

Preliminary Draft of Proposed Rules

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

July 15, 2014

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 14, 2014 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 **August 8, 2014**.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]*

2 *Amendments to Current Rule 1:*

3 *[Currents 21.1.1, 21.1.2, 21.1.3, 21.1.4, 21.1.5, 21.1.6, 21.1.9, 21.1.10, 21.1.13, 21.1.18, 21.1.21*
4 *are amended and incorporated into Rule 1 as follows]*

5 **Rule 1. Definitions**

6 1.1 As used in these Rules, unless stated otherwise:

7 ~~21.1.1~~ 1.1.1 “Audio ballot” means a voter interface containing the list of all candidates,
8 ballot issues, and ballot questions upon which an eligible elector is entitled to vote
9 in an election. It also provides the voter with audio stimuli and allows the voter to
10 communicate voting intent to the voting system through vocalization or physical
11 actions.

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2013). 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. (2013). “[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 ~~21.1.2~~1.1.2 “Audit log” means a ~~system-generated~~ record GENERATED BY A VOTING
2 SYSTEM, in printed or electronic format, providing a record of activities and
3 events relevant to initializing election MANAGEMENT software and hardware,
4 INCLUDING the identification of files containing election parameters, initializing
5 the tabulation process, processing voted ballots, and terminating the tabulation
6 process.

7 ~~21.1.3~~1.1.3 “Ballot image” means a DIGITALLY CAPTURED IMAGE OF A PAPER BALLOT
8 OR A ~~corresponding~~ representation in electronic form of the marks or vote
9 positions of a cast ballot ~~that are captured by~~ ON a DRE ~~or a digitally retained~~
10 image of a ballot.

11 ~~21.1.4~~1.1.4 “Ballot marking device” (BMD) means a device that may integrate
12 components such as an optical scanner, printer, touch-screen monitor, audio
13 output, and a navigational keypad and uses electronic technology to:

- 14 (a) Mark a paper ballot at voter direction;;
- 15 (b) Interpret the ballot selections;;
- 16 (c) Communicate the interpretation for voter verification; and ~~then~~
- 17 (d) Print a voter-verified ballot.

18 ~~1.1.1~~1.1.5 “Ballot measure” means a ballot issue or ballot question as defined in
19 sections 1-1-104(2.3) and (2.7), C.R.S.

20 ~~1.1.2~~1.1.6 “Blank ballot” means a ballot on which the voter has made no marks in
21 any voting position, has marked with an unreadable marker, or has consistently
22 marked outside of the “read” area of the scanner.

23 ~~21.1.5~~1.1.7 “Ballot style” means a specific ballot layout or content for an election. The
24 ballot style is the presentation of the unique combination of contests and
25 candidates for which the voter is eligible to vote. It includes the order of contests
26 and candidates, the list of ballot positions for each contest, and the binding of
27 candidate names to ballot positions within the presentation. Multiple precincts
28 may use a single ballot style. Multiple styles may appear in a single precinct
29 where voters are split between two or more districts or other categories defining
30 voter eligibility for particular contests and candidates.

31 ~~1.1.3~~1.1.8 “Canvass workers” means workers appointed or hired by the designated
32 election official to assist in the preparation and conduct of the canvass.

33 ~~1.1.4~~1.1.9 “Central count” means the county’s principal ballot counting and
34 processing location.

35 ~~1.1.5~~1.1.10 “Chain-of-custody log” means a written record showing that a voting
36 system component or data, election record or other item is secured and in the

1 documented and uninterrupted possession and control of an election official
2 through the entire time of a jurisdiction's ownership, use or retention.

3 ~~21.1.6~~1.1.11 "Closed network" means a network CONFIGURATION IN WHICH VOTING
4 SYSTEM COMPONENTS CONNECT TO AND COMMUNICATE ONLY WITH EACH OTHER
5 AND NOT WITH THE INTERNET OR ANY OTHER COMPUTER NETWORK. ~~structure in~~
6 ~~which devices are not connected to the internet or other office automation~~
7 ~~networks, except as allowable under this Rule.~~

8 ~~1.1.6~~1.1.12 "Damaged ballot" means a ballot that is torn, bent, or otherwise mutilated
9 or rendered unreadable, so that it cannot be processed by the optical scanner ballot
10 reader. Damaged ballots include:

11 (a) All ballots that contain a foreign substance that could interfere with the
12 optical scan machine (e.g. food, drink, etc.).

13 (b) Ballots that are marked in a medium or manner other than indicated in the
14 ballot instructions.

15 (c) Ballots that the elector marked in a way that would disclose his or her
16 identity.

