessibility.
- Amendments to Rule 27.7.4.3 would create a consistent standard for interpreting voter intent of a write-in vote by requiring that the target area be marked in the appropriate space in order for the vote to be counted.

2. Statutory Authority

Amendments to the Colorado Secretary of State Election Rules are adopted pursuant to the following statutory provisions:

1. Section 1-1-107(2)(a), C.R.S. (2009), which authorizes the Secretary of State:
 “[t]o promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-104(1), C.R.S. (2009), which provides that:
 “The secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements imposed upon it pursuant to HAVA . . . including, without limitation, the power and duty to:

(e) Promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of this article.”

COLORADO SECRETARY OF STATE

8 CCR 1505-1

ELECTION RULES

Preliminary Draft of Proposed Rules

May 14, 2010

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 **June 10, 2010**, 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. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.

1 New Rule 2.8.3 would be adopted as follows:

2 2.8.3 FOR THE PURPOSE OF SUBMITTING VOTER REGISTRATION APPLICATIONS BY FAX,
3 EMAIL OR ONLINE VOTER REGISTRATION, CLOSE OF BUSINESS SHALL BE 11:59PM
4 MT.

5 Rule 5.4.6 would be amended as follows:

6 5.4.6 The form and procedures for filing candidate nomination forms and call for
7 nominations of persons desiring to be a candidate for the office to be voted upon
8 at the Court-ordered election described in ~~paragraph a of~~ Rule 5.4.5, shall be in
9 conformance with the form and procedures required for special districts under
10 Article 1, Title 32, C.R.S., unless otherwise ordered by the Court.

11 New Rule 7.7 would be adopted as follows:

12 7.7 POLLING PLACE ACCESSIBILITY

1 7.7.1 APPLICABILITY: FOR THE PURPOSES OF THIS RULE, "POLLING PLACE LOCATION"
2 SHALL INCLUDE ALL POLLING PLACES, VOTE CENTERS, SERVICE CENTERS, BALLOT
3 DROP OFF LOCATIONS, AND EACH OFFICE OF THE DESIGNATED ELECTION OFFICIAL
4 WHERE BALLOTS ARE ISSUED OR REPLACED.

5 7.7.2 ASSESSING ACCESSIBILITY

6 A. NEW POLLING PLACE LOCATIONS: IN ACCORDANCE WITH SECTION 1-5-
7 703(4), C.R.S., THE DESIGNATED ELECTION OFFICIAL SHALL ASSESS A
8 LOCATION USING THE CURRENT ADA CHECKLIST FOR POLLING PLACES
9 SURVEY BEFORE DESIGNATING THE LOCATION AN OFFICIAL POLLING PLACE.
10 THE DESIGNATED ELECTION OFFICIAL SHALL INDICATE ON THE SURVEY ANY
11 ACCESSIBILITY BARRIERS AND DESCRIBE BARRIER REMOVAL PLANS TO
12 BRING THE LOCATION INTO COMPLIANCE. COMPLETED SURVEYS MUST BE
13 FILED WITH THE SECRETARY OF STATE NO LATER THAN 100 DAYS PRIOR TO
14 A PARTISAN ELECTION AND NO LATER THAN 30 DAYS PRIOR TO A
15 NONPARTISAN ELECTION. [SECTIONS 1-5-102, 1-5-102.5, C.R.S., AND RULE
16 7.3]

17 B. ANNUAL ASSESSMENTS: THE DESIGNATED ELECTION OFFICIAL SHALL
18 REASSESS ALL CURRENT DESIGNATED POLLING PLACE LOCATIONS USING THE
19 ANNUAL POLLING PLACE ACCESSIBILITY SURVEY AND FILE THIS SURVEY
20 WITH THE SECRETARY OF STATE. THE DESIGNATED ELECTION OFFICIAL
21 MUST INDICATE ON THE SURVEY WHETHER THE LOCATION REMAINS OR MAY
22 BE MADE ACCESSIBLE AND DESCRIBE ANY CONTINUED OR NEW BARRIER
23 REMOVAL PLANS.

