



Notice of Proposed Rulemaking

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

Date of notice: June 30, 2021

Date and time of public hearing: August 3, 2021 at 1:00 p.m.

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for August 3, 2021 at 1:00 p.m. **This meeting will be conducted via webinar.** Details regarding how to join the webinar and testify during the hearing are outlined in section VI of this notice.

II. Subject

The Secretary is considering amendments to the election rules² to improve the administration and enforcement of Colorado election law.³

Specifically, the Secretary proposes permanent rule revisions necessary to: implement Senate Bills 21-188 and 21-250; update petition review rules, signature verification review rules, and watcher and canvass rules; remove references to Direct Recording Electronic (DRE) voting devices and Voter Verifiable Paper Audit Trail (VVPAT) equipment because those systems are no longer in use in the State of Colorado; eliminate obsolete provisions; organize existing rules for clarity; simplify the language of existing rules; and ensure consistency with Department rulemaking standards. Additionally, the Secretary proposes permanent adoption of voting system emergency rules that were temporarily adopted on 6/17/2021. The Secretary may consider additional rule amendments.

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

¹ Section 24-4-103(3)(a), C.R.S. (2020).

² 8 CCR 1505-CCR 1.

³ 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.

III. Statutory authority

The Secretary proposes the rule revisions and amendments in accordance with the following statutory provisions:

- Senate Bill 21-188; enacted May 21, 2021 and Senate Bill 21-250; enacted June 21, 2021.
- Section 1-1-107(2)(a), C.R.S., (2020), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-1-109(3), C.R.S., (2020), which requires the Secretary of State “to promulgate rules...as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.”
- Section 1-1-110(1), C.R.S., (2020), which requires county clerks to, “follow the rules and order promulgated by the secretary of state pursuant to this code.”
- Section 1-1.5-104(1)(e), C.R.S., (2020), which gives the Secretary of State the power to “[p]romulgate rules...as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of [Article 1.5].”
- Section 1-4-101(2)(c), C.R.S., (2020), which allows the Secretary of State to adopt rules “necessary to avoid voter confusion in voting in primary elections.”
- Section 1-4-908(1.5)(b)(III), C.R.S., (2020), which authorizes the Secretary of State to “promulgate rules, in accordance with article 4 of title 24, to implement [review of candidate petition signatures].”
- Sections 1-4-1203 (4)(d) and (6), C.R.S., (2020), which allows the Secretary of State to adopt rules “necessary to avoid voter confusion in voting in presidential primary elections.”
- Section 1-5-608.5(3)(b), C.R.S., (2020), which allows the Secretary of State to “promulgate conditions of use in connection with the use by political subdivisions of electronic and electromechanical voting systems as may be appropriate to mitigate deficiencies identified in the certification process.”
- Section 1-5-616(1), C.R.S., (2020), which requires the Secretary of State to adopt rules “that establish minimum standards for electronic and electromechanical voting systems.” This includes the authority to adopt rules regarding “security requirements” for those voting systems.

- Section 1-5-616(4), C.R.S., (2020), which requires the Secretary of State to “adapt the standards for certification of electronic or electromechanical voting systems established by rule . . . to ensure that new technologies that meet the requirements for such systems are certified in a timely manner...”
- Section 1-5-706, C.R.S., (2020), which requires the Secretary of State to “establish procedures to enable a voter with a disability to independently and privately mark a ballot . . . The procedures shall include a method, to be determined by the secretary of state, by which a voter with a disability may request such a ballot.”
- Section 1-7-511(4), C.R.S., (2020), which requires the Secretary of State to adopt rules “prescribing the manner and procedures that voting system providers shall follow to [escrow voting system software certified for use]”
- Section 1-7-512(2), C.R.S., (2020), which requires the Secretary of State to promulgate rules establishing procedures for voting system providers to: notify the Secretary of State of changes to software; place software in escrow; and notify the Secretary of State and designated election official of any defect in the system.
- Section 1-7-515(4), C.R.S., (2020), which requires the Secretary of State to promulgate rules “necessary to implement and administer,” risk-limiting audits.
- Section 1-7.5-105(2)(c), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules “concerning the submission and approval of election plans.”
- Section 1-7.5-106(2), C.R.S., (2020), which allows the Secretary of State to adopt rules “governing procedures and forms necessary to implement” mail ballot elections.
- Section 1-7.5-107(6), C.R.S., (2020), which requires that mail ballots be counted as provided in “rules promulgated by the secretary of state.”
- Section 1-7.5-107.3 (5) and (6), C.R.S., (2020), which requires the secretary of state to adopt rules “establishing procedures for using signature verification devices to process ballots used in mail ballot elections.”
- Section 1-7.5-115(4)(d), C.R.S., (2020), which allows the secretary of state to prescribe by rule, “any procedures or requirements as may be necessary to implement [emergency ballot voting].”
- Section 1-8.3-104(3), C.R.S., (2020), which authorizes the secretary of state to establish an electronic transmission system through which a UOCAVA voter may apply for and receive ballots and other associated materials.
- Section 1-9-210, C.R.S., (2020), which requires notification of a challenge to be delivered to an elector, “in accordance with the rules of the secretary of state.”

- Section 1-10-104.5, C.R.S., (2020), which requires the Secretary of State to promulgate rules, “for the purpose of establishing equitable uniformity in the appointment and operation of canvass boards.”
- Section 1-10.5-102(3)(c), C.R.S., (2020), which requires the Secretary of State to promulgate rules to administer and enforce any requirement of the recount statute.
- Section 1-40-116(3), C.R.S., (2020), which allows the Secretary of State to adopt rules for the examination and verification of signer lines on an initiative petition.
- Section 1-40-132(1), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules as may be necessary, “to administer and enforce any provision of this article that relates to initiated or referred measures and state constitutional amendments.”

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State’s rules and notices of rulemaking website at:

www.sos.state.co.us/pubs/rule_making/hearings/2021/ElectionsRulesHearing20210803.html.

You may also contact our office to request an editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 29, 2021.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. You may submit written comments to SoS.Rulemaking@sos.state.co.us any time before and during the hearing. Additional opportunity to comment in writing will be announced at the conclusion of the hearing. Information regarding how to testify during the webinar hearing is providing in section VI of this notice.

As soon as possible after receipt, written comments will be posted online at the Secretary of State website:

www.sos.state.co.us/pubs/rule_making/hearings/2021/ElectionsRulesHearing20210803.html.

⁴ Section 24-4-103(3)(a), C.R.S. (2020). “Any 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.”

We will redact apparent personal contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor. All written comments will be added to the official rulemaking record.

VI. Webinar and audio recording of hearing

Register for the webinar hearing

To join and listen to the hearing, you must register for the webinar online: <https://attendee.gotowebinar.com/register/3181275682733744144>

When you register, you must provide your full name and email address. Please provide additional contact information including your address and telephone number. You may also provide your job title and organization. Lastly, indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

Webinar hearing procedures

At the beginning of the webinar, we will mute all public participants. After the introduction and a brief summary of the rulemaking, we will open the hearing to testimony as follows:

- Referencing registration records, we will identify and individually unmute participants who indicated that they plan to testify during the hearing.
- When we exhaust the list, we will ask whether any additional attendees wish to testify. Attendees may raise/lower their hand by clicking the icon in their control panel.
- To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Before the hearing concludes, we will announce an additional opportunity to submit written comments and the associated deadline.

Webinar audio requirements

Please be advised: we strongly encourage attendees to join the webinar through their computer even if they use their telephone to dial in for audio. To testify during the hearing, it is best to use your computer microphone and speakers or a headset. As outlined above, we will first receive testimony from attendees whose registration indicates that they plan to provide testimony and then we will offer attendees the option to raise their hand. If you access the webinar only by telephone, you may not appear in our webinar attendee list meaning we may not be able to unmute you. Moreover, the raise your hand feature is only available to attendees who access the webinar by computer.

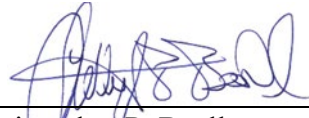
Audio recording

After the hearing concludes, a recording will be available on our audio broadcasts page here: https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

VII. Office contact

If you have any questions or would like to submit written comments, please contact the Department Rulemaking Program Manager at SoS.Rulemaking@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 30th day of June, 2021,



Christopher P. Beall
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

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

June 30, 2021

I. Basis and Purpose

This statement explains proposed amendments to the Colorado Secretary of State Election Rules. The Secretary is considering 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:

- Amendments under Rule 1 concerning definitions:
 - Repeal of Current Rule 1.1.19 which defines Direct Recording Electronic (DRE) voting devices. Direct Recording Electronic voting devices are no longer certified for use in Colorado and are not used in any county in the state. References to these kinds of voting devices are being removed throughout these rules.
 - Repeal of Current Rule 1.1.26(b) removes reference to a DRE under the definition of “electronic ballot”.
 - Repeal of Current Rule 1.1.48 which defines Voter Verifiable Paper Audit Trail (VVPAT) is necessary because as used in these rules, VVPATs are paper records that were produced exclusively by DREs. DREs are no longer certified for use in Colorado, so VVPATs also are no longer used in Colorado. References to this kind of paper record are being removed throughout these rules.
 - Other amendments to definitions involve technical and renumbering edits. Additional election rules are amended to remove references to DRE and VVPAT throughout 8 CCR 15051.

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.

- Amendments under Rule 2 concerning voter registration and registration records.
 - New Rule 2.12.3 is necessary to clarify how major political parties should receive confidential voter records for their precinct caucuses.
 - Amendments to Rule 2.13.2 and New Rule 2.13.3 are necessary to reflect current practice. Records have been cancelled under Section 1-2-605(7), C.R.S., centrally by the Secretary of State since 2018. After cancellation the Secretary of State notifies each county of the records that have been cancelled.
 - Amendments to Current Rule 2.13.3 include renumbering to Rule 2.13.4. Amendments to this section are necessary to ensure proper administration of mail ballot elections statewide.
 - Repeal of Current Rule 2.13.5 is necessary to ensure proper administration of mail ballot elections statewide.
 - New Rule 2.15.7 is necessary to ensure that information regarding potential criminal activity is given to the state level officials who may wish to coordinate an investigation with the Attorney General’s office. The Attorney General, along with local District Attorneys, has concurrent jurisdiction to investigate and prosecute criminal activity under Article 13 of Title 1.
 - Amendments to Rule 2.18 conform election rules to changes made in SB 21-250.
 - Repeal of Current Rule 2.19. This rule was codified in state law in SB 21-250 and as a result is no longer needed.
- Amendments under Rule 6 concerning election judges and judge training.
 - Amendments to Rule 6.1.3 ensure proper administration of mail ballot elections statewide.
 - Amendments to Rule 6.8 clarify how signature verification judges may be trained. The current rule leaves ambiguity regarding how often a county-created signature verification training must be reviewed by the Secretary of State.
- Amendments under Rule 7 concerning mail ballot election administration generally.
 - Amendments to Rule 7.1.1 conform election rules to changes made in SB 21-250.
 - Amendments to Rule 7.2.4 ensure proper administration of primary mail ballot elections statewide. This rule change is intended to assist voters who may have changed their affiliation near the affiliation deadline in a primary election.
 - Amendments to Rule 7.2.6 ensure proper administration of mail ballot elections statewide. This rule change is intended to help voters understand their responsibilities when returning their mail ballot.

- Amendments to Rule 7.2.7 ensure proper administration of mail ballot elections statewide. This rule change is intended to help voters return their ballot in the correct return envelope.
 - New Rule 7.2.17 ensures proper administration of mail ballot elections statewide by protecting the right to a secret ballot.
 - Repeal of Current Rules 7.3.2 through 7.3.5 and adding New Rule 7.3.2 to reflect the current practice for the delivery of emergency ballots under Section 1-7.5-115, C.R.S.
 - Repeal of Rule 7.4. This rule was codified in state law in SB 21-250 and as a result is no longer needed.
 - Amendments to Rule 7.5.10, including renumbering as Rule 7.4.10. Amendments are necessary to ensure proper administration of mail ballot elections statewide.
 - Amendments to Rule 7.7, including renumbering as Rule 7.6, to conform election rules to changes made by SB 21-188.
 - Amendments to Rule 7.8, including renumbering as Rule 7.7, to ensure proper administration of mail ballot elections statewide by conforming current rules regarding signature verification to 1-7.5-107.3, C.R.S.
 - New Rule 7.7.8, Amendments to Rule 7.8.8, including renumbering as Rule 7.7.9, and New Rule 7.7.10 to ensure proper administration of mail ballot elections statewide by creating standards of review for election judges who conduct signature verification.
 - Amendments to Rule 7.8.11, including renumbering as Rule 7.7.13, to further establish procedures for using signature verification devices to process ballots used in mail ballot elections.
 - Amendments to Rule 7.9, including renumbering as Rule 7.8, to remove a duplicative rule, references to DREs, and references to stations and areas at a VSPC which are no longer used in Colorado elections.
 - Amendments to Rule 7.9.9, including renumbering as Rule 7.8.9, to clarify that county wait time data is due no later than 30 days after the election.
 - Amendments to Rule 7.12, including renumbering as Rule 7.11, to clarify changes made in SB 21-250 regarding the collection of cure letters at VSPCs.
- Amendments under Rule 8 regarding watchers.
 - Amendments to Rule 8.10.2(a)(4) and Repeal of Current Rule 8.13 to ensure proper administration of mail ballot elections statewide by conforming current rules regarding signature verification to Section 1-7.5-107.3, C.R.S.