17 (d) "Data entry county" means a county using an election management system
18 that exports a file to be ~~directly~~ uploaded to the Election Night Results system.

19 (e) "Designated election official" includes the designated election official's
20 spouse, partner, or deputized designee.

21 (f) "Direct Recording Electronic voting device" (DRE) means a voting device
22 that visually displays or audibly presents a ballot and records an elector's votes
23 directly into electronic storage media.

24 (g) "Duplicated ballot" means a ballot for which a true copy must be made for
25 the ballot to be properly processed and counted because of damage, improper
26 marking, or any issue that would prevent a ballot tabulating machine from
27 accurately counting the ballot.

28 ~~1.1.11~~1.1.17 "Election complaint" means a complaint filed with the Secretary of State
29 under Articles 1 through 13 of Title 1, C.R.S.

30 ~~21.1.9~~1.1.18 "Election management system" MEANS THE HARDWARE AND SOFTWARE
31 APPLICATIONS USED TO CONFIGURE, PROGRAM, AND REPORT ELECTION RESULTS
32 FROM ONE OR MORE VOTING SYSTEM COMPONENTS, ~~includes,~~ INCLUDING the ballot
33 definition ~~subsystem~~—and the election reporting subsystem. The election
34 management system may provide utilities for other election administration tasks,
35 including maintaining equipment inventories, estimating ballot printing needs,
36 and maintaining information on voter service and polling centers.

Suggest to strike
Directly. Per
security
requirements,
conditions of use, it
is not possible to
export a file directly
to ENR because
the county based
tabulation system
cannot be
networked.



1 ~~21.1.10~~1.1.19 “Election media” means any device including a cartridge, card, memory
2 device, or hard drive used in a voting system for the purposes of storing election
3 setup records (ballot or card styles), recording voting results from electronic vote
4 tabulating equipment, or any other data storage required by the voting system for
5 a particular election function. The election management system typically
6 downloads ballot style information to the election media and uploads results and
7 ballot images from the election media.

8 ~~1.1.12~~1.1.20 “Election setup records” means the electronic records, often in the form of
9 a database or a set of databases, generated by election MANAGEMENT software to
10 create and define ballots, tabulation instruction, and other functions related to the
11 election.

12 ~~1.1.13~~1.1.21 “Election MANAGEMENT software” means the software for election
13 equipment or computers that controls election setup vote recording, vote
14 tabulation, and reporting.

15 ~~1.1.14~~1.1.22 “Electronic ballot” means a non-paper ballot such as on a touch screen or
16 through audio feedback. After a voter casts an electronic ballot, the voter’s
17 choices must be:

- 18 (a) Marked and printed on a paper ballot for subsequent counting by a paper
19 ballot scanning device; or
- 20 (b) Digitally recorded and counted by the touch screen device, commonly
21 referred to as a Direct Recording Electronic (DRE) device.

22 ~~1.1.15~~1.1.23 “Electronic Transmission” means:

- 23 (a) For the purpose of sending an unvoted ballot:
- 24 (1) To a military or overseas elector under Article 8.3 of Title 1,
25 C.R.S., by fax, email, or online ballot delivery.
- 26 (2) To an elector requesting a replacement for an emergency under
27 section 1-7.5-115, C.R.S., by fax or email.
- 28 (3) To an affected elector requesting a ballot because of a disaster
29 emergency ~~under Rule 7.4.7.~~
- 30 (b) For the purpose of returning a voted ballot to the county clerk fax or
31 email.

32 ~~1.1.16~~1.1.24 “Firmware” means computer programs stored on read-only memory
33 devices or other electronic circuitry in voting devices that control the basic
34 operation and function of those devices.

1 ~~1.1.17~~1.1.25 “Help America Vote Act complaint” or “HAVA complaint” means a
2 complaint filed with the Secretary of State under Title III of the Help America
3 Vote Act (HAVA) and Article 1.5 of Title 1, C.R.S.

4 ~~1.1.18~~1.1.26 “Immediate voting area” means the area that is within six feet of the
5 voting equipment, voting booths, and the ballot box.

6 ~~1.1.19~~1.1.27 “Manual entry county” means a county that does not use an election
7 management system to export data to the Election Night Results system.

8 ~~1.1.20~~1.1.28 “Official Observer” means either an observer appointed by the Secretary
9 of State or an observer appointed by the federal government and approved by the
10 Secretary of State. Official Observers may be present in all phases of the election
11 process and perform duties as may be assigned by the Secretary of State, but are
12 subject to Rules and regulations as prescribed by the Secretary of State.

