



Notice of Permanent Adoption

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

August 11, 2017

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a permanent basis.

The Secretary of State considered the amendments at the July 11, 2017 rulemaking hearing in accordance with the State Administrative Procedure Act⁴.

Please note the following formatting key:

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

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

Amendments to Rule 1 concerning definitions and numbering:

New Rule 1.1.10:

1.1.10 “CAST VOTE RECORD” OR “CVR” MEANS THE AGGREGATED BALLOT-LEVEL DATA ON BALLOTS COUNTED, CONSISTING OF A SINGLE RECORD FOR EACH BALLOT TABULATED, SHOWING THE MANNER IN WHICH THE VOTING SYSTEM INTERPRETED AND TABULATED THE VOTER’S MARKINGS ON THE BALLOT, AS ADJUDICATED AND RESOLVED BY ELECTION JUDGES, IF APPLICABLE.

[Not shown: renumbering Current Rules 1.1.10-1.1.31 as Rules 1.1.11-1.1.32]

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2016).

² Section 24-4-103(3)(a), C.R.S. (2016).

³ 8 CCR 1505-1.

⁴ Section 24-4-103(3)(a), C.R.S. (2016).

New Rule 1.1.33:

- 1.1.33 “PERSONALLY IDENTIFIABLE INFORMATION” MEANS INFORMATION ABOUT AN INDIVIDUAL THAT CAN BE USED TO DISTINGUISH OR TRACE AN INDIVIDUAL’S IDENTITY, SUCH AS AN ELECTOR’S SOCIAL SECURITY NUMBER, DRIVER’S LICENSE NUMBER, EMAIL ADDRESS, MONTH AND DAY OF BIRTH, AND SIGNATURE.

[Not shown: renumbering Current Rules 1.1.32-1.1.49 as Rules 1.1.34-1.1.51]

Amendments to Rule 2.3.1 concerning voter registration:

- 2.3.1 The county must process the Help America Vote Verification file on at least a monthly basis by verifying social security numbers and ~~remove~~ REMOVING the “ID required” FLAG FROM verified records.

New Rule 2.5.4 concerning affiliation in primary elections:

- 2.5.4 IF AN UNAFFILIATED ELECTOR WHO HAS ALREADY BEEN MAILED A PRIMARY ELECTION BALLOT PACKET SUBMITS AN AFFILIATION DECLARATION, THE COUNTY CLERK MUST DEFER PROCESSING THE AFFILIATION CHANGE UNTIL AFTER THE PRIMARY ELECTION; EXCEPT THAT AN UNAFFILIATED ELECTOR WHO APPEARS IN PERSON TO VOTE MAY AFFILIATE AND VOTE A PARTY BALLOT IF THE COUNTY CLERK HAS NOT RECEIVED THE ELECTOR’S VOTED MAIL BALLOT.

Amendments to Rule 2.12.1 concerning list maintenance:

- 2.12 List Maintenance under section 8 of the National Voter Registration Act of 1993
- 2.12.1 The Secretary of State will provide monthly National Change of Address (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk by the fifth BUSINESS DAY of each month.

Amendments to Rule 2.13 concerning voter registration at VSPCs and repeal of Rule 2.13.2:

- 2.13 Voter registration at a voter service and polling center.
- ~~2.13.1~~—A person registering voters or updating voter registration information in a voter service and polling center must:
- ~~(a)~~-2.13.1 Be an election judge, a permanent or temporary county employee, state employee, or temporary staff hired by the county clerk; and
 - ~~(b)~~-2.13.2 Complete a training course provided by or approved by the Secretary of State.
- ~~2.13.2~~ For the purpose of providing information to watchers, the person registering voters or updating voter registration information in a voter service and polling center must maintain a log that includes the name and residential address of each elector who registers or updates his or her registration record, or verbally confirm each elector’s name and residential address.

New Rules 2.14.4 and 2.14.5 concerning voter registration records and data and renumbering:

2.14.4 WITHOUT WRITTEN AUTHORIZATION FROM THE SECRETARY OF STATE, THE COUNTY CLERK MAY NOT RUN OR SCHEDULE TO RUN SCORE REPORTS OR EXPORTS THAT INCLUDE VOTER OR ELECTION DETAIL DURING REGULAR BUSINESS HOURS BEGINNING 22 DAYS BEFORE ELECTION DAY AND FROM 7:00 AM TO 7:00 PM ON ELECTION DAY.

2.14.4-2.14.5 Custodianship of Voter Registration Information

- (a) The Secretary of State is the official custodian of the information contained in the centralized statewide registration system and the computerized statewide voter registration list created and maintained under section 1-2-301, C.R.S.
- (b) Each county clerk is the official custodian of the voter registration information only for electors within his or her county.

~~2.14.5~~-2.14.6 If a person requests a certificate of registration or other election record that contains personally identifiable information, he or she must provide a copy of identification as defined in section 1-1-104(19.5), C.R.S.

Amendments to Rule 2.15.1 concerning SCORE username and password administration:

2.15.1 The state user administrator assigns county user administrator privileges to the individual designated in each county by the county clerk. The county clerk OR ELECTION ADMINISTRATOR must submit a request for county user administrator privilege to the state user administrator in writing. The request must specifically state the full name of the county employee that is being assigned as a county user administrator.

New Rule 2.17 concerning ballot preference for unaffiliated voters:

2.17 IF AN UNAFFILIATED ELECTOR INDICATES A POLITICAL PARTY BALLOT PREFERENCE AT ANY TIME UP TO AND INCLUDING THE TWENTY-NINTH DAY BEFORE A PRIMARY ELECTION, THE COUNTY CLERK MUST RECORD THE SELECTION IN SCORE AND MAIL ONLY THE BALLOT OF THAT POLITICAL PARTY TO THE ELECTOR IN THE UPCOMING PRIMARY ELECTION. AN ELECTOR'S POLITICAL PARTY BALLOT PREFERENCE IS ONLY EFFECTIVE FOR A SINGLE PRIMARY ELECTION EVEN IF THERE IS MORE THAN ONE PRIMARY ELECTION IN A SINGLE YEAR.

Repeal of Rule 4.5.2(d) concerning determination of ballot issues and texts:

4.5.2 Each political subdivision must determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.

~~(d) For statewide measures, initiatives must be numbered in the order in which the statements of sufficiency are issued. The numbers one through five must be reserved for initiatives to increase taxes; the numbers six through ten must be reserved for initiatives to retain excess revenues; the numbers eleven through fifteen must be reserved for initiatives to increase debt; all other citizen petitions must be numbered consecutively beginning with sixteen.~~

~~(e)-(D)~~ In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred, every proposed change to the Colorado Constitution must be called an "amendment" and every proposed change to the Colorado Revised Statutes must be called a "proposition"

- ~~(F)~~(E) Ballot issues from the various political subdivisions must be ordered on the ballot as provided in section 1-5-407(5), C.R.S:

Amendments to Rule 4.8.3(a) concerning ballot format and printing:

4.8.3 Printing primary election ballots

- (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates more than one candidate for any office, the county clerk must conduct the primary election for all major political parties UNLESS THE PARTY CHOOSES TO NOMINATE CANDIDATES IN ACCORDANCE WITH SECTION 1-4-702, C.R.S.
- (1) The county clerk must include on the ballot all offices to which candidates may be nominated in the primary election.
- (2) If there are no candidates for any particular office, the county clerk must print on the ballot “There are no candidates for this office”.

[Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.1.1]

Amendments to Rules 7.2.5, 7.2.7, 7.2.9, and New Rules 7.2.10 through 7.2.12 concerning ballots and ballot packets in primary elections:

- 7.2.5 ~~Effective January 1, 2016, each~~ EACH mail ballot return envelope and mail ballot instruction must include a statement informing voters that it is a violation of law to receive more than ten ballots for mailing or delivery in any election.
- 7.2.7 A county must issue a mail ballot to any eligible elector who requests one in person at the county clerk’s office or the office designated in the county’s mail ballot plan beginning 32 days before an election. ~~[Section 1-7.5-107(2.7), C.R.S.]~~
- 7.2.9 ~~On all ballot return envelopes printed after April 1, 2016, the~~ THE county clerk must provide a space on the ballot-return envelope for a witness to the elector’s mark to provide his or her full legal name.
- 7.2.10 THE MAIL BALLOT RETURN ENVELOPE FOR EACH UNAFFILIATED VOTER IN A PRIMARY ELECTION MAY PROVIDE A MEANS FOR THE COUNTY TO DETERMINE, BEFORE OPENING THE ENVELOPE, WHICH PARTY’S PRIMARY ELECTION BALLOT THE ELECTOR RETURNED. IF THE MAIL BALLOT RETURN ENVELOPE DOES NOT PROVIDE SUCH A MEANS, OR THE COUNTY CANNOT DETERMINE WHICH PARTY’S BALLOT THE ELECTOR RETURNED BEFORE OPENING THE ENVELOPE, THE COUNTY MUST FOLLOW THE PROCESS OUTLINED IN RULE 7.5.13. THE COUNTY’S DETERMINATION UNDER THIS RULE MAY NOT RELY SOLELY ON A VOTER’S SELF-REPORTED SELECTION (FOR EXAMPLE, A CHECKBOX).
- 7.2.11 EACH MAIL BALLOT RETURN ENVELOPE AND MAIL BALLOT INSTRUCTION FOR AN UNAFFILIATED VOTER IN A PRIMARY ELECTION MUST INCLUDE A STATEMENT INSTRUCTING THE VOTER TO RETURN ONLY ONE BALLOT.
- 7.2.12 THE COUNTY CLERK MUST ISSUE A REPLACEMENT MAIL BALLOT PACKET TO AN UNAFFILIATED ELECTOR IN A PRIMARY ELECTION AS FOLLOWS:

- (A) IF THE ELECTOR HAS NOT DECLARED A MAIL BALLOT PREFERENCE, THE COUNTY CLERK MUST ISSUE A PACKET CONTAINING THE BALLOTS OF ALL PARTICIPATING MAJOR POLITICAL PARTIES.
- (B) IF THE ELECTOR HAS TIMELY DECLARED A MAIL BALLOT PREFERENCE, THE COUNTY CLERK MUST ISSUE THE ELECTOR'S PREFERRED POLITICAL PARTY'S BALLOT; OR UPON THE ELECTOR'S REQUEST, A PACKET CONTAINING THE BALLOTS OF ALL PARTICIPATING MAJOR POLITICAL PARTIES.