- Amendments to Rule 8.15 and 8.16, including renumbering as Rule 8.14 and New Rule 8.14.12 to ensure proper administration of mail ballot elections statewide by clarifying the duties and responsibilities of watchers.
- Amendments under Rule 9 regarding challenges.
 - Amendments to Rule 9.1.1 ensure proper administration of elections statewide by clarifying the process by which in-person challenges should be processed.
 - Amendments to Rule 9.2 including New Rules 9.2.1, 9.2.2(a)(1-4), 9.2.2(b)(1-4), 9.2.3, 9.2.4; Repeal of current Rule 9.2.2 to ensure proper administration of elections statewide by clarifying the process by which mail ballot challenges should be processed. Amendments to conform election rules to changes made by SB 21-250.
- Amendments to Rule 10 regarding canvassing and recount procedures.
 - Amendments to Rule 10.1.5, Amendments 10.3, including repeal of Current Rule 10.3.3, and Amendments to Rule 10.5.1 including repeal of Rules 10.5.1 (g) and (h) to establish equitable uniformity in the operation of canvass boards by aligning current election rules with the canvass board's duties under statute.
 - New Rule 10.6.3 establishes equitable uniformity in the operation of canvass boards by clarifying when a canvass board must forward an uncertified abstract of votes cast to the Secretary of State for consideration under Section 1-10-104, C.R.S.
 - Amendments to Rule 10.8.2 establish equitable uniformity in the operation of canvass boards by allowing any canvass board member to request the guidance of the Secretary of State in performing their duties.
 - Repeal of Rule 10.12.3 to remove references to DRE and VVPAT.
 - Repeal of Rules 10.13.4 and 10.13.6 to remove references to DRE and other technology no longer in use in Colorado.
- Amendments to Rule 11 regarding risk-limiting audits, voting systems and election night reporting.
 - Amendments to Current Rules 11.3.2(d)(2) and (d)(4)(A)(i); repeal of Current Rule 11.3.2(d)(4)(B) to remove references to DRE and other technology no longer in use in Colorado.
 - Repeal of Rule 11.8.2 and amendments to Rule 11.8.3 (renumbered as Rule 11.8.2), to remove rules that are no longer applicable in Colorado. There are no counties in the State of Colorado using voting systems certified for use prior to January 1, 2016.

- Amendments to Rule 11.9.1(b)(3) and repeal of Rule 11.9.1(b)(4) to remove references to technology no longer in use in Colorado.
- Amendments to Rule 11.10.1 update the Colorado Secretary of State office address.
- Amendments under Rule 15 regarding the submission and review of petitions.
 - Repeal of Current Rule 15.1.1(d) and New Rule 15.1.1(d) to conform current election rules to changes made by SB 21-250 and to clarify the information required to be filed by a petition proponent with the Secretary of State.
 - Amendments to Rule 15.1.2
 - Portions of Current Rules 15.4.3, 15.4.5, and 15.4.6 are amended and re-codified under Rule 15.1.2. Amendments made to these sections have also been made to conform election rules to changes in law made in SB 21-250. Amendments made to bring consistency and clarity to the examination and verification of candidate, recall, and petition signatures.
 - Amendments to Rule 15.1.3(c) to conform election rules to changes made in law in SB 21-250.
 - Amendments to Rules 15.1.4(d) and (e) including repeal of Rule 15.1.4(d)(5); New Rules 15.1.4(e)(4), (6), (8), and (9); to conform election rules to changes in law made in SB 21-250. Amendments and additions also made to bring consistency and clarity to the examination and verification of candidate, recall, and petition signatures.
 - Amendments to Rule 15.2 including New Rules 15.2.1(c), 15.2.1(d)(3) to help enforce the provisions of Sections 1-4-905.5 and 1-40-135, C.R.S. and to conform election rules to changes made in law in SB 21-250.
 - Amendments to Rules 15.3.2, Repeal of Rule 15.3.3 and Rule 15.6 to conform election rules to changes made in law in SB 21-250.
- Amendments under Rule 16 regarding Military and Overseas Voters under UOCAVA (Uniformed and Overseas Citizens Absentee Voting Act)
 - Amendments to Rule 16.2.2, including new Rule 16.2.2(a). These changes are made to reflect current practice for delivery of electronic ballots to Military and Overseas Voters.
 - Repeal in part under Rule 16.2.7(b) to clarify the methods by which counties must provide UOCAVA voters the opportunity to receive an electronic ballot.
- Amendments to Rule 18.4.1 to ensure proper administration of elections statewide by clarifying the process for ballot duplication.

- Amendments under Rule 20 regarding voting systems.
 - Amendments to Rule 20.4 including repeal of Current Rules 20.4.1(a), 20.4.2, 20.4.3 to remove references to DRE, VVPAT, and ballot scanners at polling locations which are no longer used in Colorado.
 - Permanent adoption of temporary Rules 20.5.4. (temporarily adopted on June 17, 2021; e-filed under CCR tracking #2021-00378)
 - Amendments to Rule 20.7 to remove references to DRE and VVPAT.
 - New Rule 20.9.4 to clarify that security camera footage should be retained as an election record following an election.
 - Repeal of Rule 20.9.4(c) to remove a reference to DRE.
 - Amendments to Rule 20.11 including repeal of Rule Current 20.11.2 to remove references to memory cards and the procedures for handling that technology. This voting technology is no longer used or certified for use in Colorado.
 - Repeal of Rule 20.13 to remove references to DRE and VVPAT.
 - Amendments to Current Rule 20.13.2, including renumbering as Rule 20.13 and repeal of Rules 20.13.2(c) and 20.13.3 to remove references to DRE and VVPAT.
 - Amendments to Rule 20.14.2 including repeal of Rule 20.14.2(d) to remove a reference to VVPAT.
 - Amendments to Rule 20.15.1(c), including repeal of Rule 20.15.1(c)(3) to remove references to DREs, VVPAT, and ballot scanners that are no longer in use in Colorado.
 - Amendments to Rule 20.19.4, including repeal of Rules 20.19.4(a) and (c) to remove references to DREs, VVPAT, and procedures related to those voting systems.
 - Repeal of Rules 20.19.5, 20.20, and 20.21 to remove references to technology which is no longer certified for use in Colorado.

- Amendments under Rule 21 regarding voting systems certification
 - Amendments to Rule 21.3.5 clarify the timing for one step in the certification of a voting system.
 - Amendments to Rule 21.4.1 to remove a web link which is no longer operable.
 - Amendments to Rule 21.4.5(f) to remove a reference to DREs.

- Amendments to Rule 21.5.1, include: repeal of Rules 21.5.1(b)(4), (b)(6)(A-C), (b)(13) and (b)(16); New Rules 21.5.1(g), (h), and (i) to update standards for certification of electronic or electromechanical voting systems. These updates are being made to ensure that new technologies submitted for certification meet the requirements set out in law and rule for certification and that those technologies are certified in a timely manner.
- Permanent adoption of temporary Rule 21.7.3 and renumbering of former Rule 21.7.4 to Rule 21.7.5. (temporarily adopted on June 17, 2021; e-filed under CCR tracking #2021-00378)
- Amendments to Rule 21.7.5 and New Rule 21.7.6 clarify requirements for decertification of a voting system under Section 1-5-621, C.R.S.
- Amendments to Rule 21.10.1 and 21.10.2 to update standards for certification of electronic or electromechanical voting systems.
- Amendments to Rule 21.10.12 to update the Colorado Secretary of State office address
- Amendments to Rule 23.1.3 to update the time and location for the Bipartisan Election Advisory Commission to meet.
- Amendments to Rule 24.3.3 to clarify the requirements for the appointment of replacement presidential electors.
- Amendments under Rule 25 regarding risk-limiting audits.
 - Amendments to Rule 25.1.7 to remove a reference to VVPAT records.
 - Amendments to Rules 25.2.2(d-i) and (l) including repeal of Rule 25.2.2(d)(2) to remove references to DREs and VVPAT. Amendments are also being made to change the post-election timeline for conducting a risk-limiting audit.
 - Amendments to Rule 25.2.3(a) to clarify the procedures required to be followed by the audit board during a risk-limiting audit.
 - Repeal of Rule 25.3 to remove a reference to random audits which are no longer permitted under Colorado law. Colorado counties are required by statute to conduct a post-election risk-limiting audit instead of a random audit.

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

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

- Senate Bill 21-188; enacted May 21, 2021 and Senate Bill 21-250; enacted June 21, 2021.
- Section 1-1-107(2)(a), C.R.S., (2020), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-1-109(3), C.R.S., (2020), which requires the Secretary of State “to promulgate rules...as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.”
- Section 1-1-110(1), C.R.S., (2020), which requires county clerks to, “follow the rules and order promulgated by the secretary of state pursuant to this code.”
- Section 1-1.5-104(1)(e), C.R.S., (2020), which gives the Secretary of State the power to “[p]romulgate rules...as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of [Article 1.5].”
- Section 1-4-101(2)(c), C.R.S., (2020), which allows the Secretary of State to adopt rules “necessary to avoid voter confusion in voting in primary elections.”
- Section 1-4-908(1.5)(b)(III), C.R.S., (2020), which authorizes the Secretary of State to “promulgate rules, in accordance with article 4 of title 24, to implement [review of candidate petition signatures].”
- Sections 1-4-1203 (4)(d) and (6), C.R.S., (2020), which allows the Secretary of State to adopt rules “necessary to avoid voter confusion in voting in presidential primary elections.”
- Section 1-5-608.5(3)(b), C.R.S., (2020), which allows the Secretary of State to “promulgate conditions of use in connection with the use by political subdivisions of electronic and electromechanical voting systems as may be appropriate to mitigate deficiencies identified in the certification process.”
- Section 1-5-616(1), C.R.S., (2020), which requires the Secretary of State to adopt rules “that establish minimum standards for electronic and electromechanical voting systems.” This includes the authority to adopt rules regarding “security requirements” for those voting systems.

- Section 1-5-616(4), C.R.S., (2020), which requires the Secretary of State to “adapt the standards for certification of electronic or electromechanical voting systems established by rule . . . to ensure that new technologies that meet the requirements for such systems are certified in a timely manner...”
- Section 1-5-706, C.R.S., (2020), which requires the Secretary of State to “establish procedures to enable a voter with a disability to independently and privately mark a ballot . . . The procedures shall include a method, to be determined by the secretary of state, by which a voter with a disability may request such a ballot.”
- Section 1-7-511(4), C.R.S., (2020), which requires the Secretary of State to adopt rules “prescribing the manner and procedures that voting system providers shall follow to [escrow voting system software certified for use]”
- Section 1-7-512(2), C.R.S., (2020), which requires the Secretary of State to promulgate rules establishing procedures for voting system providers to: notify the Secretary of State of changes to software; place software in escrow; and notify the Secretary of State and designated election official of any defect in the system.
- Section 1-7-515(4), C.R.S., (2020), which requires the Secretary of State to promulgate rules “necessary to implement and administer,” risk-limiting audits.
- Section 1-7.5-105(2)(c), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules “concerning the submission and approval of election plans.”
- Section 1-7.5-106(2), C.R.S., (2020), which allows the Secretary of State to adopt rules “governing procedures and forms necessary to implement” mail ballot elections.
- Section 1-7.5-107(6), C.R.S., (2020), which requires that mail ballots be counted as provided in “rules promulgated by the secretary of state.”
- Section 1-7.5-107.3 (5) and (6), C.R.S., (2020), which requires the secretary of state to adopt rules “establishing procedures for using signature verification devices to process ballots used in mail ballot elections.”
- Section 1-7.5-115(4)(d), C.R.S., (2020), which allows the secretary of state to prescribe by rule, “any procedures or requirements as may be necessary to implement [emergency ballot voting].”
- Section 1-8.3-104(3), C.R.S., (2020), which authorizes the secretary of state to establish an electronic transmission system through which a UOCAVA voter may apply for and receive ballots and other associated materials.
- Section 1-9-210, C.R.S., (2020), which requires notification of a challenge to be delivered to an elector, “in accordance with the rules of the secretary of state.”

- Section 1-10-104.5, C.R.S., (2020), which requires the Secretary of State to promulgate rules, “for the purpose of establishing equitable uniformity in the appointment and operation of canvass boards.”
- Section 1-10.5-102(3)(c), C.R.S., (2020), which requires the Secretary of State to promulgate rules to administer and enforce any requirement of the recount statute.
- Section 1-40-116(3), C.R.S., (2020), which allows the Secretary of State to adopt rules for the examination and verification of signer lines on an initiative petition.
- Section 1-40-132(1), C.R.S., (2020), which authorizes the Secretary of State to promulgate rules as may be necessary, “to administer and enforce any provision of this article that relates to initiated or referred measures and state constitutional amendments.”