Optical scanner
(400C, Sequoia)
should be separate
from digital scanner
(hart). Proposed
Optical scanner
definition: the
process of
interpreting data in
printed, handwritten,
bar-code or other
visual form by a
device. In Hart the
optical scanner does
not tabulate, its a
separate system that
tabulates.
Suggestion: add
'and/or' in front of
tabulates.

~~1.1.29~~1.1.29 “Optical scanner” means an ELECTROMECHANICAL DEVICE THAT
INTERPRETS, TABULATES, AND STORES IN DIGITAL FORM MARKINGS ON PAPER
BALLOTS. ~~optical or digital ballot scanner.~~

~~21~~1.1.30 “Overvote” means an instance where the elector marked votes for more
than the maximum number of candidates or responses for a ballot measure.

~~22~~1.1.31 “Qualified political organization” means an organization that has placed a
candidate for congressional or state office on the ballot in a congressional vacancy
or general election, whose officers have filed proof of organization with the
Secretary of State, and that continues to meet the requirements of Rules 3.3 and
3.4. [*Baer v. Meyer* , 728 F.2d 47 (10th Cir. 1984)]

~~23~~1.1.32 “Related to the second degree” means spouse, civil union partner, parents,
children, brothers and sisters, grandparents, and grandchildren.

~~24~~1.1.33 “Removable card or cartridge” means a programming card or cartridge,
except a voter activation card, that stores firmware, software, or data.

~~25~~1.1.34 “SCORE” means the centralized statewide registration system and the
computerized statewide voter registration list described in Part 3 of Article 2 of
Title 1.

29
30 ~~1.1.26~~1.1.35 “Seal” means a serial-numbered tamper-evident device that, if broken or
31 missing, indicates that the chain-of-custody is broken and a device is not secure.

32 ~~21.1.18~~1.1.36 “Split precinct” means a precinct that has a geographical divide between
33 one or more political jurisdictions which results in each jurisdiction within the
34 precinct to be assigned different ballot styles for a specific election.

- 1 ~~1.1.27~~1.1.37 “Statement of Ballots Form” means the form used at the polling location
2 that accounts for all ballots at that location and includes all information required
3 by Rule 10.
- 4 ~~1.1.28~~1.1.38 “Target area” means the square, oval, incomplete line, or incomplete
5 arrow corresponding to the candidate’s name or ballot response (examples: “Yes”,
6 “No”, “For” or “Against”) on a paper ballot.
- 7 ~~1.1.29~~1.1.39 “Teleprocessing lines” means secure, dedicated communication
8 transmission facilities used for the purpose of accessing SCORE, and ensuring the
9 security and integrity of voting information so that no deviation can go
10 undetected.
- 11 ~~1.1.30~~1.1.40 “Trusted build” means the write-once installation disk or disks for
12 software and firmware for which the Secretary of State has established the ~~chain~~
13 ~~of evidence~~ CHAIN-OF-CUSTODY to the building of the disk(s), which is then used
14 to establish or re-establish the chain-of-custody of any component of a voting
15 system that contains firmware or software. The trusted build is the origin of the
16 ~~chain-of-evidence~~ CHAIN-OF-CUSTODY for any software and firmware component
17 of the voting system.
- 18 ~~1.1.31~~1.1.41 “Undervote” means an instance where the voter marked votes for fewer
19 than the maximum number of candidates or responses for a ballot measure.
- 20 ~~1.1.32~~1.1.42 “Video security surveillance recording” means video monitoring by a
21 device that continuously records a designated location or a system using motion
22 detection that records one frame, or more, per minute until detection of motion
23 triggers continuous recording.
- 24 ~~1.1.33~~1.1.43 “Voting system” as defined in section 1-1-104(50.8), C.R.S., means:
- 25 (a) The total combination of mechanical, electromechanical, or electronic
26 equipment (including the software, firmware, and documentation required
27 to program, control, and support the equipment) that is used to:
- 28 (1) Define ballots;
- 29 (2) Cast and count votes;
- 30 (3) Report or display election results; and
- 31 (4) Maintain and produce any audit trail information.
- 32 (b) The practices and associated documentation used to:
- 33 (1) Identify system components and versions of such components;
- 34 (2) Test the system during its development and maintenance;

- 1 (3) Maintain records of system errors and defects;
- 2 (4) Determine specific system changes to be made to a system after
- 3 the initial qualification of the system; and
- 4 (5) Make available any materials to the voter (such as notices,
- 5 instructions, forms, or paper ballots).