New Rule 7.5.5 concerning remote drop off locations and amendments to Current Rules 7.5.5 through 7.5.7 concerning renumbering:

7.5.5 THE COUNTY CLERK MAY REQUEST A WAIVER FROM THE SECRETARY OF STATE FOR REMOTE DROP OFF LOCATIONS, EXEMPTING THEM FROM THE BALLOT COLLECTION REQUIREMENTS IN RULE 7.5.4. IF THE SECRETARY OF STATE GRANTS THE WAIVER:

- (A) THE COUNTY CLERK MUST ARRANGE FOR THE COLLECTION OF BALLOTS BY BIPARTISAN TEAMS OF ELECTION JUDGES FROM ALL EXEMPT DROP-OFF LOCATIONS AS OFTEN AS NECESSARY, BUT AT LEAST:
 - (1) ONCE EACH WEEK AFTER THE INITIAL MAILING OF NON-UOCAVA BALLOTS UNTIL THE FRIDAY BEFORE ELECTION DAY; AND
 - (2) ON THE FRIDAY AND MONDAY BEFORE ELECTION DAY AND ON ELECTION DAY AT 7:00 P.M. MT.
- (B) THE COUNTY CLERK MUST POST A NOTICE ON EACH EXEMPT DROP BOX OF THE DATES AND APPROXIMATE TIMES BALLOTS WILL BE COLLECTED.
- (C) IF THE SECRETARY OF STATE DETERMINES THAT THE COUNTY FAILED TO COLLECT BALLOTS FROM A REMOTE DROP-OFF LOCATION AS OFTEN AS NECESSARY, THE SECRETARY OF STATE MAY REVOKE OR MODIFY THE WAIVER.

~~7.5.5~~7.5.6 Election officials must record the number of ballot packets returned as undeliverable and receive the ballot packets in SCORE upon receipt.

~~7.5.6~~7.5.7 The designated election official must seal and store ballots and return envelopes in a safe, secure place until the counting of the ballots.

~~7.5.7~~7.5.8 After election judges verify the elector's eligibility and signature, the county clerk must dissociate and segregate the mail ballot return envelope from the secrecy sleeve and a voted ballot in a manner that ensures no person is able to determine how an individual voted.

Amendments to Current Rules 7.5.8, 7.5.9, 7.5.10 and New Rules 7.5.12, 7.5.13, and 7.5.14 concerning receipt and processing of ballots:

~~7.5.8~~7.5.9 If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S., prohibiting any person from ~~delivering~~RECEIVING more than 10 ballots in addition to his or her own in any election, the county clerk must refer the information to the District Attorney.

~~7.5.9~~7.5.10 ~~The~~ BEFORE TABULATING BALLOTS, THE county clerk must, TO THE EXTENT PRACTICABLE, dissociate COUNTING BATCHES FROM any SCORE batch number that could trace a ballot back to the specific voter who cast it ~~from the counted ballots or any reports generated by the tabulation software no later than the final certification of the abstract of votes cast.~~

~~7.5.10~~7.5.11 If an elector delivers a ballot to the wrong county, that county must date stamp the ballot envelope AND TIMELY FORWARD IT TO THE CORRECT COUNTY. BEGINNING THE MONDAY BEFORE ELECTION DAY, THE COUNTY MUST NOTIFY THE CORRECT COUNTY OF RECEIPT BY SECURE ELECTRONIC TRANSMISSION WITH A SCANNED IMAGE OF THE OUTSIDE OF THE MAIL BALLOT ENVELOPE INCLUDING THE SIGNATURE, and forward it to the correct county NO LATER THAN THE NEXT BUSINESS DAY. A COUNTY THAT PHYSICALLY DELIVERS BALLOTS TO ANOTHER COUNTY NO LATER THAN THE NEXT BUSINESS DAY, OR IMMEDIATELY TRANSMITS THEM BY NEXT-DAY DELIVERY, IS NOT REQUIRED TO SCAN THE ENVELOPE. The correct county must treat the ballot as received as of the date and time of the date stamp. THE COUNTY RECEIVING THE IMAGE MAY PERFORM SIGNATURE VERIFICATION UPON RECEIPT OF THE IMAGE.

7.5.12 COUNTY CLERKS PICKING UP BALLOTS ON BEHALF OF ANOTHER COUNTY FROM A U.S. POSTAL SERVICE GENERAL MAIL FACILITY ON ELECTION NIGHT MUST LOG THE NUMBER OF BALLOTS COLLECTED BY COUNTY AND PROVIDE THE LOG TO THE SECRETARY OF STATE'S OFFICE WITHIN 48 HOURS. THE COUNTY CLERK MUST DATE STAMP EACH BALLOT ENVELOPE AS RECEIVED ON OR BEFORE 7:00 PM ON ELECTION DAY AND IMMEDIATELY FORWARD IT TO THE CORRECT COUNTY. THE CORRECT COUNTY MUST TREAT THE BALLOT AS RECEIVED AS OF THE DATE AND TIME OF THE DATE STAMP.

7.5.13 UNAFFILIATED VOTERS IN A PRIMARY ELECTION. IF AN ELECTION JUDGE IS UNABLE TO DETERMINE, BEFORE OPENING THE ENVELOPE, WHICH PARTY'S BALLOT THE ELECTOR RETURNED AS OUTLINED IN RULE 7.2.10, THE COUNTY MUST SEPARATE THE ELECTOR'S BALLOT FROM THE ENVELOPE IN THE FOLLOWING MANNER:

- (A) AN ELECTION JUDGE MUST REMOVE THE BALLOT, ENCLOSED IN ITS SECRECY SLEEVE, FROM THE MAIL BALLOT RETURN ENVELOPE AND PASS IT TO A BIPARTISAN TEAM OF JUDGES WITHOUT ALLOWING THE TEAM OF JUDGES TO DETERMINE THE IDENTITY OF THE ELECTOR.
- (B) THE BIPARTISAN TEAM OF ELECTION JUDGES MUST REMOVE THE BALLOT FROM ITS SECRECY SLEEVE, REVIEW THE BALLOT, AND AUDIBLY REPORT TO THE FIRST ELECTION JUDGE WHICH POLITICAL PARTY'S ELECTION THE ELECTOR VOTED IN.
- (C) THE FIRST ELECTION JUDGE MUST RECORD IN SCORE WHICH POLITICAL PARTY'S ELECTION THE ELECTOR VOTED IN, OR DOCUMENT THE PROPER PARTY INFORMATION FOR LATER RECORDING IN SCORE.

7.5.14 IF AN UNAFFILIATED ELECTOR RETURNS MORE THAN ONE BALLOT IN A PRIMARY ELECTION, A BIPARTISAN TEAM OF ELECTION JUDGES MUST REVIEW THE BALLOTS TO DETERMINE THE ELECTOR'S INTENT IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT GUIDE.

- (A) IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN ONLY ONE PARTY'S PRIMARY ELECTION, THE ELECTION JUDGE WITH ACCESS TO THE ENVELOPE MUST RECORD THE PARTY CHOSEN IN SCORE UNDER RULE 7.5.13(C)

AND THE BALLOT MUST BE COUNTED. THE COUNTY MUST RETAIN ANY UNVOTED BALLOT AS AN ELECTION RECORD.

- (B) IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN MORE THAN ONE PARTY'S PRIMARY ELECTION, OR RETURNED ONLY BLANK BALLOTS, THE COUNTY MUST REJECT THE BALLOTS, NOT COUNT THEM, AND RETAIN THEM IN THE MAIL BALLOT RETURN ENVELOPE AS AN ELECTION RECORD.

Amendments to Rule 7.6.1 concerning ballots returned in unofficial envelope:

- 7.6.1 If the county timely receives a mail ballot from an eligible elector in an envelope ~~other than the official ballot return envelope for that particular election~~ THAT IS MISSING OR LACKS THE CORRECT SELF-AFFIRMATION, the county must contact the elector in writing within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record. If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot.

Amendments to Rule 7.7 concerning mail ballot cure procedures:

~~7.7 Missing signature.~~ MAIL BALLOT CURE PROCEDURES

- 7.7.3 ~~Nothing in this Rule prohibits the county clerk from calling the elector, but a phone call may not substitute for written contact.~~ If the county clerk ~~calls~~ USES ANY MEANS IN ADDITION TO MAIL TO CONTACT any elector REGARDING A MISSING OR DISCREPANT SIGNATURE OR MISSING ID, he or she must attempt to ~~call~~ CONTACT all SIMILARLY SITUATED electors whose ~~affidavits are unsigned~~ REGISTRATION RECORDS HAVE THE SAME TYPE OF CONTACT INFORMATION.