Preliminary Draft of Proposed Rules

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

June 30, 2021

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the August 3, 2021 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State’s website no later than **July 29, 2021**.²

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

1 *Amendments to 8 CCR 1505-1 follow:*

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

4 *[No changes to current Rules 1.1 through 1.1.18]*

5 1.1.19 ~~“Direct Recording Electronic voting device” (DRE) means a voting device that visually~~
6 ~~displays or audibly presents a ballot and records an elector’s votes directly into electronic~~
7 ~~storage media.~~

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

9 1.1.26-1.1.25 “Electronic ballot” means a non-paper ballot such as on a touch screen or
10 through audio feedback. After a voter casts an electronic ballot, the voter’s choices must
11 be:

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2020). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2020). “[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.”

1 (a) Marked and printed on a paper ballot for subsequent counting by a ballot
2 scanner; or

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

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

6 ~~1.1.35~~ 1.1.34 “Qualified political organization” means an organization that has placed a
7 candidate for congressional or state office on the ballot in a congressional vacancy or
8 general election, whose officers have filed proof of organization with the Secretary of
9 State, and that continues to meet the requirements of Rules 3.3 and 3.4. ~~[Baer v. Meyer,~~
10 ~~728 F.2d 471 (10th Cir. 1984)]~~

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

12 ~~1.1.48~~ “VPAT” has the same meaning as in section ~~1-1-104(50.6)~~, C.R.S.

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

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

16 2.12.1 Information about an agency’s name and location for an application completed at a voter
17 registration agency or driver’s license office is confidential. ~~[52 USC § 20504(e)(2)(D)(iii)]~~

18 *[No changes to Rule 2.12.2]*

19 2.12.3 BEFORE PRECINCT CAUCUSES, THE SECRETARY OF STATE WILL PROVIDE TO EACH MAJOR STATE
20 POLITICAL PARTY A LIST OF CONFIDENTIAL VOTERS, WHICH INCLUDES ONLY THE INFORMATION
21 NECESSARY TO DETERMINE ELIGIBILITY. THE LIST WILL ONLY BE PROVIDED IF THE MAJOR PARTY
22 AGREES IN WRITING TO LIMIT AND PROTECT THAT DATA IN ACCORDANCE WITH SECRETARY OF
23 STATE REQUIREMENTS. THIS RULE DOES NOT APPLY TO RECORDS HELD CONFIDENTIAL AS PART
24 OF THE ADDRESS CONFIDENTIALITY PROGRAM.

25 *[Not shown, renumbering Rule 2.12.3 to Rule 2.12.4]*

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

28 2.13.2 In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General
29 Election, ~~the county clerk in each county must~~ SECRETARY OF STATE WILL cancel the
30 registrations of electors:

31 (a) Whose records have been marked “Inactive – returned mail”, “Inactive –
32 undeliverable ballot”, or “Inactive – NCOA”; AND

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

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

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

36 2.13.3 THE SECRETARY OF STATE WILL NOTIFY EACH COUNTY OF THE RECORDS CANCELLED IN THAT
37 COUNTY UNDER SECTION 1-2-605(7), C.R.S. ONCE THE CANCELLATION IS COMPLETE.

1 ~~2.13.3~~ 2.13.4 The county must process all records designated for ~~cancellation~~-CANCELLATION by
2 the Secretary of State:

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

4 (B) BEFORE THE COUNTY MAILES BALLOTS THROUGHOUT THE ELECTION.

5 ~~2.13.4~~ 2.13.5 The county must process and mail all confirmation cards using SCORE so that
6 the elector's voter registration record audit log shows the date on which the county
7 printed or extracted the confirmation card.

8 ~~2.13.5~~ To the extent a county has records of confirmation cards it has generated and sent
9 outside of SCORE, the county must retain these records as election records under
10 section 1-7-802, C.R.S.

11 *[No changes to current Rules 2.14 through 2.15.6]*

12 *New Rule 2.15.7 concerning voter registration records and data:*

13 2.15.7 IF A COUNTY RECEIVES INFORMATION FROM A JURISDICTION OUTSIDE OF COLORADO INDICATING
14 THAT A COLORADO VOTER MAY HAVE VOTED IN MORE THAN ONE STATE IN THE SAME ELECTION,
15 THE COUNTY MUST SEND THAT INFORMATION TO THE SECRETARY OF STATE'S OFFICE FOR
16 POTENTIAL INVESTIGATION AND PROSECUTION.

17 *[No changes to current Rules 2.16 and 2.17]*

18 *Amendments to Rule 2.18 and repeal of Rule 2.19:*

19 2.18 If an unaffiliated elector indicates a political party ballot preference at any time up to and including
20 the ~~twenty-ninth~~ TWENTY-SECOND day before a primary election, the county clerk must record the
21 selection in SCORE and mail only the ballot of that political party to the elector in the upcoming
22 primary election. An elector's political party ballot preference is only effective for a single primary
23 election even if there is more than one primary election in a single year.

24 ~~2.19~~ Registration of electors who are confined in a county jail or detention facility

25 ~~2.19.1~~ Before each election, the county clerk must make efforts to coordinate with the sheriff or
26 his or her designee at each county jail or detention center in the county to provide
27 confined eligible individuals an opportunity to register to vote.

28 *[Not shown: renumbering current Rule 2.20 to Rule 2.19]*

29 ~~2.20~~ 2.19 The county clerk must send the county's precinct shape files or maps to the Secretary of
30 State annually, no later than March 1. If the county clerk adjusts precinct boundaries under
31 section 1-5-103, C.R.S., the county must send the Secretary of State updated precinct shape files
32 or maps within 30 days.

33 *Amendments to Rule 6.1.3 concerning appointment of election judges:*

34 6.1.3 If a major political party fails to provide an adequate list of election judges by the 60th day
35 before election day, the county clerk ~~must notify the Secretary of State. The county clerk~~
36 may consider a supplemental list from a major political party ~~after the 60-day deadline.~~

37 *Amendments to Rule 6.8 concerning signature verification judge training:*

1 6.8 A signature verification judge must complete a training course conducted by the county clerk at
2 least once per election cycle. The COUNTY CLERK MUST USE THE Secretary of State ~~must provide or~~
3 ~~approve the training content~~ PROVIDED TRAINING OR PROVIDE THEIR OWN TRAINING. IF THE COUNTY
4 CLERK PROVIDES THEIR OWN TRAINING, IT MUST BE APPROVED BY THE SECRETARY OF STATE BEFORE ITS
5 FIRST USE.

6 *Amendments to Rule 7.1.1 concerning election plans:*

7 7.1.1 The county clerk must submit an election plan to the Secretary of State no later than 420
8 110 days before every election. The county clerk must submit with the election plan all
9 information required by section 1-7.5-105 (1.3), C.R.S.

10 *Amendments to Rule 7.2.4 concerning ballots and ballot packets:*

11 7.2.4 Voiding ballots due to timely changes in address or affiliation.

12 (a) If an elector timely changes his or her address or affiliation after the county mails
13 ballots or sends the voter file to the vendor, the county must void the first ballot
14 and generate a second ballot.

15 (1) If the county processes the change to the elector's record after it sends
16 the voter file to the vendor but before the vendor prints ballots, the
17 county must provide the vendor a voided ballot file to prevent the vendor
18 from printing and preparing voided ballots for mailing.

19 (2) If the county processes the change to the elector's record after the
20 vendor has printed ballots but before the vendor mails ballots, the county
21 must work with the vendor to make every reasonable effort to remove
22 voided ballots before they enter the mail stream.

23 (A) If the county mails its own ballots, the county clerk must remove
24 all voided ballots before mailing.

25 (B) If the county processes the change to the elector's record after it
26 ~~mails ballots~~, THE TIME THAT A VENDOR CAN REMOVE A VOIDED
27 BALLOT, the county must INCLUDE IN THE REPLACEMENT BALLOT,
28 NOTIFICATION TO THE VOTER REGARDING THE REASON A
29 REPLACEMENT BALLOT WAS ISSUED AND INSTRUCTIONS TO DESTROY
30 THEIR ORIGINAL BALLOT AND RETURN ONLY THE REPLACEMENT
31 BALLOT THAT THEY WERE ISSUED.

32 (C) THE COUNTY CLERK MUST count the first ballot returned by the
33 elector in accordance with section 1-7.5-107(6), C.R.S., except
34 where an elector changed his or her affiliation, the county must
35 count the ballot issued for the elector's new party affiliation.

36 *Amendments to Rules 7.2.6, 7.2.7, and 7.2.9:*

37 7.2.6 Each mail ballot return envelope may include the following statement: "I am voluntarily
38 giving my ballot to (name and address) for delivery on my behalf." IF THE COUNTY CLERK
39 INCLUDES THIS STATEMENT ON THEIR RETURN ENVELOPES THEY MUST INCLUDE AN EXPLANATION
40 IN THEIR VOTER INSTRUCTIONS THAT THE VOTER IS NOT REQUIRED TO FILL THIS STATEMENT OUT
41 TO RETURN THEIR BALLOT. If the voter leaves the fillable portion of the statement blank, the
42 county clerk must accept the ballot for counting if it is otherwise valid.

1 7.2.7 ~~Where practicable, the A county THAT USES A VENDOR TO MAIL BALLOTS must print the~~
2 elector's full name under or near the self-affirmation signature line on each ballot return
3 envelope. ~~If not practicable for some or all ballot return envelopes, the county must~~
4 ~~explain why in its election plan.~~

5 *Amendments to Rule 7.2.9:*

6 7.2.9 The mail ballot packet required under sections 1-4-101(2)(b) and 1-4-1203(4)(c), C.R.S.
7 must contain only the ballots of each participating major political party unless a major
8 party's presidential primary election has been ~~anceled~~ CANCELLED under section 1-4-
9 1203(5), C.R.S.

10 *Amendments to Rule 7.2.14 update a cross-reference:*

11 7.2.14 The mail ballot return envelope for each unaffiliated voter in a primary election may
12 provide a means for the county to determine, before opening the envelope, which party's
13 primary election ballot the elector returned. If the mail ballot return envelope does not
14 provide such a means, or the county cannot determine which party's ballot the elector
15 returned before opening the envelope, the county must follow the process outlined in
16 Rule ~~7.5-15-7.4.15~~. The county's determination under this Rule may not rely solely on a
17 voter's self-reported selection (for example, a checkbox).

18 *New Rule 7.2.17:*

19 7.2.17 BALLOT PRINTERS MAY OVERLAY A 2-D BARCODE FOR PURPOSES OF MAILING AND INSERTION
20 PROVIDED THAT IT ONLY CONTAINS THE PRECINCT NUMBER AND BALLOT STYLE NAME AND THE
21 INFORMATION IN THE BARCODE IS NOT TRACEABLE TO ANY INDIVIDUAL VOTER.

22 *Rules 7.3.2 through 7.3.5 concerning emergency ballot transmission are repealed:*

23 ~~7.3.2 Ballots sent by electronic transmission must include all races, ballot issues, and~~
24 ~~questions for which the elector is eligible to vote. The ballot must be legible to avoid~~
25 ~~possible misinterpretations of the elector's intended choice because of poor transmission~~
26 ~~of the document.~~

27 ~~7.3.3 The electronic transmission must include:~~

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

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

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

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

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

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

37 ~~(g) The ballot packet must be in text format on 8 1/2" x 11" white paper and must~~
38 ~~include:~~

- 1 (1) ~~— An electronic transmission coversheet to protect voter privacy;~~
- 2 (2) ~~— The unvoted ballot;~~
- 3 (3) ~~— The electronic transmission ballot instructions; and~~
- 4 (4) ~~— The self-affirmation required by section 1-7.5-107(3)(b.5), C.R.S.~~

5 7.3.4 ~~— The county clerk must maintain a log of each ballot sent by electronic transmission. The~~
6 ~~county clerk must retain the log as part of the official election record along with any other~~
7 ~~electronic transmission records. The log must include:~~

- 8 (a) ~~— The name of the voter;~~
- 9 (b) ~~— The fax number or email address to which the ballot was transmitted (as~~
10 ~~applicable);~~
- 11 (c) ~~— The date the ballot packet was transmitted and received; and~~
- 12 (d) ~~— The initials of the employee transmitting and receiving the ballot.~~

13 7.3.5 ~~— If the county clerk transmits a ballot packet to an elector by fax and the transmission is~~
14 ~~unsuccessful, the county clerk must attempt to fax the ballot at least two more times.~~

15 *New Rule 7.3.2 and subsequent renumbering:*

16 7.3.2 VOTERS WHO REQUEST AN EMERGENCY BALLOT BE SENT TO THEM ELECTRONICALLY MUST BE
17 DIRECTED BY THE COUNTY CLERK TO THE ONLINE BALLOT DELIVERY SYSTEM MAINTAINED BY THE
18 SECRETARY OF STATE TO RECEIVE THEIR BALLOT ELECTRONICALLY. THE SECRETARY OF STATE
19 WILL MAINTAIN INFORMATION REGARDING EMERGENCY BALLOTS ACCESSED USING THE ONLINE
20 BALLOT DELIVERY SYSTEM.