24 C. SITE VISITS: THE SECRETARY OF STATE'S OFFICE MAY CONDUCT
25 ANNOUNCED LOCATION VISITS TO HELP IDENTIFY ACCESSIBILITY BARRIERS
26 AND PROMOTE ACCESSIBILITY COMPLIANCE.

27 7.7.3 BARRIER REMOVAL: IF, UPON ASSESSMENT, A LOCATION FAILS TO MEET THE
28 MINIMUM ACCESSIBILITY REQUIREMENTS OUTLINED IN THE ADA CHECKLIST FOR
29 POLLING PLACES, THE DESIGNATED ELECTION OFFICIAL MUST DEVELOP A BARRIER
30 REMOVAL PLAN OUTLINING THE PERMANENT AND OR TEMPORARY MODIFICATIONS
31 THAT WILL BE IMPLEMENTED TO BRING THE SITE INTO COMPLIANCE IN ORDER FOR
32 THE LOCATION TO BE DESIGNATED AN OFFICIAL POLLING PLACE LOCATION.

33 7.7.4 NONCOMPLIANCE: IN ACCORDANCE WITH SECTION 1-1-107(2)(D), C.R.S., THE
34 SECRETARY OF STATE MAY SEEK INJUNCTIVE ACTION OR OTHER PENALTIES AS A
35 REMEDY TO VIOLATIONS OF THIS RULE. FAILURE TO ASSESS LOCATIONS AND
36 TIMELY FILE COMPLETE ACCESSIBILITY SURVEYS, OR DEVELOP AND IMPLEMENT
37 NECESSARY BARRIER REMOVAL PLANS IN ACCORDANCE WITH THIS RULE MAY
38 RESULT IN DENIAL OF APPLICATIONS FOR ACCESSIBILITY GRANT FUNDS.

39 Rule 12.1.1.1(b) would be repealed as follows:

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

[Revision in accordance with amendments made to Section 1-7.5-107, C.R.S., by HB 10-1116]

Rule 12.4.1(a) would be amended as follows:

12.4.1 Coordinated and non-partisan elections.

(a) Written plan. As soon as possible, but ~~no later than 65 days prior to a regular special district election and~~ no later than 55 days prior to any other election, not including a Primary Election, a written plan must be submitted to the Secretary of State which includes the following:

[Revision in accordance with amendments made to Section 1-7.5-105(1), C.R.S., by HB 10-1116. Subsequent provisions of this Rule 12.4.1(a) will be retained unaltered]

Rule 12.4.2(a) would be amended as follows:

12.4.2 Primary Elections conducted as a mail ballot election.

(a) Written plan. Pursuant to Article 7.5 of Title 1, C.R.S., no later than 120 days prior to the election the county clerk and recorder must submit a written plan to the Secretary of State that includes the following:

- (1) Date of the election;
- (2) Type and name of the jurisdiction involved in the election;
- (3) Citation of the statute(s) or home rule charter provisions authorizing the election;
- (4) Estimated number of eligible electors;
- (5) The address and hours of operation for all drop-off locations;
- (6) The address and hours of operation for all service centers;
- (7) Description of the procedures that will be taken to ensure that each service center complies with the requirements set forth in section 1-7.5-107, C.R.S. including the number of accessible voting machines anticipated being used at each service center For security reasons, unmonitored

freestanding drop-off locations located outside will not be allowed;

(8) Written timetable for the conduct of the election in accordance with statute;

(9) Indication of how postage will be handled for ballot packets returned as undeliverable (e.g. "return postage guaranteed");

(10) Indication of procedures to be followed to ensure compliance with statutes and rules, including persons responsible for each stage;

(11) Description of procedures to be used to ensure ballot security at all stages of the process;

(12) Description of procedures for maintaining privacy and security of accessible voting machines to be used;

(13) DESCRIPTION OF PROCEDURES TO BE USED FOR SIGNATURE VERIFICATION;

(14) Description of procedures to be used for ballots returned by electors who have not previously voted in Colorado and have failed to include proper proof of identification;

(15) Description of procedures to ensure privacy by use of a secrecy sleeve or secrecy envelope so receiving judges cannot tell how the elector voted;

(16) Description of procedures to be used to reconcile ballots issued, ballots received, defective ballots and substitute ballots; and

(17) An actual sample of the secrecy sleeve or secrecy envelope to be used in the mail ballot election.