Amendments to Rule 7.8.2 concerning signature verification procedures:

- 7.8.2 If the elector's signature appears anywhere on ~~the back of~~ the ballot return envelope, the election judge must ~~review the~~ VERIFY THE signature IN ACCORDANCE WITH SECTION 1-7.5-107.3, C.R.S.

Amendments to Rule 7.9.1(c) and 7.9.3 and New Rules 7.9.8, 7.9.9, and 7.9.10 concerning VSPCs:

- 7.9.1 The county clerk must designate and open the minimum number of voter service and polling centers. The centers must be open during reasonable business hours for the minimum number of days outlined in section 1-5-102.9, C.R.S., for a general election and 1-7.5-107(4.5), C.R.S., for all other elections.

- (c) The county clerk must provide all services outlined in section ~~1-2-509~~ 1-5-102.9, C.R.S., at every designated voter service and polling center.

- 7.9.3 In order to assist applicants and electors efficiently, a county clerk must configure voter service and polling centers ~~to provide~~ WITH sufficient election judges, WebSCORE work stations, voting equipment, AND SUFFICIENT NUMBERS OF mail and in-person ballots THAT CAN BE TABULATED BY THE COUNTY'S VOTING SYSTEM WITHOUT FURTHER DUPLICATION, and other supplies. A COUNTY MAY SATISFY THIS RULE BY PROVIDING A SUFFICIENT NUMBER OF BALLOT MARKING DEVICES OR BALLOT ON DEMAND PRINTERS.

- 7.9.8 AN UNAFFILIATED ELECTOR VOTING IN PERSON AT A VOTER SERVICE AND POLLING CENTER IN A PRIMARY ELECTION MUST STATE WHICH PARTY'S ELECTION HE OR SHE CHOOSES TO VOTE IN, AND THE ELECTION JUDGE MUST INDICATE THE VOTER'S SELECTION IN WEBScore AND PROVIDE THE VOTER WITH THAT PARTY'S BALLOT.
- 7.9.9 ON ELECTION DAY DURING EACH GENERAL ELECTION, A COUNTY WITH AT LEAST FIFTY THOUSAND ACTIVE ELECTORS MUST MEASURE AND RECORD THE WAIT TIME AT EACH OF ITS VOTER SERVICE AND POLLING CENTERS, AT LEAST ONCE PER HOUR, FROM THE TIME A PERSON ENTERS THE LOCATION OR THE LINE TO THE TIME THAT THE PERSON BEGINS THE CHECK-IN PROCESS.
- 7.9.10 EACH COUNTY REQUIRED TO MEASURE UNDER RULE 7.9.9 MUST REPORT ITS RESULTS TO THE SECRETARY OF STATE NO LATER THAN 30 DAYS AFTER THE ELECTION.

New Rule 7.16 concerning cross-jurisdictional voter service and polling center pilot program:

7.16 CROSS-JURISDICTIONAL VOTER SERVICE AND POLLING CENTER PILOT PROGRAM

- 7.16.1 THE COUNTY CLERK MAY APPLY TO THE SECRETARY OF STATE TO PARTICIPATE IN A PILOT PROGRAM ALLOWING A COUNTY TO AGREE WITH ANOTHER COUNTY OR COUNTIES TO PROVIDE THE COUNTY'S SERVICES AT THE OTHER COUNTY'S VOTER SERVICE AND POLLING CENTERS. BEGINNING IN 2018, THE SECRETARY OF STATE MUST RECEIVE THE APPLICATION NO LATER THAN 110 DAYS BEFORE ELECTION DAY.
- 7.16.2 IN REVIEWING THE COUNTY CLERK'S APPLICATION, THE SECRETARY OF STATE WILL CONSIDER THE FOLLOWING:
 - (A) THE COUNTY'S PLAN TO PROVIDE ALL SERVICES OUTLINED IN SECTION 1-5-102.9, C.R.S. FOR EACH PARTICIPATING COUNTY AT EACH VOTER SERVICE AND POLLING CENTER;
 - (B) WHETHER THE COUNTIES SHARE A COMMON BORDER AND THE GEOGRAPHICAL LOCATION OF PROPOSED MULTI-COUNTY VOTER SERVICE AND POLLING CENTERS;
 - (C) WHETHER THE COUNTY'S PLAN PROVIDES MORE VOTER OPTIONS AND OPPORTUNITIES; AND
 - (D) ANY PUBLIC COMMENT PROVIDED UNDER SECTION 1-5-102.9(1)(C)(II), C.R.S. AND THE INPUT, IF ANY, OF THE GOVERNING BOARD OF THE COUNTY.
- 7.16.3 WHEN DESIGNATING VOTER SERVICE AND POLLING CENTERS, AT LEAST TWO-THIRDS OF THE VOTER SERVICE AND POLLING CENTERS REQUIRED UNDER SECTIONS 1-5-102.9 AND 1-7.5-107, C.R.S., MUST BE LOCATED WITHIN THE COUNTY BOUNDARIES; EXCEPT THAT EACH PARTICIPATING COUNTY MUST HAVE THE MINIMUM NUMBER OF VOTER SERVICE AND POLLING CENTERS REQUIRED UNDER SECTION 1-5-102.9 AND 1-7.5-107, C.R.S. OPEN WITHIN ITS BOUNDARIES ON THE MONDAY BEFORE ELECTION DAY AND ELECTION DAY.

New Rule 7.17 concerning voter registration post-election scanning:

- 7.17 WITHIN 90 DAYS AFTER EACH ELECTION, THE COUNTY CLERK MUST SCAN INTO SCORE THE ELECTOR'S SIGNATURE AND SIGNATURE DATE ON EACH ACCEPTED MAIL BALLOT RETURN ENVELOPE AND ON ANY CURE LETTER RETURNED BY THE ELECTOR.

Amendments to Rule 8 concerning watchers and renumbering:

- 8.1.5 A watcher must complete a training provided by or approved by the Secretary of State before observing election activities where confidential or personally identifiable information may be within view. To verify completion of the training, a watcher must provide his or her training certificate of completion with the Certificate of Appointment. A TRAINING CERTIFICATE OF COMPLETION IS VALID UNTIL DECEMBER 31 OF THAT CALENDAR YEAR. AN APPROVED TRAINING MAY BE USED FOR ONE CALENDAR YEAR FROM THE DATE APPROVED.
- 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in Rule ~~4.1.27~~ 1.1.28 applies only to voting.

Amendments to Rule 8.15:

- 8.15 A watcher may not:

[No amendments to current Rules 8.15.1 through 8.15.7]

8.15.8 UNLESS OTHERWISE APPROVED BY THE COUNTY CLERK, HAVE IN HIS OR HER POSSESSION ANY MOBILE PHONE OR OTHER ELECTRONIC DEVICE WHILE WATCHING ELECTION ACTIVITIES WHERE VOTERS' CONFIDENTIAL OR PERSONALLY IDENTIFIABLE INFORMATION IS WITHIN VIEW.

~~8.15.8~~ 8.15.9 Attempt to determine how any elector voted.

~~8.15.9~~ 8.15.10 Disclose or record any confidential voter information as defined in section 24-72-204(8), C.R.S., that he or she may observe.

~~8.15.10~~ 8.15.11 Disclose any results before the polls have closed.

Amendments to Rule 10.3.2(b) concerning correcting cross-reference:

10.3.2 The canvass board's duties are to:

- (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule ~~11.3.3(k)~~ 25.2 OR 25.3;

New Rule 10.4 concerning the date for conducting canvass:

10.4 NO CANVASS BOARD MAY CERTIFY OFFICIAL RESULTS UNTIL AUTHORIZED TO DO SO BY THE SECRETARY OF STATE. THE SECRETARY OF STATE MAY EXTEND THE CANVASS DEADLINE FOR ONE OR MORE COUNTIES IN ORDER TO COMPLETE THE RISK-LIMITING AUDIT IN ACCORDANCE WITH RULE 25.2. BEFORE CERTIFYING OFFICIAL RESULTS, A COUNTY THAT CONDUCTS A COMPARISON AUDIT AS DEFINED IN RULE 25.1.4 MUST MANUALLY ADJUST THE PRELIMINARY RESULTS TO REFLECT ALL DISCREPANCIES IDENTIFIED IN THE RISK-LIMITING AUDIT.

Amendments to Current Rule 10.4 concerning procedures for canvass:

~~10.4~~ 10.5 Procedures for ~~the day of the~~ Canvass

~~10.4.1~~10.5.1 The designated election official must provide the following information to the canvass board:

- (a) The name of each candidate, office, and votes received;
- (b) The number or letter of each ballot issue or question and votes received;
- (c) The TOTAL number of ballots cast, ~~including the number of accepted and rejected mail ballots;~~
- (d) The number of provisional ballots cast, ~~including the number accepted and rejected;~~ TOTALS FOR:
 - (1) BALLOTS ACCEPTED BY EACH CODE; AND
 - (2) BALLOTS REJECTED BY EACH CODE.
- (e) The number of mail ballots ~~counted and the number rejected;~~ CAST, INCLUDING TOTALS FOR:
 - (1) BALLOTS ACCEPTED; AND
 - (2) BALLOTS REJECTED BY EACH CODE.
- (f) The number of in-person ballots counted;
- ~~(g) The number of provisional ballots counted and the number rejected listed by each rejection code; and~~
- (G) THE NUMBER OF EMERGENCY REPLACEMENT BALLOTS, INCLUDING TOTALS FOR:
 - (1) BALLOTS ACCEPTED; AND
 - (2) BALLOTS REJECTED BY EACH CODE.
- (h) The number of damaged and spoiled ballots.
- (I) IF APPLICABLE, THE NUMBER OF BALLOTS CAST IN EACH PARTY'S PRIMARY ELECTION, INCLUDING TOTALS FOR:
 - (1) BALLOTS ACCEPTED IN EACH PARTY'S PRIMARY ELECTION BY AFFILIATED AND UNAFFILIATED VOTERS; AND
 - (2) BALLOTS REJECTED BY EACH CODE.