21 ~~7.3.6~~-7.3.3 Upon receipt of the ballot, election judges must verify the signature on the
22 affidavit under Rule ~~7.8~~-7.7. After the signature on the affidavit has been verified, a
23 bipartisan team of election judges must duplicate the ballot following the procedures
24 outlined in Rule 18. Duplicating judges must not reveal how the elector has cast his or
25 her ballot.

26 *Rule 7.4 is repealed:*

27 7.4 ~~— The county clerk must make efforts to coordinate with the sheriff or his or her designee at each~~
28 ~~county jail or detention center to facilitate voting for all confined eligible electors.~~

29 7.4.1 ~~— The county clerk must describe the following in its election plan:~~

- 30 (a) ~~— How the county clerk will provide each county jail or detention center voter~~
31 ~~information materials consistent with materials provided to non-confined eligible~~
32 ~~electors, including at a minimum a list of acceptable forms of identification under~~
33 ~~section 1-1-104(19.5), C.R.S., and the information required by sections 1-40-~~
34 ~~124.5 and 1-40-125, C.R.S.~~
- 35 (b) ~~— The process by which the county clerk and the sheriff or his or her designee will~~
36 ~~facilitate voter registration, and delivery and retrieval of mail ballots for confined~~
37 ~~eligible electors.~~

1 *Rule 7.5 is renumbered and amended as follows:*

2 ~~7.5-~~7.4 Receipt and processing of ballots

3 ~~7.5-1-~~7.4.1 The county clerk must adequately light all drop box locations and use a video
4 security surveillance recording system as defined in Rule ~~4-1.45-~~1.1.44 to monitor each
5 location.

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

7 *[Not shown: renumbering Current Rules 7.5.2 through 7.5.5 to Rules 7.4.2 through 7.4.5]*

8 *[Not shown: renumbering Current Rules 7.5.6 through 7.5.9 to Rules 7.4.6 through 7.4.9]*

9 *Amendments to Rule 7.5.10:*

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

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

15 *Amendments to Rules 7.5.15 and 7.5.16:*

16 ~~7.5-15-~~7.4.15 ~~Unaffiliated voters in a primary election.~~ If an election judge is unable to
17 determine, before opening the envelope, which party's ballot ~~the~~ AN UNAFFILIATED elector
18 returned as outlined in Rule 7.2.9, the county must separate the elector's ballot from the
19 envelope in the following manner:

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

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

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

28 ~~7.5-16-~~7.4.16 If an unaffiliated elector returns more than one ballot in a primary election, a
29 bipartisan team of election judges must review the ballots to determine the elector's intent
30 in accordance with the Secretary of State's Voter Intent Guide.

31 (a) If the bipartisan team determines the elector voted in only one party's primary
32 election, the election judge with access to the envelope must record the party
33 chosen in SCORE under Rule ~~7.5-15(e)-~~7.4.5(c) and the ballot must be counted.
34 The county must retain any unvoted ballot as an election record.

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

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

2 ~~7.6-7.5~~ Ballot returned in unofficial envelope. ~~7.6.1~~——If the county timely receives a mail ballot from
3 an eligible elector in an envelope that is missing or lacks the correct self-affirmation, the county
4 must contact the elector by mail and by electronic mail, if available, within three calendar days of
5 receiving the ballot but no later than two calendar days after election day. The county must use
6 the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official
7 election record. If the county receives the completed affidavit no later than the eighth day after
8 election day, the county must count the ballot. A county that receives a ballot from a voter with a
9 disability covered under section 1-5-706, C.R.S., in an unofficial envelope must accept the ballot
10 for processing if the envelope also contains a signed application from the voter.

11 *Amendments to Rule 7.7 including renumbering:*

12 ~~7.7-7.6~~ Mail ballot cure procedures

13 ~~7.7.1-7.6.1~~ If a mail or provisional ballot return envelope lacks a signature, or a ballot from a
14 voter with a disability covered under section 1-5-706, C.R.S. is returned without an
15 application, or is returned with an application that is not signed, the county clerk must
16 follow the procedures for discrepant signatures outlined in section 1-7.5-107.3(2)(a),
17 C.R.S., except EXCEPT as provided in Rule ~~7.7.4-7.6.4~~, THE COUNTY CLERK MUST FOLLOW
18 THE PROCEDURES FOR DISCREPANT SIGNATURES OUTLINED IN SECTION 1-7.5-107.3(2)(A),
19 C.R.S., IF:

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

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

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

24 (D) A BALLOT FROM A VOTER WITH A DISABILITY COVERED UNDER SECTION 1-5-706,
25 C.R.S., IS RETURNED WITH AN APPLICATION THAT IS NOT SIGNED AND DOES NOT
26 INCLUDE A COPY OF AN ACCEPTABLE FORM OF IDENTIFICATION AS DEFINED BY SECTION
27 1-1-104(19.5), C.R.S.

28 ~~7.7.2-7.6.2~~ The county clerk must use the letter and form prescribed by the Secretary of
29 State and keep a copy as part of the official election record.

30 ~~7.7.3-7.6.3~~ If the county clerk uses any means in addition to mail or electronic mail to contact
31 any elector regarding a missing or discrepant signature or missing ID, he or she must
32 attempt to contact all similarly situated electors whose registration records have the same
33 type of contact information.

34 ~~7.7.4-7.6.4~~ If an elector fails to cure a missing signature, the county clerk need not send a
35 copy of the mail ballot return envelope to the district attorney for investigation.

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

37 ~~7.7.5-7.6.5~~ The county clerk must accept any completed cure form for a missing or
38 discrepant signature, or a missing ID, that the county receives by 11:59 pm MT on the
39 eighth day after the election.

40 *Amendments to Rule 7.8 including renumbering:*

1 ~~7.8-7.7~~ Signature verification procedures

2 ~~7.8-4-7.7.1~~ A single election judge ~~may~~ MUST conduct the first level of signature verification.

3 *[Not shown: renumbering Current Rules 7.8.2 through 7.8.7 to Rules 7.7.2 through 7.7.7]*

4 *New Rule 7.7.8:*

5 7.7.8 THE COUNTY CLERK MUST MAINTAIN:

6 (A) THE NUMBER OF SIGNATURES ACCEPTED AND REJECTED BY EACH ELECTION JUDGE PER
7 BATCH.

8 (B) FOR ELECTION JUDGES CONDUCTING TIER 1 REVIEW, THE NUMBER OF SIGNATURES
9 REJECTED BY EACH ELECTION JUDGE AT THE FIRST LEVEL WHICH WERE LATER
10 ACCEPTED AT THE SECOND LEVEL.

11 *Amendments to Rule 7.8.8 including renumbering:*

12 ~~7.8-8-7.7.9~~ ~~The~~ FOR EVERY 150 BALLOTS REVIEWED BY EACH SIGNATURE VERIFICATION JUDGE,
13 THE county clerk must ~~periodically audit signature verification judges~~ MONITOR THE
14 INFORMATION MAINTAINED BY RULE 7.7.8. If a judge or team of judges has an unexplained,
15 irregular acceptance, ~~or~~ rejection, OR OVERTURN rate, the county clerk MUST INFORM THE
16 SECRETARY OF STATE'S OFFICE AND must retrain or remove that judge or team of judges
17 from conducting signature verification.

18 *New Rule 7.7.10, amendments to Rule 7.8.9, including renumbering:*

19 7.7.10 NO LATER THAN 30 DAYS AFTER THE ELECTION, THE COUNTY CLERK MUST PROVIDE THE
20 INFORMATION MAINTAINED UNDER RULE 7.7.8 TO THE SECRETARY OF STATE'S OFFICE WITH
21 ELECTION JUDGE NAMES ANONYMIZED IN A FORMAT APPROVED BY THE SECRETARY OF STATE.

22 ~~7.8-9-7.7.11~~ The election official must use the letter and the signature verification form
23 approved by the Secretary of State. (~~Section 1-7.5-107.3(2)(a), C.R.S.~~)

24 *[Not shown: renumbering Current Rule 7.8.10 to Rule 7.7.12]*

25 *Amendments to Rule 7.8.11 including renumbering and New Rules 7.7.13(a)(2)(b) and 7.7.13(b)(5):*

26 ~~7.8-11-7.7.13~~ Use of automated Signature Verification Devices under section 1-7.5-107.3(5)(b),
27 C.R.S.

28 (a) The county clerk must test Signature Verification Devices ~~before use in an~~
29 ~~election.~~

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

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

36 (A) A team of bipartisan election officials must manually review the
37 signatures identified on the Automated Signature Recognition

1 report following the procedures in section 1-7.5-107.3, C.R.S.,
2 and this Rule.

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

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

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

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

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

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

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

30 (5) NO LATER THAN 30 DAYS AFTER ELECTION DAY, THE COUNTY CLERK MUST
31 PROVIDE TO THE SECRETARY OF STATE A REPORT OF THE BALLOTS AUDITED
32 UNDER THIS RULE ON THE FORM APPROVED BY THE SECRETARY OF STATE.

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

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

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

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

40 *[Not shown: renumbering Current Rules 7.8.12 and 7.8.13 as Rules 7.7.14 and 7.7.15]*

41 *Amendments to Rule 7.9 including renumbering and repeal of Rule 7.9.1(d):*

1 ~~7.9-7.8~~ Voter service and polling centers

2 ~~7.9-4-7.8.1~~ The county clerk must designate and open the minimum number of voter service
3 and polling centers as required in section 1-5-102.9, C.R.S., for a general election and
4 section 1-7.5-107(4.5), C.R.S., for all other elections.

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

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

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

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

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

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

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

25 ~~7.9-2-7.8.2~~ Voter service and polling center materials include sufficient computer stations for
26 SCORE access, HAVA information, ~~a voting demonstration display, a signature card~~
27 ~~table, signature cards, paper ballots, voting booths or DREs, a provisional voting area,~~
28 and a ballot box.

29 ~~7.9-3-7.8.3~~ In order to assist applicants and electors efficiently, a county clerk must configure
30 voter service and polling centers with sufficient election judges, WebSCORE work
31 stations, voting equipment, and sufficient numbers of mail and in-person ballots that can
32 be tabulated by the county's voting system without further duplication, and other supplies.
33 A county may satisfy this Rule by providing a sufficient number of ballot marking devices
34 or ballot on demand printers.

35 ~~7.9-4-7.8.4~~ Except for voters with disabilities, the maximum allowable time in a voting booth
36 is 15 minutes if there are voters waiting. The Secretary of State may order additional time
37 based on the length of the ballot. ~~[Section 1-7-115, C.R.S.]~~

38 *[Not shown: renumbering Current Rules 7.9.5 through 7.9.8 to Rules 7.8.5 through 7.8.8]*

39 ~~7.9-9-7.8.9~~ Each county must report its WAIT TIME DATA results to the Secretary of State no
40 later than 30 days after the election.

41 *[Not shown: renumbering Current Rules 7.9.10 and 7.9.11 to Rules 7.8.10 and 7.8.11]*

1 *[Not shown: renumbering Current Rules 7.10 and 7.11 to Rules 7.9 and 7.10]*

2 *Amendments to Rule 7.12:*

3 ~~7.12-7.11~~ At each Voter Service and Polling Center, election judges and, if appropriate, election
4 staff, must:

5 ~~7.12-4-7.11.1~~ Provide all services outlined in 1-5-102.9, C.R.S., INCLUDING PROVIDING BLANK
6 CURE FORMS AND COLLECTING COMPLETED CURE FORMS FOR VOTERS WHO WISH TO CURE
7 THEIR BALLOT IN ACCORDANCE WITH SECTIONS 1-2-502.5 (4)(C), 1-7.5-107 (3.5)(D), OR 1-7.5-
8 107.3 (1.5), C.R.S.; and

9 ~~7.12-2-7.11.2~~ Use WebSCORE to register voters; update existing voter registrations; issue and
10 replace mail ballots; and issue, spoil, and replace in-person ballots.

11 *[Not shown: renumbering current Rules 7.13 through 7.17 as Rules 7.12 through 7.16]*

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

13 (b) Violated any of the limitations outlined in Rule ~~8-15~~ 8.14;

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

15 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The
16 six-foot limit in Rule ~~4-1-34~~ 1.1.30 applies only to voting.

17 *Amendments to Rule 8.10.2(a)(4):*

18 8.10.2 Watchers must be permitted access that would allow them to attest to the accuracy of
19 election-related activities. This includes personal visual access at a reasonable proximity
20 to read documents, writings or electronic screens and reasonable proximity to hear
21 election-related discussions between election judges and electors.

22 (a) Election activities include:

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

24 (2) Voter check-in and registration activities.

25 (3) Ballot receipt and processing.

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

28 (5) Ballot duplication.

29 (6) Ballot tabulation.

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

31 (8) Provisional ballot processing.

32 (9) UOCAVA ballot processing.

33 (10) Canvass.

1 (11) Recount.