[Revision in accordance with amendments made to Sections 1-7.5-107.3 and 1-8-114.5, C.R.S., by HB 10-1116]

Rule 12.9 would be amended as follows:

12.9 For any missing signatures Rule 29.1 concerning procedures for missing signatures shall be followed. In accordance with section 1-7.5-107.3, C.R.S., the procedures in Rule 29 shall be followed for any non-matching signature on a mail ballot return envelope that is received in a ~~November coordinated election~~ AN ELECTION COORDINATED WITH OR CONDUCTED BY THE COUNTY CLERK AND RECORDER.

1 *[Revisions in accordance with amendments made to Sections 1-7.5-107.3 and 1-8-114.5,*
2 *C.R.S., by HB 10-1116]*

3 Rule 12.10.1 would be amended as follows:

4 12.10.1 All “drop-off locations” shall be accessible to ~~disabled~~ electors WITH
5 DISABILITIES.

6 *[Revisions in accordance with the people first language requirements of HB 10-1137]*

7 Rule 13.8 would be amended as follows:

8 13.8 If the marked return envelope does not contain proper identification, the ballot shall be
9 ~~treated as a provisional ballot. The outside of the return envelope shall be marked~~
10 ~~“provisional”. The provisional ballot shall be verified and counted as follows:~~

11 *[Subsequent provisions of this Rule 13.8 would be retained unaltered]*

12 Rule 14.4.4 would be amended as follows:

13 14.4.4 The recount board-, candidates, watchers, members of the media, and official
14 observers will take an oath.

15 Rule 14.6.9 would be repealed as follows:

16 14.6.9 ~~Ballots shall be reviewed for voter intent.~~ REPEALED.

17 Rule 14.7.3(b) would be amended as follows:

18 (b) Scan and resolve all recount ballots following original election procedures,
19 including the examination of ballots (Rule 14.3; section 1-8-10.5-102,
20 C.R.S.). Use the Audit Trail Report and original Scan Batch Reports with
21 notes to ensure resolution action follows original resolution.

22 Rule 26.4.6 would be amended as follows:

23 26.4.6 When the designated election official has received both a mail-in ballot and a
24 provisional ballot from an elector, but there is a discrepancy between the
25 signature on the returned mail-in ballot envelope and the elector’s signature ~~on~~
26 ~~file with the county clerk and recorder~~ STORED IN THE STATEWIDE VOTER
27 REGISTRATION SYSTEM, the discrepancy must be resolved. Before the provisional
28 ballot may be counted, the elector must affirm that the signature on the mail-in
29 ballot envelope is not his or her signature. Section 1-8.5-105(4) and (5), C.R.S.

30 Rule 27.1.3 would be amended as follows:

31 27.1.3 Damaged Ballot. A damaged ballot is one that has been torn, bent, or otherwise
32 mutilated or rendered unreadable, so that it cannot be processed by the optical
33 scanner ballot reader.

1 (A) DAMAGED BALLOTS SHALL INCLUDE ALL BALLOTS THAT CONTAIN A
2 FOREIGN SUBSTANCE THAT COULD POTENTIALLY INTERFERE WITH THE
3 OPTICAL SCAN MACHINE (I.E. FOOD, DRINK, ETC.).

4 (B) DAMAGED BALLOTS MAY INCLUDE BALLOTS THAT ARE MARKED IN A
5 MEDIUM OTHER THAN THE MEDIUM INDICATED IN THE BALLOT
6 INSTRUCTIONS.

7 Rules 27.1.7 and 27.1.8 would be amended as follows:

8 27.1.7 Undervote. An undervote occurs when the voter does not vote for ~~a~~any candidate
9 in a race, or for or against a ballot measure, or, when more than one person in a
10 race is available, the voter does not vote for the maximum number of votes
11 allowed.