~~10.4.2~~10.5.2 Any written documentation regarding official results must be included as part of the canvass.

~~10.4.3~~10.5.3 Written Complaints

- (a) The designated election official must provide the canvass board with any written complaint submitted by a registered elector about a voting device.

- (b) If the complaint is resolved, the designated election official must provide the details of the resolution.
- (c) If the complaint is pending resolution when the board meets to conduct the canvass, the designated election official must provide a proposal for how the issue will be resolved.

[Not shown: current Rules 10.5 through 10.13 are renumbered as Rules 10.6 through 10.14]

Additional cross reference amendments to current Rules 10.12.1 and 10.12.6 (renumbered as 10.13.1 and 10.13.6) follow:

~~10.12.1~~ 10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule ~~10.11~~ 10.12, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule ~~10.12.5~~ 10.13.5.

~~10.12.6~~ 10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule ~~10.11.3~~ 10.12.3, the county clerk must upload the memory cards.

Amendments to Rule 11.3 concerning hardware diagnostic testing and LAT:

11.3 The clerk must perform a hardware diagnostic test, AND a logic and accuracy test, ~~and a post-election audit.~~

11.3.2 Logic and Accuracy Test

- (c) Preparing for the Logic and Accuracy Test
 - (1) The county must prepare a test deck of ballots that includes every ballot style and, where applicable, precinct. The county test deck must include a sufficient number of ballots to mark every vote position for every contest including write-in candidates, allow for situations where a contest permits an elector to vote for two or more positions, and include overvotes and undervotes for each contest. THE COUNTY TEST DECK MUST INCLUDE AT LEAST ONE WRITE-IN VOTE FOR EACH QUALIFIED WRITE-IN CANDIDATE SO THAT ALL QUALIFIED WRITE-IN CANDIDATE NAMES WILL APPEAR IN THE LAT RESULT UPLOADED TO ENR AS REQUIRED BY RULE 11.10.3.

[Current Rule 11.3.3 is amended and recodified as New Rule 25.3.]

Amendments to Rule 11.10.1(b)(2) concerning renumbering of cross-reference and 11.10.3 concerning election night reporting:

11.10.1 A data entry county must upload a results data file to ENR containing the election results on the dates and times specified in Rules 11.10.3 through 11.10.5. The county must program its election database so that the results file exported from the voting system is formatted in accordance with the following requirements:

- (b) Contest order: Except as otherwise provided in subsections (1) – (4) of this Rule, the results file must list the contests in the same order as they are certified for the ballot.
- (2) The results file must list ballot measures in the order certified by the Secretary of State, followed by the ballot measures certified by other participating political subdivisions in the order and using the numbering conventions specified in Rule ~~4.5.2(f)~~ 4.5.2(E).

11.10.3 No later than 14 days before the election, a data entry county must upload the LAT results file to ENR. At a minimum, the LAT results file must contain the results of the complete county test deck required under Rule 11.3.2(c)(1). ~~The county must also provide the Secretary of State with a summary results report for the LAT results file.~~

Repeal of Rule 13.1.7 and Amendment of Rule 13.2.9(a) concerning election complaint procedures:

~~13.1.7 The Secretary of State’s determination is a final agency action.~~

13.2.9 Hearing and Resolution of HAVA complaints

- (a) ~~If the complainant requests, the~~ THE Secretary of State or his or her designee will hold a hearing IF THE COMPLAINANT REQUESTS ONE AT THE TIME OF FILING THE COMPLAINT, UNLESS THE COMPLAINANT LATER WITHDRAWS THE REQUEST.

Amendments to Rules 14.1.1(a) and New Rule 14.3.4 concerning voter registration drives:

14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter Registration Drive (“VRD”) must file a Statement of Intent and Training Acknowledgment Form with the Secretary of State to conduct a voter registration drive. The Statement of Intent and Training Acknowledgment Form must include the following information:

- (a) The name of the group conducting the VRD, and the name ~~and contact information~~ ADDRESS, EMAIL ADDRESS, AND TELEPHONE NUMBER of the individual organizing the VRD;

14.3.4 THE VRD MUST PROVIDE THE SECRETARY OF STATE WITH THE NAME OF THE CIRCULATOR ASSOCIATED WITH A PARTICULAR IDENTIFICATION NUMBER, UPON REQUEST.

Amendments to Rule 16.1.6 concerning military and overseas electors:

16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the Primary Election OR PRESIDENTIAL PRIMARY ELECTION, IF APPLICABLE, to each elector whose record is marked “Inactive.” The correspondence may be sent by email or mail and, at a minimum, must notify the electors of:

- (a) The status of the elector’s record and ballot request;
- (b) The upcoming federal elections;
- (c) How to update the elector’s mailing information and request a ballot; and

- (d) Any other information the county clerk deems appropriate.

Amendments to Rule 18.5.3 concerning resolution of write-in votes:

18.5.3 Resolution of write-in votes

- (a) ~~If a voter designates a vote for a named candidate on the ballot and writes in the name of the same candidate in the write-in area, the vote for the named candidate must be counted.~~ A RESOLUTION BOARD MUST RESOLVE ALL WRITE-IN VOTES IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT GUIDE.
- (b) ~~If a voter votes for a named candidate in a ballot contest and writes in the name of a different candidate in the write-in area, the resolution board must resolve the markings as an overvote if the number of chosen candidates exceeds the maximum number of choices for that ballot contest.~~ IN COUNTIES USING VOTING SYSTEMS FEATURING DIGITAL RESOLUTION CAPABLE OF DETECTING VOTER MARKINGS ON OR IN A WRITE-IN LINE OR AREA, AND IF THE VOTER DOES NOT MARK ANY OF THE TARGET AREAS IN A PARTICULAR CONTEST, THE RESOLUTION BOARD MUST RESOLVE DURING INITIAL ADJUDICATION THE WRITTEN NAME OF AN ELIGIBLE WRITE-IN CANDIDATE AS A VALID VOTE FOR THAT CANDIDATE EVEN IF THE VOTER FAILS TO MARK THE CORRESPONDING TARGET AREA.
- (c) IN COUNTIES USING VOTING SYSTEMS THAT DO NOT HAVE DIGITAL RESOLUTION CAPABILITY, OR THE DIGITAL RESOLUTION FEATURE IS NOT CAPABLE OF DETECTING VOTER MARKINGS ON OR IN A WRITE-IN LINE OR AREA IF THE CORRESPONDING TARGET AREA IS NOT ALSO MARKED, AND IF THE VOTER DOES NOT MARK ANY OTHER TARGET AREA IN A PARTICULAR CONTEST, THE RESOLUTION BOARD MUST COUNT AS VALID VOTES FOR ELIGIBLE WRITE-IN CANDIDATES THOSE INSTANCES IN WHICH THE VOTER BOTH MARKS THE APPLICABLE TARGET AREA AND WRITES IN THE NAME OF A CERTIFIED WRITE-IN CANDIDATE. During any recount, if the number of undervotes in a ballot contest could change the outcome if attributed to an eligible write-in candidate, votes for that candidate must be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office.

Amendments to Rules 20.13.1(c)(8) and 20.16.3(a) concerning correction of cross-references:

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

- (c) If the evidence indicates that the discrepancy occurred after votes were cast on the device:
 - (8) Before certifying election results, the county must conduct a full (all ~~raees-CONTESTS) post-election~~ RANDOM audit on the device UNDER RULE 25.3 and report results to the Secretary of State ~~as required by Rule 11.~~ This requirement is in addition to the ~~random selection conducted by the Secretary of State~~ POST-ELECTION AUDIT REQUIRED BY RULE 25.2 OR 25.3.

20.16.3 Ballot reconciliation

- (a) The county must reconcile ballots printed on demand in accordance with Rules ~~10.4 and 10.5~~ 10.1.1 AND 10.1.2.
- (b) The county must maintain damaged, misprinted, or unusable ballots as election records.

Amendments to Rule 20.17.3 concerning voting system conditions for use:

20.17.3 The county must create a backup copy of the election setup records on a read-only, write-once ~~CD~~ ELECTRONIC STORAGE MEDIA, immediately after completing the Logic and Accuracy Test.

- (a) The county must identify the master database name and date of election on the label of the backup ~~CD~~.
- (b) The county must store the backup ~~CD~~ in a sealed container. Two election officials of different party affiliations must sign and date entries to the chain-of-custody log for the sealed container.

Amendments to Rule 21.4.5(e), Rule 21.4.14(a), and New Rule 21.4.14(c)(8) concerning voting system standards for certification:

21.4.5 Functional Requirements

- (e) The voting system must include hardware or software to enable the closing of ~~the voting location and disabling the acceptance of ballots on~~ all vote tabulation devices AT POLLING LOCATIONS to allow for the following:

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

- (a) The voting system must capture a ballot-level cast vote record (CVR) ~~consisting of a single record for each ballot tabulated, showing the manner in which the voting system interpreted and tabulated the voter's markings on the ballot, as adjudicated and resolved by election judges, if applicable.~~
- (c) The CVR export must contain the following fields, with values or data populated by the voting system:
 - (8) NUMBER OF VALID CHOICES. THE NUMBER OF VALID CHOICES (E.G., "VOTE FOR 3") FOR EACH CONTEST.