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

4 *Rule 8.13 is repealed:*

5 ~~8.13 During initial signature review by an election judge, the county clerk may allow a watcher to~~
6 ~~escalate ballot envelope signatures for secondary review by a bipartisan team of election judges.~~

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

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

9 ~~8.15-8.14~~ ~~A watcher may not:~~ A COUNTY CLERK MUST REVOKE THE CERTIFICATE OF A WATCHER WHO:

10 ~~8.15.1-8.14.1~~ ~~Personally interrupt~~ INTERRUPTS or ~~disrupt~~ DISRUPTS the processing, verification,
11 and counting of any ballots or any other stage of the election, ~~except as permitted by the~~
12 ~~county clerk under Rule 8.13.~~ INCLUDING LODGING REPEATED CHALLENGES OF VOTERS OR
13 MAIL BALLOTS ON BASES THAT ARE NOT AUTHORIZED BY STATUTE OR THESE RULES AFTER BEING
14 ADVISED THAT SUCH BASES ARE NOT AUTHORIZED.

15 ~~8.15.2-8.14.2~~ ~~Write~~ WRITES down any ballot numbers or any other personally identifying
16 information about the electors.

17 ~~8.15.3-8.14.3~~ ~~Touch~~ TOUCHES or ~~handle~~ HANDLES the official signature cards, ballots, mail ballot
18 envelopes, provisional ballot envelopes, voting or counting machines, or machine
19 components.

20 ~~8.15.4-8.14.4~~ ~~Interfere~~ INTERFERES with the orderly conduct of any election process, including
21 issuance of ballots, receiving of ballots, and voting or counting of ballots.

22 ~~8.15.5-8.14.5~~ ~~Interact~~ COMMUNICATES with election judges ABOUT THAT JUDGE'S DUTIES WHETHER
23 OR NOT THAT ELECTION JUDGE IS CURRENTLY ON DUTY, UNLESS THE JUDGE IS THE ~~other than a~~
24 designated watcher contact ~~except as permitted by the county clerk under Rule 8.13.~~

25 ~~8.15.6-8.14.6~~ ~~Use~~ USES a mobile phone or other electronic device to make or receive a-AN
26 AUDIO call in any polling location or other place election activities are conducted.

27 ~~8.15.7-8.14.7~~ ~~Use~~ USES any electronic device to take or record pictures, video, or audio in any
28 polling location or other place election activities are conducted.

29 ~~8.15.8-8.14.8~~ ~~Unless otherwise approved by the county clerk, have~~ HAS in his or her THEIR
30 OPEN AND VISIBLE possession any mobile phone or other electronic device while watching
31 election activities where voters' confidential or personally identifiable information is within
32 view.

33 ~~8.15.9-8.14.9~~ ~~Attempt~~ ATTEMPTS to determine how any elector voted.

34 ~~8.15.10-8.14.10~~ ~~Disclose~~ DISCLOSES or ~~record~~ RECORDS any confidential voter information as
35 defined in section 24-72-204(8), C.R.S., that he or she may observe.

36 ~~8.15.11-8.14.11~~ ~~Disclose~~ DISCLOSES any results before the polls have closed.

1 8.14.12 ATTEMPTS TO INTIMIDATE OR INTERFERE WITH AN ELECTION JUDGE OR OTHER ELECTION
2 OFFICIALS DURING THE DISCHARGE OF THAT JUDGE OR OFFICIAL'S DUTIES.

3 ~~8.16-8.15 Unless the county clerk has established another process, if~~ IF a watcher disputes a
4 decision made by an election judge or alleges a discrepancy, the watcher must alert the
5 designated watcher contact.

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

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

8 9.1.1 Under Section 1-9-201, C.R.S., an election official, watcher, or eligible elector of the
9 precinct may challenge an elector's right to vote. A person whose eligibility is challenged
10 while voting in-person, must be offered a regular ballot by an election judge if the person
11 ~~satisfactorily~~ answers the applicable challenge questions CONFIRMING THEIR ELIGIBILITY AS
12 specified in section 1-9-203, C.R.S., and this Rule. If the person challenged ~~provides~~
13 ~~unsatisfactory answers or~~ refuses to answer the challenge questions OR DOES NOT
14 OTHERWISE CONFIRM THEIR ELIGIBILITY, an election judge must offer the person a
15 provisional ballot.

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

18 9.2 Challenging a mail ballot voter

19 9.2.1 CHALLENGES OF A MAIL BALLOT MUST BE MADE IN WRITING ON THE FORM APPROVED FOR USE BY
20 THE SECRETARY OF STATE AND MUST INCLUDE ALL INFORMATION REQUIRED ON THE FORM.
21 ONCE FILLED OUT, THE CHALLENGE MUST BE DELIVERED TO A SUPERVISOR JUDGE WHO DID NOT
22 MAKE THE CHALLENGE. THE ELECTION JUDGE WHO RECEIVES THE CHALLENGE MUST ATTACH
23 THE CHALLENGE FORM TO THE MAIL BALLOT BEING CHALLENGED AND PROCESS THE CHALLENGE
24 IN ACCORDANCE WITH THIS RULE 9.

25 ~~9.2.1-9.2.2~~ If an individual challenges a mail ballot ~~under section 1-9-207, C.R.S.,~~ FOR
26 FORGERY OF A DECEASED PERSON'S SIGNATURE ON THE MAIL BALLOT ENVELOPE OR FOR
27 SUBMISSION OF MULTIPLE BALLOTS BY THE SAME VOTER FOR THE SAME ELECTION, the election
28 judge must forward the ballot to two other election judges of different political party
29 affiliations DESIGNATED BY THE COUNTY CLERK who must JOINTLY review the elector's
30 eligibility to vote. AT THEIR REQUEST, THE ELECTION JUDGES MAY RECEIVE ASSISTANCE IN
31 MAKING THEIR ELIGIBILITY DETERMINATION FROM COUNTY CLERK STAFF. A CHALLENGE FOR
32 SUBMISSION OF MULTIPLE BALLOTS UNDER THIS RULE DOES NOT APPLY TO AN UNAFFILIATED
33 VOTER WHO RETURNS MORE THAN ONE PARTY'S BALLOT.

34 (a) If both election judges determine the ~~elector is not eligible under section 1-9-207,~~
35 ~~C.R.S., the judges must follow the procedures in section 1-7.5-107.3(2), C.R.S.~~
36 MAIL BALLOT SHOULD NOT BE COUNTED BECAUSE THEY BELIEVE IT CONTAINS A
37 FORGERY OF A DECEASED PERSON'S SIGNATURE ON THE MAIL BALLOT ENVELOPE, OR
38 THEY BELIEVE IT IS ONE OF MULTIPLE BALLOTS CAST BY THE SAME VOTER FOR THE
39 SAME ELECTION, THEN THE FOLLOWING STEPS MUST BE TAKEN BY THE COUNTY CLERK:

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

41 (A) NOTIFICATION THAT THEIR BALLOT HAS BEEN CHALLENGED;

42 (B) A COPY OF THE CHALLENGE FORM;

- 1 (C) A FORM FOR THE ELIGIBLE ELECTOR TO RETURN CONFIRMING THAT
 2 THE ELECTOR RETURNED THEIR MAIL BALLOT OR DID NOT RETURN
 3 MORE THAN ONE MAIL BALLOT AS APPLICABLE;
- 4 (D) INSTRUCTIONS TO THE ELIGIBLE ELECTOR TO RETURN A COPY OF THE
 5 ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5);
 6 C.R.S., AND
- 7 (E) NOTIFICATION TO THE ELIGIBLE ELECTOR THAT THE CHALLENGE AND
 8 ELECTOR'S RESPONSE MUST BE REFERRED TO THE DISTRICT
 9 ATTORNEY UNDER SECTION 1-9-209, C.R.S.
- 10 (2) NOTIFICATION OF THE CHALLENGE MUST BE SENT WITHIN THREE DAYS AFTER
 11 THE CHALLENGE HAS BEEN MADE, BUT NO LATER THAN TWO DAYS AFTER
 12 ELECTION DAY.
- 13 (3) THE CHALLENGED BALLOT MUST BE COUNTED IF THE BALLOT IS OTHERWISE
 14 VALID AND THE COUNTY CLERK RECEIVES THE FORM FROM THE ELIGIBLE
 15 ELECTOR WITHIN EIGHT DAYS AFTER ELECTION DAY, INCLUDING:
- 16 (A) A STATEMENT THAT THE ELECTOR RETURNED A MAIL BALLOT TO THE
 17 COUNTY CLERK AND RECORDER OR DID NOT VOTE MORE THAN ONCE
 18 IN AN ELECTION AS APPLICABLE; AND
- 19 (B) A COPY OF THE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-
 20 1-104 (19.5), C.R.S.
- 21 (4) IF THE COUNTY CLERK RECEIVES A FORM INDICATING THAT THE ELECTOR DID
 22 NOT RETURN A BALLOT TO THE COUNTY CLERK, OR IF THE ELIGIBLE ELECTOR
 23 DOES NOT RETURN THE FORM WITHIN EIGHT DAYS AFTER ELECTION DAY, THE
 24 SELF-AFFIRMATION ON THE RETURN ENVELOPE MUST BE CATEGORIZED AS
 25 INCORRECT, AND THE BALLOT MAY NOT BE COUNTED.
- 26 (b) ~~If both~~ EITHER election judges determine JUDGE DETERMINES the elector is eligible
 27 and that elector's signature is valid, CHALLENGE SHOULD BE REJECTED, THEN THE
 28 COUNTY CLERK ~~the election judges~~ must count the elector's ballot if it is
 29 OTHERWISE VALID. UNLESS THE CHALLENGE IS WITHDRAWN, THE COUNTY CLERK MUST
 30 SEND THE CHALLENGED VOTER:
- 31 (1) A COPY OF THE CHALLENGE ALONG WITH NOTIFICATION THAT THE CHALLENGE
 32 WAS REJECTED;
- 33 (2) NOTIFICATION THAT THE BALLOT WAS COUNTED;
- 34 (3) INSTRUCTIONS TO THE ELECTOR ALLOWING THEM TO OTHERWISE RESPOND TO
 35 THE CHALLENGE; AND
- 36 (4) NOTIFICATION THAT THE CHALLENGE AND ELECTOR'S RESPONSE MUST BE
 37 REFERRED TO THE DISTRICT ATTORNEY UNDER SECTION 1-9-209, C.R.S.

38 ~~9.2.2 Unless the challenge is withdrawn, the county clerk must notify a voter whose ballot was~~
 39 ~~challenged. The notification must include a copy of the challenge form, the disposition of~~
 40 ~~the ballot, and a statement that the matter will be referred to the district attorney under~~
 41 ~~section 1-9-209, C.R.S. The county clerk must provide a copy of the notification to the~~
 42 ~~challenger upon request.~~

1 9.2.3 IF AN INDIVIDUAL CHALLENGES A MAIL BALLOT FOR ANY REASON OTHER THAN FOR FORGERY OF A
2 DECEASED PERSON'S SIGNATURE OR FOR SUBMISSION OF MULTIPLE BALLOTS CAST BY THE SAME
3 VOTER FOR THE SAME ELECTION, THE ELECTION JUDGE MUST FORWARD THE CHALLENGE TO THE
4 COUNTY CLERK AND OTHERWISE PROCESS THE MAIL BALLOT AS NORMAL. UNLESS THE
5 CHALLENGE IS WITHDRAWN, THE COUNTY CLERK MUST SEND THE CHALLENGED VOTER:

6 (A) A COPY OF THE CHALLENGE;

7 (B) NOTIFICATION THAT THE BALLOT WAS COUNTED;

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

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

12 9.2.4 FOLLOWING THE ELECTION, THE COUNTY CLERK MUST SEND A COPY OF ALL CHALLENGES THAT
13 HAVE NOT BEEN WITHDRAWN, ALONG WITH ANY RESPONSES RECEIVED FROM THE CHALLENGED
14 VOTERS, TO THE DISTRICT ATTORNEY AS REQUIRED BY SECTION 1-9-209, C.R.S.

15 *Amendments to Rule 10.1.5 concerning precavass accounting:*

16 10.1.5 ~~Designated Election Official's disposition of forms~~

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

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

22 *Amendments to Rule 10.2.5 concerning appointment to the Canvass Board:*

23 10.2.5 ~~Appointment of Canvass Workers.~~ The designated election official may appoint
24 canvass workers to help prepare and conduct the canvass.

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

26 10.3 Duties of the Canvass Board

27 10.3.1 The canvass board must make its determinations by majority vote in accordance with
28 section 1-10-101.5(1)(c), C.R.S.

29 10.3.2 The canvass board's ONLY duties are to:

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

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

33 (2)(1) ~~Reconcile~~ RECONCILING the number of ballots counted to the number of
34 ballots cast; and

- 1 (f) The number of in-person ballots counted;
- 2 ~~(g) The number of emergency replacement ballots, including totals for:~~
- 3 ~~(1) Ballots accepted; and~~
- 4 ~~(2) Ballots rejected by each code.~~
- 5 ~~(h) The number of ballots returned by voters with a disability covered under section~~
6 ~~1-5-706 C.R.S.~~
- 7 ~~(i)(G) The number of damaged and spoiled ballots.~~
- 8 ~~(i)(H) If applicable, the number of ballots cast in each party's primary election, including~~
9 ~~totals for:~~
- 10 (1) Ballots accepted in each party's primary election by affiliated and
11 unaffiliated voters; and
- 12 (2) Ballots rejected by each code.

