

## Andrea Gyger

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**Subject:** FW: new rules hearing 6/15

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**From:** Harvie Branscomb [mailto:harvie@media.mit.edu]  
**Sent:** Tuesday, June 15, 2010 4:54 PM  
**To:** Judd Choate; Wayne Munster  
**Cc:** Bernie Buescher; 'Teak Simonton'; 'joseph richey'  
**Subject:** FW: new rules hearing 6/15

To whom these public comments should be addressed. Please forward to the appropriate party:

Brief remarks concerning changes to election rules, June 15 2010 by Harvie Branscomb  
Please advise if the period for public comment has been extended beyond today.

Repeal of Rule 14.6.9 would revise the process for review of voter intent.

*[ It originally said “Ballots shall be reviewed for voter intent.” Now repealed!]*

*[This rule change will have the effect of eliminating the requirement that voter intent be considered for every ballot in an election. The effect will be to leave the interpretation of the voting system in use and in its extant condition as the final determining factor what the voter intended to mark on the ballot. Because other attendant rule changes have the effect of limiting selection of ballots for duplication to specific categories, not including probable failure of the voting system to recognize voter intent, this legally leaves the voting system less accurate than before the rule change- and these new rules could have the effect of preventing a clerk of high integrity from going out of the way to insure that voter intent is correctly interpreted. This is a very unfortunate and destructive change to the rules. Designated election officials must be at a minimum given the opportunity to insure that voter intent is properly judged and not be prevented from doing so. It is demonstrable that certain voting systems will incorrectly interpret ballots where light marks are interpreted as undervotes. When these systems are operated with undervote detection turned off- it is unlikely and may now become impossible for the combination of electromechanical system and election judge(s) to be able to correct the error. Meanwhile increasing numbers of ballots are processed by central count systems where the voter is not present. Likewise it is getting unpopular to use undervote detection even when the voter is present at a precinct polling place. A far more accurate system would result from ALWAYS using undervote detection and using “none of the above” or similar choices to reduce the frequency of deliberate undervoting. I am afraid the current rule might be interpreted to mean that undervote detection may not be turned on- because this has the effect of sorting ballots for undervotes. Also voter intent involving outside the target marks are not humanely handled for interpretation of voter intent under these rules.]*

*Please do not remove the language from 14.6.9.]*

Amendments to Rule 27.4.2 would revise central count optical scan procedures. Specifically, the amendments would require an initial review of every ballot. Damaged ballots would be noted as such, duplicated, and kept separate from the standard run ballots for the precinct. Additionally, the amendments clarify that a voter’s intent shall be reviewed for every ballot that requires duplication.

[this is a wise procedure to avoid having problematic ballots read by the scanner- but it does create an uneven treatment of ballots- I might be inclined to pour coke on my ballot to make sure it is actually read by hand- although the result would be another ballot that has been marked by the resolution board, rather than simply a hand count of my ballot. In a write-in race- it may be an advantage to have the resolution board copy the ballots to insure that they will be read correctly by the machine]

[The new language says:” A voter’s intent shall be reviewed for every ballot that requires duplication.” This means that with the removal of the language in 14.6.9, now only ballots pre-selected for duplication are checked for voter intent- but meanwhile every ballot is checked for “damage” that includes foreign material and media other than that called for in the instructions. Voter intent should be checked for ANY mark that is less than 100% sure to be interpreted correctly by the voting system]

Amendments to Rule 27.6 would establish that every duplicated ballot shall be subject to the process for determining voter intent and that such ballots shall be counted with all other ballots, however, duplicated ballots must be maintained separately for greater accessibility.

[what it says is this: Every duplicated ballot shall be subject to the process for determining voter intent outlined in Rule 27.7- this creates two classes of ballots- those that are duplicated and those that are not- for purposes of determining voter intent- there is nothing in the criteria for damaged ballot that requires that poorly marked ballots will have the advantage of being duplicated- although ballots considered blank by the scanner will be looked at for possible duplication- this leaves out ballots with some light marks incorrectly interpreted as undervotes- since the scanner is not required to reject on undervote. These ballots with poor marks on them will not be looked at for voter intent under these new rules.]

[Basically what we are doing is providing for hand count for duplicated ballots only- and letting the machine resolve all other situations, meanwhile the current rules for voter intent cause the election judges to act like machines- instead of actually deciding voter intent in a human manner- this is enforced by the consistency rule- all marks must be voted in the same manner, if not correctly marked, for any of them to count. If even one mark is done “correctly” all other evidence of voter intent is disregarded. This previously adopted rule is horrible treatment for voters- but it is convenient for election judges. It is not new in this rulemaking- it was done in a previous year but a true application of checking for voter intent should be allowed if not required.]

Amendments to Rule 27.7.4.3 would create a consistent standard for interpreting voter intent of a write-in vote by requiring that the target area be marked in the appropriate space in order for the vote to be counted.

[the above description is not correctly describing the rule change- the new language removes the following text: “and during the initial count for hand counted paper ballots pursuant to section 1-7-305 CRS” This change has the effect that the rule that allows a write-in to be counted even if the target for write –in is not marked only applies now to the recount situation. This is also convenient for machine counting, but bad for vote tabulation accuracy.]

[It is important for batch integrity to be maintained for ballots and duplicated ballots- so at a minimum a marking system must be employed to allow tracking of each ballot back to its origin by batch of ballots.]

**Harvie Branscomb**  
Eagle County