New Rule 24 concerning presidential electors:

RULE 24. PRESIDENTIAL ELECTORS

24.1 OATH

24.1.1 AS USED IN SECTION 1-4-304 (1), C.R.S., "THE OATH REQUIRED BY LAW FOR PRESIDENTIAL ELECTORS" MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

“I,, DO SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF COLORADO, THAT I WILL FAITHFULLY PERFORM THE DUTIES OF THE OFFICE OF PRESIDENTIAL ELECTOR THAT I AM ABOUT TO ENTER, AND THAT I WILL VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE.”

24.1.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO TAKE AND SUBSCRIBE THE OATH IN RULE 24.1.1, THE REFUSAL OR FAILURE CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.2 VOTING

24.2.1 AS SPECIFIED IN SECTION 1-4-304 (5), C.R.S., EACH PRESIDENTIAL ELECTOR MUST VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE.

24.2.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE, THE REFUSAL OR FAILURE CONSTITUTES A “REFUSAL TO ACT” AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3 FILLING VACANCIES

24.3.1 AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S., THE PRESIDENTIAL ELECTORS PRESENT MUST IMMEDIATELY PROCEED TO FILL ANY VACANCY IN THE ELECTORAL COLLEGE. A QUORUM IS NOT REQUIRED TO FILL A VACANCY. IN THE EVENT OF A TIE VOTE, THE VACANCY WILL BE FILLED BY LOT.

24.3.2 IF A REMAINING PRESIDENTIAL ELECTOR REFUSES TO FILL A VACANCY IN THE ELECTORAL COLLEGE, THE REFUSAL CONSTITUTES A “REFUSAL TO ACT” AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3.3 NOMINEES TO FILL VACANCIES MUST BE SELECTED IN ACCORDANCE WITH SECTION 1-4-302 (2), C.R.S. THERE MUST BE MORE VACANCY NOMINEES THAN VACANCIES TO BE FILLED.

New Rule 25 concerning post-election audit:

RULE 25. POST-ELECTION AUDIT

25.1 DEFINITIONS. AS USED IN THIS RULE, UNLESS STATED OTHERWISE:

- 25.1.1 “AUDIT CENTER” MEANS THE PAGE OR PAGES OF THE SECRETARY OF STATE’S WEBSITE DEVOTED TO RISK-LIMITING AUDITS.
- 25.1.2 “AUDITED CONTEST” MEANS A CONTEST SELECTED BY THE SECRETARY OF STATE FOR A RISK-LIMITING AUDIT. THE AUDITED CONTEST DETERMINES THE NUMBER OF BALLOT CARDS THAT MUST BE EXAMINED AND VERIFIED DURING THE RLA.
- 25.1.3 “BALLOT CARDS” MEANS THE INDIVIDUAL PIECES OF PAPER THAT TOGETHER CONSTITUTE A SINGLE BALLOT CONTAINING ALL OF THE CONTESTS AN ELECTOR IS ELIGIBLE TO VOTE. FOR EXAMPLE, A BALLOT CONSISTING OF A SINGLE PIECE OF PAPER WITH CONTENT PRINTED ON THE FRONT OR THE FRONT AND BACK CONTAINS ONE BALLOT CARD, AND A BALLOT CONSISTING OF TWO PIECES OF PAPER WITH CONTENT PRINTED ON THE FRONT AND BACK OF THE FIRST PAGE AND THE FRONT OR FRONT AND BACK OF THE SECOND PAGE CONTAINS TWO BALLOT CARDS.
- 25.1.4 “BALLOT POLLING AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON RANDOMLY SELECTED BALLOT CARDS SEEKING STRONG EVIDENCE THAT THE REPORTED TABULATION OUTCOME IS CORRECT.
- 25.1.5 “COMPARISON AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON RANDOMLY SELECTED BALLOT CARDS, THEN COMPARES THEM TO THE VOTING SYSTEM’S TABULATION AS REFLECTED IN THE CORRESPONDING CAST VOTE RECORDS.
- 25.1.6 “REPORTED TABULATION OUTCOME” MEANS THE PRESUMED WINNING AND LOSING CANDIDATES OR VOTING CHOICES OF A BALLOT CONTEST AS REFLECTED IN PRELIMINARY RESULTS.
- 25.1.7 “RISK LIMIT” MEANS THE LARGEST STATISTICAL PROBABILITY THAT AN INCORRECT REPORTED TABULATION OUTCOME IS NOT DETECTED AND CORRECTED IN A RISK-LIMITING AUDIT.
- 25.1.8 “RISK-LIMITING AUDIT” OR “RLA” MEANS A POST-ELECTION AUDIT OF VOTES ON PAPER BALLOT CARDS AND VVPAT RECORDS, CONDUCTED IN ACCORDANCE WITH SECTION 1-7-515, C.R.S., AND RULE 25.2, WHICH HAS A PRE-SPECIFIED MINIMUM CHANCE OF REQUIRING A FULL HAND COUNT IF THE OUTCOME OF A FULL HAND COUNT WOULD DIFFER FROM THE REPORTED TABULATION OUTCOME.
- 25.1.9 “RLA TABULATION” MEANS THE TABULATION OF ALL IN-PERSON AND ACCEPTED MAIL BALLOTS CAST BY ELECTORS REGISTERED IN THE COUNTY, AND ANY ACCEPTED PROVISIONAL AND PROPERTY OWNER BALLOTS THAT THE COUNTY OPTS TO INCLUDE ON THE NINTH DAY AFTER ELECTION DAY.
- 25.1.10 “RLA TOOL” MEANS THE SOFTWARE AND USER INTERFACES PROVIDED BY THE SECRETARY OF STATE IN ORDER TO CONDUCT RLAs.
- 25.2 RISK LIMITING AUDIT. THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT A RISK-LIMITING AUDIT IN ACCORDANCE WITH SECTION 1-7-515, C.R.S. AND THIS RULE.
- 25.2.1 RLA METHODS

- (A) COUNTIES THAT USE A VOTING SYSTEM CAPABLE OF EXPORTING CVRS MUST CONDUCT A COMPARISON AUDIT.
- (B) COUNTIES THAT USE A VOTING SYSTEM INCAPABLE OF EXPORTING CVRS MUST CONDUCT A BALLOT POLLING AUDIT.

25.2.2 PREPARING FOR THE AUDIT

- (A) RISK LIMIT. NO LATER THAN 32 DAYS BEFORE ELECTION DAY, THE SECRETARY OF STATE WILL ESTABLISH AND PUBLISH ON THE AUDIT CENTER THE RISK LIMIT(S) THAT WILL APPLY IN RLAs FOR THAT ELECTION. THE SECRETARY OF STATE MAY ESTABLISH DIFFERENT RISK LIMITS FOR COMPARISON AUDITS AND BALLOT POLLING AUDITS, AND FOR AUDITS OF STATEWIDE AND COUNTYWIDE CONTESTS. IN COMPARISON AUDITS THE RISK LIMIT WILL NOT EXCEED FIVE PERCENT FOR STATEWIDE CONTESTS, AND TEN PERCENT FOR COUNTYWIDE CONTESTS.
- (B) AUDIT BOARD. NO LATER THAN 15 DAYS BEFORE ELECTION DAY, THE DESIGNATED ELECTION OFFICIAL MUST APPOINT AN AUDIT BOARD TO CONDUCT THE RISK-LIMITING AUDIT. THE AUDIT BOARD MUST CONSIST OF ELECTORS NOMINATED BY THE MAJOR POLITICAL PARTY COUNTY CHAIRPERSONS. THE DESIGNATED ELECTION OFFICIAL MUST GIVE WRITTEN NOTICE TO THE COUNTY CHAIRPERSONS OF THEIR OBLIGATION TO NOMINATE AUDIT BOARD MEMBERS AND MAY DESIGNATE APPROPRIATELY AFFILIATED ELECTORS AS AUDIT BOARD MEMBERS IF ONE OR BOTH COUNTY CHAIRPERSONS FAIL TO DO SO IN A TIMELY MANNER. AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE THE RLA, AND MEMBERS OF THE CANVASS BOARD MAY SERVE AS MEMBERS OF THE AUDIT BOARD. THE DESIGNATED ELECTION OFFICIAL, MEMBERS OF HIS OR HER STAFF, AND OTHER DULY APPOINTED ELECTION JUDGES MAY ASSIST THE AUDIT BOARD IN CONDUCTING THE AUDIT. TO THE EXTENT PRACTICABLE, THE AUDIT BOARD SHOULD NOT CONSIST OF INDIVIDUALS WHO PARTICIPATED IN BALLOT RESOLUTION OR ADJUDICATION DURING THE ELECTION BEING AUDITED. EACH MEMBER OF THE AUDIT BOARD MUST TAKE THE ELECTION JUDGE OATH.
- (C) BALLOT MANIFEST. THE COUNTY MUST MAINTAIN AN ACCURATE BALLOT MANIFEST IN A FORM APPROVED BY THE SECRETARY OF STATE.
 - (1) IN THE CASE OF CENTRALLY COUNTED PAPER BALLOTS, THE BALLOT MANIFEST MUST UNIQUELY IDENTIFY FOR EACH TABULATED BALLOT THE SCANNER ON WHICH THE BALLOT IS SCANNED, THE BALLOT BATCH OF WHICH THE BALLOT IS A PART, THE NUMBER OF BALLOT CARDS IN THE BATCH, AND THE STORAGE CONTAINER IN WHICH THE BALLOT BATCH IS STORED AFTER TABULATION. THE COUNTY MUST SECURE AND MAINTAIN IN SEALED BALLOT CONTAINERS ALL TABULATED BALLOTS IN THE BATCHES AND ORDER THEY ARE SCANNED. THE COUNTY MUST MAINTAIN AND DOCUMENT UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH BALLOT STORAGE CONTAINER.
 - (2) IN THE CASE OF PAPER BALLOTS SCANNED ON POLLING LOCATION SCANNERS, AND ELECTRONIC BALLOTS CAST ON DRES, THE BALLOT MANIFEST MUST UNIQUELY IDENTIFY THE DEVICE ON WHICH THE BALLOT IS CAST OR TABULATED, THE NUMBER OF BALLOTS OR BALLOT

CARDS CAST OR TABULATED ON THE DEVICE, AND THE STORAGE CONTAINER OR LOCATION IN WHICH THE PAPER BALLOTS OR VVPAT IS STORED. THE COUNTY MUST MAINTAIN AND DOCUMENT UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH POLLING LOCATION SCANNER, DRE, AND VVPAT, AND ALL BALLOTS CAST ON AN INDIVIDUAL POLLING LOCATION SCANNER OR DRE MUST CONSTITUTE A SINGLE BATCH.