12 27.1.8 Target area shall mean any of the following:

13 ~~a~~-(A) The square or oval opposite the candidate's name or ballot response on a
14 paper ballot; or

15 ~~b~~-(B) The oval, incomplete line, or incomplete arrow opposite the candidate's
16 name or ballot response (examples: "Yes", "No", "For" or "Against") on
17 an optical scan ballot

18 Rule 27.3.2 would be amended as follows:

19 27.3.2 If a ballot contains markings for more than the maximum votes allowed in a
20 candidate race or for a ballot measure, no vote shall count for that race, ~~or~~ ballot
21 measure.

22 Rule 27.4.2 would be amended as follows:

23 27.4.2 Central Count Optical Scan Procedures

24 (a) AN INITIAL REVIEW OF EVERY BALLOT SHALL BE COMPLETED IN ORDER TO
25 SEPARATE DAMAGED BALLOTS INTO A UNIQUE BATCH. EVERY DAMAGED
26 BALLOT SHALL BE DUPLICATED IN ACCORDANCE WITH THIS RULE. ALL
27 DAMAGED BALLOTS THAT ARE MANUALLY SORTED AND DUPLICATED ARE
28 TO BE INDICATED AS SUCH AND KEPT SEPARATE FROM THE STANDARD RUN
29 BALLOTS FOR THE PRECINCT.

30 (B) A resolution board, consisting of a team(s) of one (1) Republican and one
31 (1) Democrat for partisan elections or two (2) qualified election judges for
32 nonpartisan elections, shall resolve all ballots sorted by the central count
33 optical scan equipment.

- 1 (1) The board shall be observed by two (2) witnesses, who in any
2 partisan election shall be representatives of each major political
3 party, who may not handle or process ballots.
- 4 (2) All persons engaged in the counting and processing of ballots shall
5 be deputized or take an oath to faithfully perform their duties.
- 6 (3) The resolution board shall maintain a log for each step of
7 verification, duplication, and counting.

8 (bC) Sequence of Resolution Procedures

- 9 (1) A zero tape shall be run indicating no votes cast or counted before
10 the counting begins.
- 11 (2) Official ballots shall be processed through the optical scanner, with
12 sorted overvotes, blank ballots, and write-in ballots viewed and
13 resolved by the resolution board. ~~Only ballots~~ **BALLOTS** sorted by
14 the optical scan equipment shall be subject to review by the
15 resolution board. ~~A voter's intent shall not be reviewed or~~
16 ~~determined upon initial counting of ballots unless such ballot is~~
17 ~~sorted by the optical scan equipment.~~ If there are no legally
18 qualified write-in candidates, the write-in sort option shall not be
19 utilized. The number of each duplicated ballot shall be entered on
20 the resolution board log sheet.
- 21 (3) A VOTER'S INTENT SHALL BE REVIEWED FOR EVERY BALLOT THAT
22 REQUIRES DUPLICATION.
- 23 (34) All ballots which are sorted by the optical scanner and resolved by
24 the resolution board by duplication are to be indicated as such and
25 kept separate from the standard run ballots for the precinct.
- 26 (5) ALL BALLOTS WHICH ARE DAMAGED AND RESOLVED BY THE
27 RESOLUTION BOARD BY DUPLICATION ARE TO BE INDICATED AS
28 SUCH AND KEPT SEPARATE FROM THE STANDARD RUN BALLOTS FOR
29 THE PRECINCT.
- 30 (46) The precinct judge's ballot reconciliation form is compared to the
31 number of scanned ballots for the precinct.
- 32 (57) After the final precinct has been tallied, the total write-in votes
33 shall be indicated on the final summary along with the seal
34 numbers for each sealed box of scanned ballots.