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

14 10.6.3 IF A MAJORITY OF THE CANVASS BOARD VOTES NOT TO CERTIFY THE ABSTRACT OF VOTES CAST
15 OR DOES NOT MAKE A FINAL DETERMINATION BY THE DEADLINE TO CERTIFY THE ABSTRACT OF
16 VOTES CAST, THE COUNTY CLERK MUST FORWARD THE ABSTRACT THAT HAS NOT BEEN
17 CERTIFIED TO THE SECRETARY OF STATE ALONG WITH A REPORT FROM THE CANVASS BOARD
18 DESCRIBING WHY THE ABSTRACT HAS NOT BEEN CERTIFIED. UPON RECEIVING AN ABSTRACT
19 UNDER THIS RULE, OR IF THE COUNTY CLERK DOES NOT PROVIDE THE ABSTRACT TO THE
20 SECRETARY OF STATE BY THE DEADLINE TO CERTIFY THE ABSTRACT OF VOTES CAST, THE
21 SECRETARY OF STATE WILL CONSIDER WHETHER TO CANVASS THE RETURNS UNDER SECTION 1-
22 10-104, C.R.S.

23 *Amendments to Rule 10.8.2 concerning the Secretary of State's role concerning the canvass board:*

24 10.8.2 The county clerk or ~~the~~ ANY canvass board MEMBER may request that the Secretary of
25 State provide guidance and support to the canvass board in the exercise of the board's
26 duties.

27 *Rule 10.12.3, concerning testing recount equipment, is repealed:*

28 ~~10.12.3 In a county using a voting system certified before January 1, 2016, the county clerk must~~
29 ~~test the VVPAT records from at least one of the DREs that had votes cast on the ballot~~
30 ~~styles containing the race or measure being recounted.~~

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

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

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

37 ~~10.13.4 To recount ballots using "Ballot Now":~~

- 1 (a) ~~Back up the official election database.~~
- 2 (b) ~~Open Ballot Now with an unused Mobile Ballot Box (MBB) from the election and~~
3 ~~create a Ballot Now recount database.~~
- 4 (c) ~~Scan and resolve all recount ballots according to this Rule 10.~~
- 5 (d) ~~Save all recount Cast Vote Records to the MBBs after verifying that the number~~
6 ~~of ballots processed matches the number of votes cast in the recount contest.~~
- 7 (e) ~~Open a new recount election in "Tally" and process the recount MBBs following~~
8 ~~the tabulation procedures above.~~
- 9 (f) ~~Compare recount results to original results and document any differences.~~
- 10 (g) ~~Backup the test database and the official recount database.~~

11 ~~10.13.5~~ 10.13.4 To recount ballots by hand count.

- 12 (a) If the tabulation of the original count was conducted by hand count, the recount
13 must be conducted by hand count.
- 14 (b) Ballots must be counted in batches of 25 to ensure that the number of ballots
15 recounted matches the number originally counted.
- 16 (c) Votes must be counted by individual hash marks in 25-count sections by two
17 different judges.

18 ~~10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule 10.12.3, the~~
19 ~~county clerk must upload the memory cards.~~

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

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

- 23 (d) Conducting the Test
 - 24 (1) The county and Testing Board must observe the tabulation of all test
25 ballots, compare the tabulation with the previously retained records of
26 the test vote count, and correct any discrepancies before the device is
27 used in the election.
 - 28 (2) The county must reset the public counter to zero on all devices and
29 present ~~zero tapes of~~ THE summary report to the Testing Board for
30 verification.
 - 31 (3) The county must make an appropriate number of voting devices
32 available and the Testing Board may witness the programming of
33 devices necessary for the test.
 - 34 (4) The Testing Board and designated election official must count the test
35 ballots as follows, as applicable:
 - 36 (A) Ballot Scanners:

- 1 (i) The Testing Board must test at least one central count
2 ballot scanner ~~and at least one ballot scanner used at a~~
3 ~~voter service and polling center, if applicable.~~
- 4 (ii) The Testing Board must randomly select the machines
5 to test.
- 6 (iii) The Testing Board must count the board and county's
7 test ballot batches separately and generate reports to
8 verify that the machine count is identical to the
9 predetermined tally.

10 ~~(B)~~ DREs:

- 11 ~~(i) The Testing Board must test at least one DRE.~~
- 12 ~~(ii) The Testing Board must randomly select the machines~~
13 ~~to test.~~
- 14 ~~(iii) Each member of the Testing Board must separately cast~~
15 ~~his or her test ballots on the selected DREs. Each~~
16 ~~Testing Board member must cast at least one of his or~~
17 ~~her test ballots using the audio ballot playback and~~
18 ~~accessible input devices.~~
- 19 ~~(iv) Each Testing Board member must examine the~~
20 ~~tabulation tape or report and verify that the DRE results~~
21 ~~match what the Testing Board member manually marked~~
22 ~~on his or her test ballots.~~

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

- 24 (i) The Testing Board must randomly select and test at
25 least one BMD.
- 26 (ii) At least two members of the Testing Board must use the
27 selected BMD to mark and print at least 25 ballots in the
28 same manner that the testing board member manually
29 marked his or her test ballots. At least two members of
30 the Testing Board must mark at least one of his or her
31 test ballots using the audio ballot playback and
32 accessible input devices.
- 33 (iii) A Testing Board member or county election official must
34 separately scan and tabulate the test ballots marked with
35 and printed from the BMD on one central count or polling
36 location scanner, and generate a results report.
- 37 (iv) Each Testing Board member must verify that the results
38 report generated from the scanner exactly corresponds
39 to the testing board member's tally of the votes on the
40 manually marked paper ballots comprising his or her test
41 ballots.

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

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

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

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

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

15 ~~11.8.3-11.8.2 In the case of electromechanical or electronic voting systems, devices or related~~
16 ~~components certified for use in Colorado on or after January 1, 2016, the THE Secretary~~
17 ~~of State will approve a political subdivision's application to purchase, lease, or use the~~
18 ~~voting system, device, or related component, after considering all relevant factors,~~
19 ~~including without limitation:~~

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

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

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

24 (3) A county using the Dominion, Hart, or Clear Ballot voting system must
25 include and populate the contest sequence number field in its results
26 files to define the order of contests on the ballot as required by this Rule.

27 (4) ~~A county using the Premier voting system must include and populate the~~
28 ~~contest ID field in its results file to define the order of contests as~~
29 ~~required by this Rule.~~

30 *Amendment to rule 11.10.1:*

31 11.10 Reports or materials required by this Rule may be submitted to the voting systems team:

32 11.10.1 By delivery to:

33 Colorado Secretary of State
34 Attn: Voting Systems
35 1700 Broadway – Suite 200 550
36 Denver, CO 80290

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

38 *Amendments to Rule 15.1:*

1 15.1 The following requirements apply to candidate, statewide initiative, recall, MINOR PARTY CREATION,
2 and referendum petitions, unless otherwise specified.

3 15.1.1 Petition template for state petitions

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

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

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

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

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

17 *Amendments to Rule 15.1.2. Portions of Current Rules 15.4 are amended and re-codified under Rule*
18 *15.1.2 as follows:*

19 15.1.2 PETITION SUBMISSION

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

23 ~~15.4.3(B) Staff~~ THE SECRETARY OF STATE OR DEO will inspect each petition section
24 for evidence of disassembly. If it appears that the section was disassembled, the
25 Secretary of State OR DEO will reject all signatures in the section.

26 ~~15.4.6(C) Staff will count each line with writing on each petition section. For~~
27 ~~purposes of this Rule, an "entry" means a counted line with writing. At the bottom~~
28 ~~of each page, staff will write the number of entries on that page and, on the face~~
29 ~~of each petition section, staff will write the total number entries for that section.~~
30 THE SECRETARY OF STATE OR DEO WILL CONSIDER ANY SIGNER LINE WITH WRITING
31 ON IT AS A REVIEWABLE LINE, EVEN IF THE LINE IS INCOMPLETE OR PARTIALLY CROSSED
32 OUT.

33 ~~15.4.6(a)(D) Staff~~ THE SECRETARY OF STATE OR DEO will not count REVIEW LINES THAT
34 ARE blank or completely crossed-out lines.

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

37 ~~15.4.5(E)~~ If the number of lines SUBMITTED is less than the number of signatures
38 required to certify the measure to ACCESS the ballot, the Secretary of State OR
39 DEO will issue a statement of insufficiency AND WILL NOT REVIEW SIGNER LINES OR
40 APPLY DUPLICATES TO FUTURE CANDIDATE PETITION SUBMISSIONS FOR THE SAME
41 OFFICE OR RECALL PETITIONS OF THE SAME OFFICEHOLDER.

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

3 *Amendments to Rule 15.1.3(c) concerning circulator affidavit:*

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

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

9 15.1.4 Verifying individual entries

- 10 (a) Staff will check each individual entry against the information contained in
11 SCORE.
- 12 (b) Staff will create and maintain a master record of each accepted and rejected
13 entry, along with the reason code for each rejected entry.
- 14 (c) If an entry does not match the signor's current information in SCORE, staff must
15 check the signor's information in SCORE as of the date the signor signed the
16 petition.
- 17 (d) Secretary of State or DEO staff will reject the entry if:
- 18 (1) The name on the entry is not in SCORE;
- 19 (2) The middle initial or middle name on the entry does not match the middle
20 initial or middle name in SCORE;
- 21 (3) The address on the entry does not match the RESIDENTIAL address in
22 SCORE;
- 23 ~~(4) The address on the entry is a post office box; THE ENTRY ADDRESS~~
24 ~~CONTAINS INFORMATION, SUCH AS A NUMBER, APARTMENT NUMBER, OR~~
25 ~~STREET DIRECTION THAT CONTRADICTS THE SCORE ADDRESS;~~
- 26 ~~(5) The entry is incomplete;~~
- 27 ~~(6)~~(4) The signer completed the entry before the designated election official
28 approved the petition format;
- 29 ~~(7)~~(5) The signer was not an eligible elector at the time he or she completed
30 the entry;
- 31 ~~(8)~~(6) The signer completed the entry after the date on the circulator affidavit;
- 32 ~~(9)~~(7) Evidence exists that some other person assisted the signer in completing
33 the entry but no statement of assistance accompanies the entry;
- 34 ~~(10)~~(8) The name and signature on the entry is illegible and cannot be verified in
35 SCORE;

- 1 ~~(11)~~(9) The entry is a duplicate of a previously accepted entry on the same
2 petition; or
- 3 ~~(12)~~(10) For a candidate petition where an elector may sign only one
4 petition for the same office, the entry is a duplicate of a previously
5 accepted entry on a ~~previously filed~~ petition THAT WAS DECLARED
6 SUFFICIENT OR INSUFFICIENT AFTER LINES WERE REVIEWED for the same
7 office.
- 8 ~~(13)~~(11) The signer's information appears outside of a numbered
9 signature block on a petition section.
- 10 ~~(14)~~(12) For a candidate petition, the address on the entry does not
11 match the current residential or mailing address for the elector in
12 SCORE.
- 13 (e) Secretary of State or DEO staff will ~~accept the~~ NOT USE ANY OF THE FOLLOWING
14 DISCREPANCIES AS THE SOLE REASON TO REJECT AN entry if:
- 15 (1) The name on an entry matches or is substantially similar to the
16 information in SCORE, or if the signature on an entry is a common
17 variant of the name;
- 18 (2) A middle initial or middle name is present on the entry but not in SCORE,
19 or present in SCORE but not on the entry;
- 20 (3) A name suffix is present on the entry but not in SCORE, or present in
21 SCORE but not on the entry; or
- 22 (4) THE PRINTED NAME IS MISSING OR ILLEGIBLE BUT THE SIGNATURE CAN BE
23 READ;
- 24 ~~(4)~~(5) The address on the entry is missing an apartment letter or number or a
25 street direction, OR THE ADDRESS ENTRY CONTAINS AN APARTMENT LETTER
26 OR NUMBER OR A STREET DIRECTION THAT IS MISSING IN THE VOTER
27 REGISTRATION RECORD;
- 28 (6) THE COUNTY NAME IS MISSING, ABBREVIATED, OR WRONG;
- 29 ~~(5)~~(7) For a candidate petition AND RECALL PETITIONS, the address provided did
30 not match the current residence address information in SCORE, but did
31 match the current mailing address information in SCORE;
- 32 (8) ON A SIGNER LINE, THE DATE IS MISSING BUT A LINE ABOVE OR BELOW HAS AN
33 ACCEPTABLE DATE; OR
- 34 (9) FOR SECRETARY OF STATE REVIEWED PETITIONS ONLY, THE YEAR OF THE
35 DATE IS MISSING OR WRONG.