- (D) RLA TABULATION. ON THE NINTH DAY AFTER ELECTION DAY, THE COUNTY MUST FINISH TABULATING ALL IN-PERSON AND ACCEPTED MAIL BALLOTS CAST BY VOTERS REGISTERED IN THE COUNTY. THE COUNTY MAY BUT IS NOT REQUIRED TO INCLUDE IN THE RLA TABULATION ANY PROVISIONAL BALLOTS AND PROPERTY OWNER BALLOTS THAT HAVE BEEN VERIFIED AND ACCEPTED ON OR BEFORE THE NINTH DAY AFTER ELECTION DAY. IMMEDIATELY AFTER COMPLETING THE RLA TABULATION, AND TO THE EXTENT PERMITTED BY ITS VOTING SYSTEM, THE COUNTY MUST ALSO GENERATE AND PRESERVE:
 - (1) A SUMMARY RESULTS REPORT, SHOWING OVERVOTES, UNDERVOTES, BLANK-VOTED CONTESTS, AND VALID WRITE-IN VOTES;
 - (2) A RESULTS FILE EXPORT SUITABLE FOR UPLOADING TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM; AND
 - (3) A CVR EXPORT.
- (E) CVR EXPORT VERIFICATION. COUNTIES CONDUCTING A COMPARISON AUDIT MUST VERIFY THAT:
 - (1) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE AGGREGATE NUMBER OF BALLOT CARDS REFLECTED IN THE COUNTY'S BALLOT MANIFEST AS OF THE NINTH DAY AFTER ELECTION DAY; AND
 - (2) THE VOTE TOTALS FOR ALL CHOICES IN ALL BALLOT CONTESTS IN THE CVR EXPORT EQUALS THE VOTE TOTALS IN THE SUMMARY RESULTS REPORT FOR THE RLA TABULATION.
 - (3) AFTER VERIFYING THE ACCURACY OF THE CVR EXPORT, THE COUNTY MUST APPLY A HASH VALUE TO THE CVR EXPORT FILE USING THE HASH VALUE UTILITY PROVIDED BY THE SECRETARY OF STATE.
- (F) COMPARISON AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A COMPARISON AUDIT MUST UPLOAD:
 - (1) ITS VERIFIED AND HASHED BALLOT MANIFEST, AND THE BALLOT MANIFEST'S HASH VALUE, TO THE RLA TOOL;
 - (2) ITS VERIFIED AND HASHED CVR EXPORT, AND THE CVR EXPORT'S HASH VALUE, TO THE RLA TOOL; AND
 - (3) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM.

- (G) BALLOT POLLING AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A BALLOT POLLING AUDIT MUST SUBMIT OR UPLOAD:
- (1) ITS VERIFIED AND HASHED BALLOT MANIFEST, AND THE BALLOT MANIFEST'S HASH VALUE, BY EMAIL TO THE SECRETARY OF STATE'S OFFICE; AND
 - (2) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM.
- (H) RANDOM SEED. THE SECRETARY OF STATE WILL CONVENE A PUBLIC MEETING ON THE TENTH DAY AFTER ELECTION DAY TO ESTABLISH A RANDOM SEED FOR USE WITH THE SECRETARY OF STATE'S RLA TOOL'S PSEUDO-RANDOM NUMBER GENERATOR BASED ON PHILIP STARK'S ONLINE TOOL, *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256*. THIS MATERIAL IS INCORPORATED BY REFERENCE IN THE ELECTION RULES AND DOES NOT INCLUDE LATER AMENDMENTS OR EDITIONS. THE FOLLOWING MATERIAL INCORPORATED BY REFERENCE IS POSTED ON THE SECRETARY OF STATE WEBSITE AND AVAILABLE FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT THE COLORADO SECRETARY OF STATE'S OFFICE: *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256* AVAILABLE AT [HTTPS://WWW.SOS.STATE.CO.US/PUBS/ELECTIONS/VOTINGSYSTEMS/RISKAUDITRESOURCES.HTML](https://www.sos.state.co.us/pubs/elections/votingsystems/riskauditresources.html). THE SECRETARY OF STATE WILL GIVE PUBLIC NOTICE OF THE MEETING AT LEAST SEVEN CALENDAR DAYS IN ADVANCE. THE SEED IS A NUMBER CONSISTING OF AT LEAST 20 DIGITS, AND EACH DIGIT WILL BE SELECTED IN ORDER BY SEQUENTIAL ROLLS OF A 10-SIDED DIE. THE SECRETARY OF STATE WILL RANDOMLY SELECT MEMBERS OF THE PUBLIC WHO ATTEND THE MEETING TO TAKE TURNS ROLLING THE DIE, AND DESIGNATE ONE OR MORE STAFF MEMBERS TO TAKE TURNS ROLLING THE DIE IN THE EVENT THAT NO MEMBERS OF THE PUBLIC ATTEND THE MEETING. THE SECRETARY OF STATE WILL PUBLISH THE SEED ON THE AUDIT CENTER IMMEDIATELY AFTER IT IS ESTABLISHED.
- (I) SELECTION OF AUDITED CONTESTS. NO LATER THAN 5:00 P.M. MT ON THE FRIDAY AFTER ELECTION DAY, THE SECRETARY OF STATE WILL SELECT FOR AUDIT AT LEAST ONE STATEWIDE CONTEST, AND FOR EACH COUNTY AT LEAST ONE COUNTYWIDE CONTEST. THE SECRETARY OF STATE WILL SELECT OTHER BALLOT CONTESTS FOR AUDIT IF IN ANY PARTICULAR ELECTION THERE IS NO STATEWIDE CONTEST OR A COUNTYWIDE CONTEST IN ANY COUNTY. THE SECRETARY OF STATE WILL PUBLISH A COMPLETE LIST OF ALL AUDITED CONTESTS ON THE AUDIT CENTER. THE SECRETARY OF STATE WILL CONSIDER AT LEAST THE FOLLOWING FACTORS IN DETERMINING WHICH CONTESTS TO AUDIT:
- (1) THE CLOSENESS OF THE REPORTED TABULATION OUTCOME OF THE CONTESTS;
 - (2) THE GEOGRAPHICAL SCOPE OF THE CONTESTS;
 - (3) THE NUMBER OF BALLOTS COUNTED IN THE CONTESTS;