35 (d) Resolution of ~~optical scan~~ **DAMAGED** ballots

- (1) Damaged BALLOTS or defective ballots shall be duplicated utilizing the ballot duplication procedures as provided in Rule 27.6.
- (2) Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures as set forth in Rule 27.6. If a ballot is truly blank it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races or ballot measures voted.
- (3) Overvoted ballots shall be inspected by the resolution board and resolved in accordance with Rule 27.7.
- (4) Write-in votes sorted by the optical scan equipment on election day shall be delivered to the assigned write-in board for hand counting. During the initial ballot count, in order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions. Only votes for legally qualified write-in candidates shall be counted.
- (5) The resolution board shall duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots shall be separated from the duplicate ballots and placed in an envelope clearly marked "ORIGINAL BALLOTS." The duplicate ballots shall be counted in lieu of the original ballots.
- (6) The resolution board shall maintain an official audit log setting forth the precinct number, duplicate ballot number, reason (with specificity) that the ballot was duplicated, date of duplication, and the initials of the members of the duplication board responsible for duplicating the ballot.

(dE) Recount Procedures for Optical Scan

- (1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested prior to the recount, and shall be programmed to sort undervotes for the individual race(s) or ballot measure(s) being recounted.
- (2) Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.

1 Rule 27.6 would be amended as follows:

2 27.6 Duplication of Ballots.

3 (a) Using the damaged ballot as the guide, a blank ballot shall be marked by a
4 duplicating team, so that the votes recorded are identical to those indicated on the
5 damaged ballot, and shall be proofed to insure that is marked properly and
6 accurately.

7 (b) EVERY DUPLICATED BALLOT SHALL BE SUBJECT TO THE PROCESS FOR DETERMINING
8 VOTER INTENT OUTLINED IN RULE 27.7.

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

13 (ed) ~~The duplicate ballot shall be placed with all other ballots to be counted.~~ THE
14 DUPLICATED BALLOTS SHALL BE COUNTED IN THE SAME MANNER AS ALL OTHER
15 BALLOTS TO BE COUNTED. ALL DUPLICATED BALLOTS SHALL BE KEPT SEPARATE
16 FROM THE STANDARD RUN BALLOTS SO THAT THE DUPLICATED BALLOTS ARE
17 EASILY AUDITABLE.

18 (de) The damaged or unreadable original ballot shall be marked "DUPLICATED" to
19 indicate that the ballot has been duplicated and the duplication is completed. All
20 duplicated original ballots for a precinct along with any applicable printed
21 material shall be placed in an envelope and clearly marked "BALLOTS THAT
22 HAVE BEEN DUPLICATED."

23 Rule 27.7.1 would be amended as follows:

24 27.7.1 If a voter uses a consistent alternate ballot marking method that deviates from the
25 method specified by the voting instructions (such as circling or placing a check
26 mark behind a candidate's name or ballot response) and does not place an "X",
27 check or other appropriate mark in the target area(s), the voter will be considered
28 to have voted for the appropriate candidates and or ballot responses and the ballot
29 shall be duplicated; except that, ~~If~~ IF a voter marks any of his/her choices by
30 placing an "X", check or other appropriate mark in any target area on the voter's
31 ballot, only those choices where the target area has been marked shall be counted.

32 Rule 27.7.4.3 would be amended as follows:

33 27.7.4.3 During any recount of votes ~~and during the initial count for hand-~~
34 ~~counted paper ballots pursuant to section 1-7-305, C.R.S.,~~ the written
35 name of a write-in candidate in the write-in space shall be counted
36 whether or not the target area designating the selection of a write-in
37 candidate has been marked, provided that the number of candidates chosen
38 does not exceed the number permitted in that office.

1 Rule 27.8.2.1 would be amended as follows:

2 27.8.2.1 The transfer logs shall at minimum contain: the date of the
3 election; the precinct number; the seal numbers; and the names of the
4 polling place judge(s), the transfer judge(s), and the counting judge(s) who
5 carryout the ballot transfer.

6 Rule 29.2 would be amended as follows:

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

13 *[Revision in accordance with amendments made to Sections 1-7.5-107.3 and 1-8-114.5,*
14 *C.R.S., by HB 10-1116. Subsequent provisions of this Rule 29.2 will be retained*
15 *unaltered]*