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

38 15.2 Petition entity license, registration, filing, and circulation

1 15.2.1 A petition entity that intends to pay petition circulators must obtain a petition entity
2 license, pay a fee, and register with the Secretary of State before circulating INITIATIVE,
3 CANDIDATE, AND RECALL petitions. The license application must include:

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

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

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

7 ~~(e)~~(D) An affirmation that:

8 (1) ~~the~~ THE designated agent has read and understands Article 4, ARTICLE
9 12, and Article 40 of Title 1, C.R.S.; ~~and~~

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

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

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

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

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

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

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

27 15.2.2 Before compensating a circulator, the designated agent must register with the Secretary
28 of State by submitting a signed form that includes a list of the proposed initiatives and/or
29 the candidate or candidate committee's name the petition entity will circulate.

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

33 15.2.4 A petition entity may renew an expired license without a fee by submitting a new license
34 application.

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

1 15.3.2 The petition circulator must provide a permanent residence address on the circulator
2 affidavit. ~~If the circulator is not a permanent Colorado resident, the circulator must also~~
3 ~~provide the Colorado address where he or she temporarily lives.~~

4 (a) For purposes of Article 40 of Title 1, C.R.S., and this Rule, a circulator's
5 permanent "residence" or "domicile" means his or her principal or primary home
6 or place of abode in which a circulator's habitation is fixed and to which the
7 circulator, whenever absent, has the present intention of returning after a
8 departure or absence, regardless of the duration of the absence. A permanent
9 "residence" or "domicile" is a permanent building or part of a building and may
10 include a house, condominium, apartment, room in house, or mobile home.
11 Except as provided in paragraph (b) of this Rule, a vacant lot, business address,
12 or post office box is not a permanent "residence" or "domicile". ~~(Sections 1-2-~~
13 ~~102(1)(a)(i) and 1-40-121(1)(b), C.R.S.)~~

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

17 (c) For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-121(2)(a), and
18 1-40-135(2)(c), C.R.S., a circulator's permanent residence address that does not
19 comply with this Rule 15.4.2 is a "false address".

20 ~~15.3.3 Proponents may file a petition or addendum only once, and may not supplement~~
21 ~~additional signatures after filing the petition or addendum, even if the additional~~
22 ~~signatures are offered before the deadline to submit the original petition or addendum.~~

23 *Amendments to Rule 15.4:*

24 15.4 Statewide initiative petition receipt by Secretary of State

25 15.4.1 The Secretary of State will not accept a petition that lists proponents other than those
26 authorized by law.

27 15.4.2 Upon receipt of a petition, Secretary of State staff will consecutively number petition
28 sections.

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

30 ~~15.4.4~~ 15.4.3 Staff will consecutively number each line on each petition section. For purposes
31 of this Rule, "line" means the block of information that contains the last name, first name,
32 middle initial, county, signing date, street address, city, and signature of a petition signer.

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

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

35 *Rule 15.6 is repealed:*

36 ~~15.6 Curing insufficient statewide initiative petitions~~

37 ~~15.6.1 If petition proponents submit additional signatures within the permitted time, Secretary of~~
38 ~~State staff will verify the additional signatures in accordance with this Rule 15.~~

1 ~~15.6.2 If the Secretary of State found the original submission insufficient based on the random~~
2 ~~sample verification, staff will add the number of additional valid signatures to the number~~
3 ~~of projected valid signatures in the original submission.~~

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

6 ~~(b) If the new projected number of valid signatures equals more than 90% but less~~
7 ~~than 110% of the required signatures, staff will verify all previously submitted~~
8 ~~signatures. Staff will add the total number of valid signatures in the original~~
9 ~~petition to the number of additional valid signatures submitted in the addendum in~~
10 ~~order to determine sufficiency.~~

11 ~~15.6.3 If the initial verification was of every signature, staff will add the number of additional valid~~
12 ~~signatures to the number of valid signatures in the original submission in order to~~
13 ~~determine sufficiency.~~

14 ~~15.6.4 Staff will issue a new statement of insufficiency or sufficiency that reports the total~~
15 ~~number of valid signatures submitted.~~

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

17 *Amendments to Rule 16.2.2, concerning Military and Overseas Voters (UOCAVA) and electronic*
18 *transmission, including New Rule 16.2.2(a) and necessary renumbering:*

19 16.2.2 The electronic transmission must include:

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

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

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

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

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

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

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

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

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

35 (2) The unvoted ballot; AND

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

1 ~~(4) The self-affirmation required by section 1-8.3-114, C.R.S., and Rule~~
2 ~~16.2.3.~~

3 *Amendments to Rule 16.2.3:*

4 16.2.3 The self-affirmation must include the standard oath required by the Uniformed and
5 Overseas Citizen Voting Act ~~(52 U.S.C. sec. 20301(b)(7) and 20302(a)(5))~~, the elector's
6 name, date of birth, signature, and the following statement: I also understand that by
7 returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a
8 secret ballot and that Colorado law requires that I return this ballot by a more secure
9 method, such as mail, if available and feasible. ~~(Sections 1-8.3-113 and 1-8.3-114,~~
10 ~~C.R.S.)~~

11 *Amendments to Rule 16.2.6 update a cross-reference:*

12 16.2.6 Upon receipt of a voted ballot sent by electronic transmission, the county clerk must
13 verify the elector's signature in accordance with Rule ~~7-8-7.7~~. After the affidavit has been
14 verified, a bipartisan team of judges must duplicate the ballot. Duplicating judges must
15 not reveal how the elector voted.

16 *Part of Rule 16.2.7(b) is repealed:*

17 16.2.7 A military or overseas elector whose registration record is inactive may download an
18 application and ballot using the electronic ballot delivery system.

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

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

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

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

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

28 *[No changes to Rule 17]*

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

30 18.4 Ballot Duplication

31 18.4.1 A resolution board must duplicate a voter's choices or selections on a damaged ballot
32 onto a blank ballot of the same ballot style in accordance with Rule 18.4. During the
33 duplication process, and to the extent necessary, the resolution board must also resolve
34 overvotes, write-in votes, and ambiguous markings in accordance with Rule 18.5. During
35 ballot duplication, two ~~additional~~ election judges must observe or review the work of each
36 resolution board. In a partisan election, the observing election judges must be
37 representatives of each major political party.

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

1 20.3.3 Only election officials or canvass board members sworn under oath are allowed to handle
2 ballots, which include VVPAT records.

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

5 20.4 Physical locking mechanisms and seals. The county must record the serial number of every seal
6 on the appropriate chain-of-custody log. Two individuals must verify, and indicate by signing and
7 dating the log, that the seal serial numbers match the logged serial numbers. If a seal is
8 inaccessible and cannot be removed, then it is not necessary to verify that seal serial number.

9 20.4.1 ~~DREs, BMDs, and Judge's Booth Controllers (JBCs)~~

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

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

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

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

20 ~~20.4.2 Before attaching a VVPAT to a specific voting device, the county must seal the unit after~~
21 ~~verifying that no votes were cast. At least two election officials must verify that seals are~~
22 ~~intact before the start of voting, and at the close of voting. VVPAT records must either~~
23 ~~remain in the VVPAT canister, or be sealed and secured in a suitable device for~~
24 ~~protecting privacy or as described in Rule 20.13.~~

25 ~~20.4.3 Ballot scanners~~

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

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

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

33 ~~20.4.4-20.4.2 Memory cards and activation~~ ACTIVATION cards

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

37 (b) The county must handle ~~memory cards and~~ activation cards in a secure manner
38 at all times. The county must transfer and store any card or activation card ~~that is~~
39 ~~not sealed in a voting machine~~ in a secure container with at least one seal. Upon
40 delivery and receipt, election judges or county personnel must verify, and

1 indicate by signing and dating the chain-of custody log, that all seal numbers
2 match those listed in the log.

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

5 (d) The county must maintain a complete inventory of ~~memory cards and~~ activation
6 cards, including which VSPC they are assigned to during an election. Before and
7 after a VSPC opens and closes each day, the supervisor judge must verify that
8 all cards issued to the VSPC are present. If at any time the supervisor judge
9 cannot account for all activation cards issued to the VSPC, the supervisor judge
10 or a member of the county election staff must immediately submit an incident
11 report to the Secretary of State under Rule 11.7.

12 *Amendments to Rule 20.5:*

13 20.5 Access to secure areas AND VOTING SYSTEMS

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

15 20.5.4 Voting system access security

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

21 (1) An employee of the county clerk;

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

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

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

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

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

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

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

4 *Amendments to Rule 20.7:*

5 20.7 The county must keep all components of the voting system, ballots, servers, workstations, ~~DREs,~~
6 ballot scanners, BMDs, ~~VPAT records,~~ and video data records in a temperature-controlled
7 storage environment that maintains a minimum temperature of 50 degrees Fahrenheit and a
8 maximum temperature of 90 degrees Fahrenheit. The storage environment must be dry with
9 storage at least four inches above the floor. The county must provide the Secretary of State with
10 a description of the specific environment used for each type of component.

11 *New Rule 20.9.4 concerning security cameras or other surveillance:*

12 20.9.4 VIDEO FOOTAGE CREATED UNDER THIS RULE MUST BE MAINTAINED AS AN ELECTION RECORD
13 UNDER SECTION 1-7-802, C.R.S.

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

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

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

18 20.11 Transportation of equipment, ~~memory cards,~~ ballot boxes, and ballots

19 20.11.1 The county must submit detailed plans to the Secretary of State before an election
20 regarding the transportation of equipment and ballots both to remote voting sites and
21 back to the central elections office or storage facility. If there is any evidence of possible
22 tampering with a seal, or if the seal numbers do not match those listed in the chain-of-
23 custody log, the county clerk must be immediately notified and must follow the
24 procedures specific to the incident as described in Rule 20.15. While the method of
25 transportation of equipment may vary, the following standards apply:

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

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

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

1 20.11.2 Standards for transporting voting equipment to and from the voting location:

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

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

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

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

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

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

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

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

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

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

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

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

37 *Rule 20.13 is repealed:*

38 20.13 ~~Procedures for voter-verifiable paper record (VVPAT). The following requirements apply only to~~
39 ~~DREs with a VVPAT.~~

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

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

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

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

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

16 20.13.2-20.13 Anonymity. The designated election official must implement measures to protect the
17 anonymity of voters choosing to vote on DREs

18 (a)-20.13.1 Measures to protect anonymity include:

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

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

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

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

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

34 20.13.3 Storage. The storage of the VVPAT records must be consistent with storage of paper
35 ballots under section 1-7-802, C.R.S.

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

38 (1) — Date and name of election;

39 (2) — Name of voting location;

- 1 ~~(3) — Dates and times of voting;~~
- 2 ~~(4) — Machine serial number of DRE associated with the record; and~~
- 3 ~~(5) — Number of spools associated with this machine for this election (i.e.~~
- 4 ~~“Spool 1 of 1”, or “Spool 1 of 2”, etc.).~~

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

9 *Amendments to Rule 20.14.2, concerning security training for election officials, include repeal of Rule*
10 *20.14.2(d):*

11 20.14.2 Security training must include the following components:

- 12 (a) Proper application and verification of seals and chain-of-custody logs;
- 13 (b) How to detect tampering with voting equipment, memory cards, or election data
- 14 on the part of anyone coming in contact with voting equipment, including election
- 15 officials, vendor personnel, or voters;

- 16 (c) Ensuring privacy in voting booths;

- 17 ~~(d) — VVPAT requirements;~~

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

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

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

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

23 *Amendments to Rule 20.15.1(c), including repeal of Rule 20.15.1(c)(3):*

24 20.15 Remedies

25 20.15.1 If a seal is broken, or there is another discrepancy, the election official must immediately
26 notify the county, who must remedy the discrepancy as follows:

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

- 28 (c) If the evidence indicates that the discrepancy occurred after votes were cast or
- 29 printed on the device:
 - 30 (1) The county may not continue to use the machine until verification or
 - 31 reinstallation of trusted build and acceptance testing is complete.

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

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

- 1 (i) ~~The county must close the election on that device, and perform a~~
2 ~~complete manual verification of the paper ballots (or VVPAT~~
3 ~~records) to the summary tape printed on the device that~~
4 ~~represents the record of votes on the memory card.~~
- 5 (ii) ~~If the totals do not match then only the paper record will be~~
6 ~~accepted as the official results for that device. The county must~~
7 ~~re-seal and secure the device and immediately report the~~
8 ~~discrepancy to the Secretary of State. The county must not use~~
9 ~~the device for the remainder of the election unless the trusted~~
10 ~~build is reinstated.~~
- 11 (iii) ~~If the totals match, the county may upload the memory card into~~
12 ~~the election management software at the close of polls.~~
- 13 (iv) ~~After verifying the totals, the county must secure the paper~~
14 ~~records and memory card with seals and a chain-of-custody log.~~
- 15 (4)-(3) The county must verify the trusted build or the Secretary of State must
16 reinstall trusted build. Where the county can display, verify, or print the
17 hash value (MD5 or SHA-1) of the firmware or software, the county must
18 document and verify that the hash value matches the documented
19 alphanumeric string associated with the trusted build for the software or
20 firmware of that device.
- 21 (5)-(4) The county must complete the necessary seal process and
22 documentation to establish the chain-of-custody for the device and
23 memory card.
- 24 (6)-(5) The county must set the machine to election mode ready for a zero
25 report before resuming voting on the device.
- 26 (7)-(6) Before certifying election results, the county must conduct a full (all
27 contests) random audit on the device under Rule 25.3 and report results
28 to the Secretary of State. This requirement is in addition to the post-
29 election audit required by Rule 25.2 or 25.3.