- (4) ANY CAUSE FOR CONCERN REGARDING THE ACCURACY OF THE REPORTED TABULATION OUTCOME OF THE CONTESTS;
 - (5) ANY BENEFITS THAT MAY RESULT FROM OPPORTUNISTICALLY AUDITING CERTAIN CONTESTS; AND
 - (6) THE ABILITY OF THE COUNTY CLERKS TO COMPLETE THE AUDIT BEFORE THE CANVASS DEADLINE.
- (J) NUMBER OF BALLOT CARDS TO AUDIT. THE SECRETARY OF STATE WILL DETERMINE THE NUMBER OF BALLOT CARDS TO AUDIT TO SATISFY THE RISK LIMIT FOR THE AUDITED CONTESTS BASED ON THE BALLOT MANIFESTS SUBMITTED BY THE COUNTIES. THE NUMBER OF BALLOT CARDS TO AUDIT WILL BE DETERMINED ACCORDING TO THE FORMULAS AND PROTOCOLS PUBLISHED BY MARK LINDEMAN AND PHILIP B. STARK IN *A GENTLE INTRODUCTION TO RISK-LIMITING AUDITS*, AS APPLIED IN PHILIP STARK'S *TOOLS FOR COMPARISON RISK-LIMITING ELECTION AUDITS*, AND *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION AUDITS*. THESE MATERIALS ARE INCORPORATED BY REFERENCE IN THE ELECTION RULES AND DO NOT INCLUDE LATER AMENDMENTS OR EDITIONS OF THE INCORPORATED MATERIAL. THE FOLLOWING MATERIALS INCORPORATED BY REFERENCE ARE POSTED ON THE SECRETARY OF STATE WEBSITE AND AVAILABLE FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT THE COLORADO SECRETARY OF STATE'S OFFICE:
- (1) MARK LINDEMAN AND PHILIP B. STARK, *A GENTLE INTRODUCTION TO RISK-LIMITING AUDITS*, IEEE SECURITY AND PRIVACY, SPECIAL ISSUE ON ELECTRONIC VOTING, (MAR. 16, 2012), AT [HTTPS://WWW.SOS.STATE.CO.US/PUBS/ELECTIONS/VOTINGSYSTEMS/RISK AUDITRESOURCES.HTML](https://www.sos.state.co.us/pubs/elections/votingsystems/riskauditresources.html).
 - (2) PHILIP B. STARK, *TOOLS FOR COMPARISON RISK-LIMITING ELECTION AUDITS*, (FEB. 26, 2017), AT [HTTPS://WWW.SOS.STATE.CO.US/PUBS/ELECTIONS/VOTINGSYSTEMS/RISK AUDITRESOURCES.HTML](https://www.sos.state.co.us/pubs/elections/votingsystems/riskauditresources.html).
 - (3) PHILIP B. STARK, *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION AUDITS*, (FEB. 16, 2017), AT [HTTPS://WWW.SOS.STATE.CO.US/PUBS/ELECTIONS/VOTINGSYSTEMS/RISK AUDITRESOURCES.HTML](https://www.sos.state.co.us/pubs/elections/votingsystems/riskauditresources.html).
- (K) RANDOM SELECTION OF BALLOT CARDS FOR AUDIT. THE SECRETARY OF STATE WILL RANDOMLY SELECT THE INDIVIDUAL BALLOT CARDS TO AUDIT. THE SECRETARY OF STATE WILL USE A PSEUDO-RANDOM NUMBER GENERATOR WITH THE SEED ESTABLISHED UNDER SUBSECTION (H) OF THIS RULE TO IDENTIFY INDIVIDUAL BALLOT CARDS AS REFLECTED IN THE COUNTY BALLOT MANIFESTS. THE SECRETARY OF STATE WILL NOTIFY EACH COUNTY OF, AND PUBLISH ON THE AUDIT CENTER, THE RANDOMLY SELECTED BALLOT CARDS THAT EACH COUNTY MUST AUDIT NO LATER THAN 11:59 P.M. MT ON THE TENTH DAY AFTER ELECTION DAY.

25.2.3 CONDUCTING THE AUDIT

- (A) THE AUDIT BOARD MUST LOCATE AND RETRIEVE, OR OBSERVE THE LOCATION AND RETRIEVAL BY COUNTY ELECTION STAFF, EACH RANDOMLY SELECTED BALLOT CARD OR VVPAT RECORD FROM THE APPROPRIATE STORAGE CONTAINER. THE AUDIT BOARD MUST VERIFY THAT THE SEALS ON THE APPROPRIATE STORAGE CONTAINERS ARE THOSE RECORDED ON THE APPLICABLE CHAIN-OF-CUSTODY LOGS.
- (1) IN COUNTIES CONDUCTING COMPARISON AUDITS, THE AUDIT BOARD MUST EXAMINE EACH RANDOMLY SELECTED BALLOT CARD AND REPORT THE VOTER MARKINGS OR CHOICES IN ALL CONTESTS USING THE RLA TOOL OR OTHER MEANS SPECIFIED BY THE SECRETARY OF STATE. IF SUPPORTED BY THE COUNTY'S VOTING SYSTEM, THE AUDIT BOARD MAY REFER TO THE DIGITAL IMAGE OF THE AUDITED BALLOT CARD CAPTURED BY THE VOTING SYSTEM IN ORDER TO CONFIRM IT RETRIEVED THE CORRECT BALLOT CARD RANDOMLY SELECTED FOR AUDIT. IF THE SCANNED BALLOT CARD WAS DUPLICATED PRIOR TO TABULATION, THE AUDIT BOARD MUST RETRIEVE, COMPARE, AND REPORT THE MARKINGS ON THE ORIGINAL BALLOT CARD RATHER THAN ON THE DUPLICATED BALLOT CARD. THE AUDIT BOARD MUST COMPLETE ITS REPORTS OF ALL BALLOT CARDS RANDOMLY SELECTED FOR AUDIT NO LATER THAN 5:00 P.M. MT ONE BUSINESS DAY BEFORE THE CANVASS DEADLINE.
- (2) IN COUNTIES CONDUCTING BALLOT POLLING AUDITS, THE AUDIT BOARD MUST EXAMINE AND REPORT THE VOTER MARKINGS OR CHOICES IN ONLY THE AUDITED CONTEST ON EACH RANDOMLY SELECTED BALLOT CARD IN A FORM APPROVED BY THE SECRETARY OF STATE. IF SUPPORTED BY THE COUNTY'S VOTING SYSTEM, THE AUDIT BOARD MAY REFER TO THE DIGITAL IMAGE OF THE AUDITED BALLOT CARD CAPTURED BY THE VOTING SYSTEM IN ORDER TO CONFIRM IT RETRIEVED THE CORRECT BALLOT CARD. IF A RANDOMLY SELECTED BALLOT CARD WAS DUPLICATED PRIOR TO TABULATION, THE AUDIT BOARD MUST RETRIEVE, COMPARE, AND REPORT THE VOTER MARKINGS IN THE AUDITED CONTEST FROM THE ORIGINAL BALLOT CARD RATHER THAN THE DUPLICATED BALLOT CARD. THE AUDIT BOARD MUST COMPLETE ITS REPORTS OF ALL BALLOT CARDS RANDOMLY SELECTED FOR AUDIT NO LATER THAN 5:00 P.M. MT ONE BUSINESS DAY BEFORE THE CANVASS DEADLINE.
- (B) THE AUDIT BOARD MUST INTERPRET VOTER MARKINGS ON BALLOT CARDS SELECTED FOR AUDIT IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT GUIDE. IF THE AUDIT BOARD MEMBERS CANNOT UNANIMOUSLY AGREE ON THE VOTER'S INTENT, THEY MUST INDICATE THAT IN THE APPROPRIATE CONTEST IN THE RLA TOOL'S AUDIT BOARD USER INTERFACE.
- (C) TO THE EXTENT APPLICABLE, THE SECRETARY OF STATE WILL COMPARE THE AUDIT BOARD'S REPORTS OF THE AUDITED BALLOT CARDS TO THE CORRESPONDING CVRS AND POST THE RESULTS OF THE COMPARISON ON THE AUDIT CENTER. THE RLA WILL CONTINUE UNTIL THE RISK LIMIT FOR THE AUDITED CONTESTS IS MET OR UNTIL A FULL HAND COUNT RESULTS. IF THE COUNTY AUDIT REPORTS REFLECT THAT THE RISK LIMIT HAS NOT BEEN SATISFIED IN AN AUDITED CONTEST, THE SECRETARY OF STATE WILL RANDOMLY SELECT ADDITIONAL BALLOTS FOR AUDIT.

25.2.4 CONCLUDING THE AUDIT. NO LATER THAN THE THIRD BUSINESS DAY FOLLOWING THE EXPIRATION OF THE DEADLINE TO REQUEST A RECOUNT UNDER SECTION 1-10.5-107(2), C.R.S. OR THE COMPLETION OF ANY RECOUNT, WHICHEVER IS LATER, A COUNTY THAT CONDUCTED A COMPARISON AUDIT MUST REVIEW ITS CVR FILE AND REDACT VOTER CHOICES CORRESPONDING TO ANY BALLOT CARD SUSCEPTIBLE TO BEING PERSONALLY IDENTIFIED WITH AN INDIVIDUAL VOTER, AS REQUIRED BY SECTION 24-72-205.5(4)(B)(III), C.R.S.

25.2.5 FOR THE 2017 COORDINATED ELECTION, THE SECRETARY OF STATE MAY, BY ORDER, ALTER ANY OF THE REQUIREMENTS OUTLINED IN RULE 25.2.

Current Rule 11.3.3 is amended and recodified as New Rule 25.3 as follows:

~~11.3.3~~ 25.3 ~~Post-Election~~ RANDOM Audit. ~~The~~ IF THE SECRETARY OF STATE WAIVES THE REQUIREMENT TO CONDUCT AN RLA UNDER SECTION 1-7-515(2)(B), C.R.S., THE designated election official must conduct the ~~post-election~~ RANDOM audit mandated by sections 1-7-509(1)(b) and 1-7-514, C.R.S., in accordance with this rule.

~~(a)~~ 25.3.1 Selected voting devices

~~(1)~~ (A) No later than 48 hours after the close of polls on election night, the Secretary of State must notify the designated election official of the voting devices randomly selected for audit, based on the submitted hardware inventory list referred to in Rule 11.2.

~~(2)~~ (B) The Secretary of State will randomly select, from the voting devices used in the election, at least five percent of the central count ballot scanners; at least one ballot scanner used at a polling location; and five percent of DREs.

~~(b)~~ 25.3.2 The designated election official must appoint an audit board to conduct the post-election audit in accordance with section 1-7-509(1)(c), C.R.S. At least two canvass board members must observe the random audit. The designated election official, members of his or her staff, and other duly appointed election judges, may assist with the audit.

~~(c)~~ 25.3.3 Number of ballots to audit

~~(1)~~ (A) Paper ballots tabulated on ballot scanners. The board must audit at least 500 ballots or 20 percent of the ballots tabulated on each selected ballot scanner, whichever is less. The board may audit more than the minimum number of ballots required.

~~(2)~~ (B) Electronic ballots tabulated on DREs. The board must audit all ballots tabulated on the selected DREs.