30 *Amendments to Rule 20.19.4, concerning voting systems conditions for use, including repeal of Rules*
31 *20.19.4(a) and (c):*

32 20.19.4 DREs

- 33 (a) ~~The county's election judges must:~~
- 34 (1) ~~Test the VVPAT printer immediately after changing the VVPAT paper;~~
35 ~~and~~
- 36 (2) ~~Lock and re-seal the VVPAT canister, and make appropriate entries on~~
37 ~~the VVPAT chain-of-custody log, before voting resumes on the DRE.~~
- 38 (b) ~~At least one DRE BMD in each voter service and polling center must have a~~
39 ~~backup battery, or be connected to an uninterruptible power supply, sufficient to~~
40 ~~sustain continuous operation for a minimum of two hours in the event of power~~
41 ~~loss.~~

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

2 *Rules 20.19.5, 20.20, and 20.21 are repealed:*

3 20.19.5 Ballot scanners:

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

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

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

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

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

16 20.20 ~~ES&S voting system conditions~~

17 ~~20.20.1 If the county must provide language minority assistance under section 203 of the Voting~~
18 ~~Rights Act (42 U.S.C. §§ 1973 to 1973bb-1), it may not use an ES&S voting system.~~

19 ~~20.20.2 DREs. The county may only use the nine inch screen on the VVPAT.~~

20 ~~20.20.3 For ballot scanners with a zip disk drive, the county must save the cast vote records for~~
21 ~~each batch of tabulated ballots to a zip disk. A batch of tabulated ballots may consist of~~
22 ~~one or more SCORE absentee ballot batches.~~

23 ~~20.21 Hart DRE conditions. If a county shortens a lengthy candidate name on the VVPAT, it must~~
24 ~~provide printed notice of the change to voters at the voter service and polling center.~~

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

27 21.3.5 The vendor must identify any material it asserts is exempt from public disclosure under
28 the Colorado Open Records Act, Part 2, Article 72 of Title 24, C.R.S., together with a
29 citation to the specific grounds for exemption before beginning Phase III V of the
30 certification process.

31 *Amendments to Rule 21.4.1:*

32 21.4 Voting System Standards

33 21.4.1 The 2002 Voting Systems Standards are incorporated by reference. Material
34 incorporated by reference in the Election Rules does not include later amendments or
35 editions of the incorporated material. Copies of the material incorporated by reference
36 may be obtained by contacting the Federal Election Commission, 999 E Street NW,
37 Washington, DC, 20463, 800-424-9530. ~~Copies are also available online at~~
38 ~~http://www.eac.gov/testing_and_certification/voluntary_voting_system_guidelines.aspx.~~

1 *Amendments to Rule 21.4.5(f) concerning functional requirements:*

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

4 *Amendments to Rule 21.4.11(g) concerning documentation requirements:*

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

8 (1) Operating Systems (workstation, server, ballot scanner, AND BDM, ~~and~~
9 ~~DRE~~);

10 (2) Election management system; and

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

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

14 21.5.1 Voting system provider demonstration

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

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

22 (1) System overview;

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

25 (3) Ballot definition creation;

26 ~~(4) Printing ballots on demand;~~

27 ~~(5)-(4) Hardware diagnostic testing;~~

28 ~~(6)-(5) Programming election media devices; for various counting methods~~
29 ~~including:~~

30 ~~(A) Mail ballots;~~

31 ~~(B) In-person ballots; and~~

32 ~~(C) Provisional ballots;~~

33 ~~(7)-(6) Sealing and securing system devices;~~

34 ~~(8)-(7) Logic and accuracy testing;~~

1 system, in whole or in part. An investigation by the Office of the Secretary of State may
2 include, but is not limited to, the review or inspection of the voting system component at
3 issue.

- 4 (a) Any person installed any uncertified or decertified voting system component;
- 5 (b) A county breaks the chain-of-custody for any component of a voting system by
6 allowing any individual not authorized by Rule 20.5.4 access to that component;
- 7 (c) A county submits an incident report regarding a component of a voting system
8 and the Secretary of State finds that the chain-of-custody cannot be
9 reestablished securely;
- 10 (d) A component of a voting system experiences repeated hardware failures or
11 malfunctions of a similar nature; or
- 12 (e) The Secretary determines that the integrity or security of a voting system component
13 cannot be verified and that chain-of-custody cannot be reestablished securely.

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

15 21.7.4 The Secretary of State will notify a county of the prohibition or limitation on use or
16 decertification of a component of a voting system under Rule 21.7.3 and the county must
17 immediately cease using that component.

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

20 21.7.5 In accordance with section 1-5-621, C.R.S., the Secretary of State will hold a public
21 hearing to consider the decision to decertify a voting system IF A POLITICAL SUBDIVISION OR
22 PROVIDER OF A VOTING SYSTEM THAT IS DECERTIFIED HAS REQUESTED IN WRITING THAT THE
23 SECRETARY OF STATE RECONSIDER.

24 *New Rule 21.7.6:*

25 21.7.6 IF ANY VOTING SYSTEM CURRENTLY CERTIFIED IN COLORADO IS NOT USED BY ANY POLITICAL
26 SUBDIVISION FOR TWO CONSECUTIVE GENERAL ELECTIONS, THE SYSTEM MAY BE DECERTIFIED
27 FOR USE.

28 *Amendments to Rule 21.10.1 and 21.10.2:*

29 21.10 Escrow of voting system software and firmware by voting system provider. The voting system
30 provider must meet the requirement for software escrow per the following:

31 21.10.1 The voting system provider must place in escrow a copy of the election management
32 software, firmware, and supporting documentation being certified with either the
33 Secretary of State or an independent escrow agent approved by the Secretary of State.
34 [~~Section 1-7-511, C.R.S.~~]

35 21.10.2 Within ten days of the voting system provider receiving notification of examination of
36 voting equipment as part of the certification process, the voting system provider must
37 arrange for the completion of escrow requirements as indicated by this Rule.

38 *Amendments to Rule 21.10.12:*

1 21.10.12 Copies of electronic media and supporting documentation for escrow within the
2 Secretary of State will be sent to:

3 Colorado Secretary of State
4 Attn: Voting Systems
5 1700 Broadway – Suite 200 550
6 Denver, CO 80290

7 *Amendments to Rule 23.1.3 concerning the Bipartisan Election Advisory Commission:*

8 23.1.3 Meetings

9 (a) ~~The Commission must meet no fewer than three times annually.~~ THE SECRETARY
10 OF STATE WILL SET THE TIME AND LOCATION FOR THE COMMISSION TO MEET.

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

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

15 *Amendments to Rule 24.3.3 concerning filing presidential elector vacancies:*

16 24.3.3 Nominees to fill vacancies must be selected in accordance with section 1-4-302 (2),
17 C.R.S. ~~There must be more vacancy nominees than vacancies to be filled.~~

18 *Amendments to Rule 25.1.7 concerning definitions related to post-election audit:*

19 25.1.7 “Risk-limiting audit” or “RLA” means a post-election audit of votes on paper ballot cards
20 and ~~VVPAT~~ records, conducted in accordance with section 1-7-515, C.R.S., and Rule
21 25.2, which has a pre-specified minimum chance of requiring a full hand count if the
22 outcome of a full hand count would differ from the reported tabulation outcome.

23 *Amendments to Rules 25.2.2(d-i) and (l) concerning preparing for risk limiting audit, including repeal of*
24 *Rule 25.2.2(d)(2):*

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

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

35 ~~(2) — In the case of paper ballots scanned on polling location scanners, and~~
36 ~~electronic ballots cast on DREs, the ballot manifest must uniquely~~
37 ~~identify the device on which the ballot is cast or tabulated, the number of~~
38 ~~ballots or ballot cards cast or tabulated on the device, and the storage~~
39 ~~container or location in which the paper ballots or VVPAT is stored. The~~
40 ~~county must maintain and document uninterrupted chain-of-custody for~~
41 ~~each polling location scanner, DRE, and VVPAT, and all ballots cast on~~

1 ~~an individual polling location scanner or DRE must constitute a single~~
2 ~~batch.~~

3 (e) RLA tabulation. On the ~~ninth~~ TENTH day after election day, the county must finish
4 tabulating all in-person and accepted mail ballots cast by voters registered in the
5 county. The county may but is not required to include in the RLA tabulation any
6 provisional ballots and property owner ballots that have been verified and
7 accepted on or before the ninth day after election day. Immediately after
8 completing the RLA tabulation, and to the extent permitted by its voting system,
9 the county must also generate and preserve:

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

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

14 (3) A CVR export.

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

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

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

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

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

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

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

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

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

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

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

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

3 (i) Random seed. The Secretary of State will convene a public meeting on the tenth
4 THIRTEENTH day after election day to establish a random seed for use with the
5 Secretary of State's RLA tool's pseudo-random number generator based on
6 Philip Stark's online tool, *Pseudo-Random Number Generator using SHA-256*.
7 This material is incorporated by reference in the Election Rules and does not
8 include later amendments or editions. The following material incorporated by
9 reference is posted on the Secretary of State website and available for review by
10 the public during regular business hours at the Colorado Secretary of State's
11 office: *Pseudo-Random Number Generator using SHA-256* available at
12 [https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.ht](https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html)
13 [ml](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
14 calendar days in advance. The seed is a number consisting of at least 20 digits,
15 and each digit will be selected in order by sequential rolls of a 10-sided die. The
16 Secretary of State will randomly select members of the public who attend the
17 meeting to take turns rolling the die, and designate one or more staff members to
18 take turns rolling the die in the event that no members of the public attend the
19 meeting. The Secretary of State will publish the seed on the Audit Center
20 immediately after it is established.

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

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

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

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

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

36 *Repeal of Rule 25.3:*

37 ~~25.3—Random Audit. If the Secretary of State waives the requirement to conduct an RLA under section~~
38 ~~1-7-515(2)(b), C.R.S., the designated election official must conduct the random audit mandated~~
39 ~~by sections 1-7-509(1)(b) and 1-7-514, C.R.S., in accordance with this rule.~~

40 ~~25.3.1—Selected voting devices~~

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

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

4 25.3.2 — The designated election official must appoint an audit board to conduct the post-election
5 audit in accordance with section 1-7-509(1)(c), C.R.S. At least two canvass board
6 members must observe the random audit. The designated election official, members of
7 his or her staff, and other duly appointed election judges, may assist with the audit.

8 25.3.3 — Number of ballots to audit

9 (a) — Paper ballots tabulated on ballot scanners. The board must audit at least 500
10 ballots or 20 percent of the ballots tabulated on each selected ballot scanner,
11 whichever is less. The board may audit more than the minimum number of
12 ballots required.

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

15 25.3.4 — Conducting the audit

16 (a) — Paper ballots tabulated on ballot scanners

17 (1) — If the voting system is capable of generating batch level tabulation
18 reports for a selected ballot scanner, the board must randomly select a
19 number of ballot batches tabulated on the ballot scanner that, in the
20 aggregate, contain the minimum number of ballots to be audited. The
21 board must manually verify that the votes on the ballots contained in
22 each randomly selected batch match the voting system's tabulation of
23 votes for that batch.

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

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

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

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

37 (b) — Ballots tabulated on DREs. The board must examine the VVPAT record of each
38 selected DRE and manually verify that the votes reflected on the VVPAT match
39 the tabulation report.

40 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~~
2 ~~correct;~~
- 3 (b) ~~Confirm that the manual count of the votes contained in the audited ballots~~
4 ~~properly reflects overvotes, stray marks on the ballot, and other indications of~~
5 ~~voter intent;~~
- 6 (c) ~~Determine whether any discrepancy is attributable to a damaged ballot; and~~
- 7 (d) ~~Take any other action necessary in accordance with the canvass board's powers~~
8 ~~as described in Part 1, Article 10 of Title 1, C.R.S.~~

9 ~~25.3.6 The designated election official must report the results of the audit in writing to the~~
10 ~~Secretary of State by 5:00 p.m. on the last day to canvass. The audit report may be~~
11 ~~submitted by mail, fax, or email. The audit report must contain:~~

- 12 (a) ~~The make, model, and serial number of the voting devices audited;~~
- 13 (b) ~~The number of ballots originally counted on each device or the number of ballots~~
14 ~~audited;~~
- 15 (c) ~~The count of the specific contests on the summary report printed at the close of~~
16 ~~polls and the report generated for the audit;~~
- 17 (d) ~~The count of the specific contests as manually verified;~~
- 18 (e) ~~Any other information required by section 1-7-514, C.R.S.; and~~
- 19 (f) ~~The signatures of the audit board, the canvass board members who observed~~
20 ~~the audit, and the designated election official.~~

21 ~~25.3.7 The designated election official must segregate and seal the materials used during the~~
22 ~~post election audit, including all tabulation reports, the audited ballots, and the audit~~
23 ~~report.~~

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

25 *Repeal of Rule 27 placeholder and publication annotation:*

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