~~(d)~~ 25.3.4 Conducting the audit

~~(1)~~ (A) Paper ballots tabulated on ballot scanners

~~(A)~~ (1) If the voting system is capable of generating batch-level tabulation reports for a selected ballot scanner, the board must randomly select a number of ballot batches tabulated on the ballot scanner that, in the

aggregate, contain the minimum number of ballots to be audited. The board must manually verify that the votes on the ballots contained in each randomly selected batch match the voting system's tabulation of votes for that batch.

~~(B)~~(2) If the voting system is not capable of generating batch-level tabulation reports for a selected ballot scanner, the board can choose to audit all of the ballots that were tabulated on the selected scanner, or randomly select and rescan the minimum number of ballots to be audited. If the board chooses to rescan the minimum number of ballots, the board also must:

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

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

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

~~(2)~~(B) Ballots tabulated on DREs. The board must examine the VVPAT record of each selected DRE and manually verify that the votes reflected on the VVPAT match the tabulation report.

~~(e)~~25.3.5 If the board discovers discrepancies during the audit, the board must:

~~(1)~~(A) Confirm that the manual count of the votes contained in the audited ballots is correct;

~~(2)~~(B) Confirm that the manual count of the votes contained in the audited ballots properly reflects overvotes, stray marks on the ballot, and other indications of voter intent;

~~(3)~~(C) Determine whether any discrepancy is attributable to a damaged ballot; and

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

~~(f)~~25.3.6 The designated election official must report the results of the audit in writing to the Secretary of State by 5:00 p.m. on the last day to canvass. The audit report may be submitted by mail, fax, or email. The audit report must contain:

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

~~(2)~~(B) The number of ballots originally counted on each device or the number of ballots audited;

~~(3)~~(C) The count of the specific ~~raees~~-CONTESTS on the summary report printed at the close of polls ~~or~~ AND the report generated for the audit;

~~(4)~~(D) The count of the specific ~~raees~~-CONTESTS as manually verified;

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

~~(6)~~(F) The signatures of the audit board, the canvass board members who observed the audit, and the designated election official.

~~(g)~~25.3.7 The designated election official must segregate and seal the materials used during the post-election audit, including all tabulation reports, the audited ballots, and the audit report.

25.4 REMOVAL AND REPLACEMENT OF AUDIT BOARD MEMBERS. THE COUNTY CLERK MAY REMOVE FOR CAUSE ANY MEMBER WHO FAILS OR REFUSES TO PERFORM ANY OF THE FUNCTIONS HE OR SHE IS CHARGED WITH UNDER THESE RULES. IF THE COUNTY CLERK REMOVES AN AUDIT BOARD MEMBER FOR CAUSE, HE OR SHE MUST NOTIFY THE SECRETARY OF STATE AND CONSULT WITH THE COUNTY CHAIRPERSON OF THE REMOVED MEMBER'S POLITICAL PARTY TO APPOINT A REPLACEMENT.

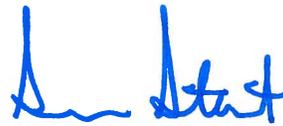
II. Basis, Purpose, and Specific Statutory Authority

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

III. Effective Date of Adopted Rules

These new and amended rules will become permanently effective twenty days after publication in the Colorado Register.⁵

Dated this 11th day of August, 2017,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State

⁵ Section 24-4-103(5), C.R.S. (2016).



Statement of Basis, Purpose, and Specific Statutory Authority

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

August 11, 2017

I. Basis and Purpose

This statement explains proposed amendments to the Colorado Secretary of State Election Rules. The Secretary is considering other amendments to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,¹ improve elections administration in Colorado, and increase the transparency and security of the election process.

Specific proposed changes include:

- New Rule 1.1.10 to define the term “cast vote record”.
- New Rule 1.1.33 to define the term “personally identifiable information”.
- Amendments to Rule 2.3.1 to clarify the language of existing rule.
- New Rule 2.5.4 to ensure proper administration of Propositions 107 and 108 and SB 17-305, and to guarantee that an elector affiliated with one party does not cast a ballot in another party’s primary election and is not therefore disenfranchised.
- Amendments to Rule 2.12.1 to clarify the language of existing rule.
- Repeal of Rule 2.13.2 to establish uniformity in the administration of current law, and remove an antiquated provision related to a time when polling places used paper pollbooks.
- New Rules 2.14.4 to ensure the proper administration of the statewide voter registration database.
- Amendments to Rule 2.15.1 to establish uniformity in the administration of current law.

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

- New Rule 2.17 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- Amendments to Rule 4.5.2(d) to establish uniformity in the administration of current law.
- Amendments to Rule 4.8.3(a) to ensure proper administration of Propositions 107 and 108.
- Amendments to Rule 7.2.5 to eliminate obsolete provisions.
- Amendments to Rule 7.2.7 to eliminate an unnecessary citation.
- Amendments to Rule 7.2.9 to eliminate obsolete provisions.
- New Rule 7.2.10 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.2.11 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.2.12 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.5.5 to establish uniformity in the administration of current law, and to allow access to drop-off locations that are not near an office, VSPC, or other drop-box.
- Amendments to Rule 7.5.8 (renumbered as Rule 7.5.9) to establish uniformity in the administration of current law.
- Amendments to Rule 7.5.9 (renumbered as Rule 7.5.10) to establish uniformity in the administration of current law and organize existing rules for clarity. The amendments to this rule help ensure ballot secrecy as required by the Colorado Constitution.
- Amendments to Rule 7.5.10 (renumbered as Rule 7.5.11) to establish uniformity in the administration of current law and organize existing rules for clarity.
- New Rule 7.5.12 to establish uniformity in the administration of current law and organize existing rules for clarity.
- New Rule 7.5.13 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.5.14 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- Amendments to Rule 7.6.1 to establish uniformity in the administration of current law and organize existing rules for clarity.

- Amendments to Rule 7.7 and 7.7.3 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 7.8.2 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 7.9.1(c) to correct an incorrect citation.
- Amendments to Rule 7.9.3 to establish uniformity in the administration of current law and organize existing rules for clarity.
- New Rule 7.9.8 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.9.9 and 7.9.10 to establish uniformity in the administration of current law, and to serve as a pilot for future implementation across all counties.
- New Rule 7.16 to establish uniformity in the administration of current law and provide more voting options to voters.
- New Rule 7.17 to establish uniformity in the administration of current law.
- Amendments to Rule 8.1.5 to establish uniformity in the administration of current law.
- Amendments to Rule 8.7.4 to correct an incorrect cross-reference.
- New Rule 8.15.8 to establish uniformity in the administration of current law.
- Amendments to rule 10.3.2(b) to correct an incorrect cross-reference.
- New Rule 10.4 to ensure proper administration of risk-limiting audits.
- Amendments to Rule 10.5.1 to establish uniformity in the administration of current law, organize existing rules for clarity, and to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- Amendments to Rule 10.13.1 and 10.13.2 to correct incorrect cross-references.
- Amendments to Rule 11.3.2(c)(1) to establish uniformity in the administration of current law.
- Amendments to Rule 11.10.1(b)(2) to correct an incorrect cross-reference.
- Amendments to Rule 11.10.3 establish uniformity in the administration of current law.
- Repeal of Rule 13.1.7 to establish uniformity in the administration of current law.

- Amendments to Rule 13.2.9(a) to establish uniformity in the administration of current law.
- Amendments to Rule 14.1.1(a) establish uniformity in the administration of current law.
- New Rule 14.3.4 to establish uniformity in the administration of current law.
- Amendments to Rule 16.1.6 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 18.5.3 to establish uniformity in the administration of current law.
- Amendments to Rule 20.13.1(c)(8) to establish uniformity in the administration of current law and correct an incorrect cross-reference.
- Amendments to Rule 20.16.3 to correct an incorrect cross-reference.
- Amendments to Rule 20.17.3 to establish uniformity in the administration of current law.
- Amendments to Rule 21.4.5 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 21.4.14 to organize existing rules for clarity and establish uniformity in the administration of current law.
- New Rule 24 to establish uniformity in the administration of current law.
- New Rule 25.1 to ensure proper administration of risk-limiting audits.
- New Rule 25.2 to ensure proper administration of risk-limiting audits.
- Recodification of Rule 11.3.3 as Rule 25.3 to ensure uniformity in the administration of post-election random audits.
- New Rule 25.4 to ensure proper administration of post-election audits.

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

On May 15, 2017, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/ruleComments.html. Additional comments received during the formal rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/hearings/2017/ElectionsRulesHearing20170711.html. All comments are incorporated into the official rulemaking record.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2016), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1-109, C.R.S., (2016), which authorizes the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.”
3. Section 1-1.5-104(1)(b), C.R.S., (2016), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
4. Section 1-1.5-104(1)(e), C.R.S., (2016), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”
5. Section 1-2-701(1) and (2), C.R.S., (2016), which authorizes the Secretary of State to promulgate rules in accordance with article 4 of title 24, C.R.S. for commencing and conducting voter registration drives, and for fulfilling training requirements.
6. Section 1-2-217.7(7), C.R.S., (2016), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
7. Section 1-4-101(2)(b), C.R.S., (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.
8. Section 1-4-1203(6), C.R.S. (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.”
9. Section 1-7-515(4), C.R.S. (2016), which requires the Secretary of State to promulgate rules necessary to implement and administer risk-limiting audits.
10. Section 1-7.5-104, C.R.S. (2016), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
11. Section 1-7.5-105, C.R.S. (2016), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”

12. Section 1-7.5-106, C.R.S., (2016), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]”
13. Section 1-7.5-107(6), C.R.S., (2016), which requires all deposited ballots be counted as provided “by rules promulgated by the secretary of state.”