6 (c) “Voting system” does not include any other component of election
7 administration, such as voter registration applications or systems,
8 electronic pollbooks, ballot delivery and retrieval systems, signature
9 verification and ~~ballot~~ ENVELOPE sorting devices, ballot on demand
10 printers, election night reporting and other election reporting systems, and
11 other components used throughout the election process that do not capture
12 and tabulate votes.

13 ~~21.1.21~~ 1.1.44 “Voting system test laboratory” (VSTL) means a federally accredited
14 laboratory, as defined in section 1-1-104(16.5), C.R.S., which is accredited by the
15 EAC to conduct ENTITY THAT CONDUCTS certification testing for voting systems.

16 ~~1.1.34~~ 1.1.45 “VVPAT” has the same meaning as in section 1-1-104(50.6), C.R.S.

17 ~~1.1.35~~ 1.1.46 “Watcher” has the same meaning as in section 1-1-104(51), C.R.S.

18 (a) A watcher may be appointed for a recall election in the same manner as in
19 a primary election.

20 (b) For the purpose of appointing a watcher, the proponent or opponent of a
21 ballot measure means a registered issue committee supporting or opposing
22 the ballot measure.

23 (c) A designated watcher need not be a resident of the county he or she is
24 designated in as long as he or she is an eligible elector in the State of
25 Colorado.

26 ~~1.1.36~~ 1.1.47 “Write-in vote” means a vote where the voter physically writes in the
27 name of a qualified write-in candidate in the space reserved on the ballot for
28 write-in votes and properly marks the target area according to voter instructions.

29 ~~1.1.37~~ 1.1.48 “Zero tape” means a printout of the internal data registers in electronic
30 vote-tabulating equipment indicating a zero value before any ballots are tabulated
31 on that machine.

32 *Rule 2.1 is amended as follows:*

33 **Rule 2. Voter Registration**

34 2.1 Submission of voter registration forms

1 2.1.1 An applicant may submit a properly executed voter registration form to the county
2 clerk in person, by mail, by fax, by online voter registration, or as an email
3 attachment.

4 ~~2.1.2 All applications submitted by mail, fax, or as an email attachment are mail~~
5 ~~registrations. [Section 1-2-501, C.R.S.]~~

6 2.1.3-2.1.2 If any portion of a mail application is illegible, the county clerk must
7 notify the applicant of the additional information required in accordance with
8 section 1-2-509, C.R.S.

9 2.1.4-2.1.3 For submitting applications by fax, email, or online voter registration,
10 close of business is 11:59 p.m. MT.

11 ~~2.1.5~~-2.1.4 Under section 1-2-508, C.R.S., the effective date of a voter registration
12 application received by the Secretary of State is the date of the postmark, if
13 legible. If there is no legible postmark, the effective date is the date the
14 application is received.

15 ~~2.1.6 If a county clerk receives a paper voter registration application other than in-~~
16 ~~person between 21 and 7 days before election day, the county clerk must send the~~
17 ~~applicant notification by regular mail, or email if provided, within one business~~
18 ~~day stating that the application is received but the applicant will not receive a~~
19 ~~ballot by mail. The notice must state that, if the applicant wishes to vote in the~~
20 ~~upcoming election, the applicant must register:~~

21 (a) ~~Through the online voter registration system on or before the eighth day~~
22 ~~before election day, or~~

23 (b) ~~In person at the county clerk's office or a voter service and polling center~~
24 ~~through election day.~~

25 ~~2.1.7 In accordance with section 1-2-204(1)(a), C.R.S. and the Colorado voter~~
26 ~~registration form affidavit, an elector may not register to vote in a new district or~~
27 ~~county unless he or she has already moved and established his or her primary~~
~~residence in the new district or county. Intent to move to a new district or county,~~
~~in and of itself, is not enough to establish residency.~~

2.1.5 THE COUNTY CLERK MUST IMPLEMENT A PROCESS TO ENSURE THAT THE COUNTY
ACCURATELY PROCESSES VOTER REGISTRATION APPLICATIONS IN SCORE.

ments to Current Rule 2.2:

33 2.2 For purposes of precinct caucus lists ~~and registration lists for municipal, special district,~~
34 ~~or school district director elections,~~ the elector's length-DURATION of residency is based
35 upon the date the elector moved to his or her current residence address, as provided by
36 the elector in his or her application. [SECTION 1-3-101, C.R.S.]

What does this mean? Statute already provides the framework for voter registrations to be processed by the county clerk.

1 2.2.1 ~~Effective January 1, 2014, IN SCORE, the county clerk must enter the date~~
2 ~~provided by the elector THAT HE OR SHE MOVED TO HIS OR HER CURRENT~~
3 ~~RESIDENCE ADDRESS. in the registration record maintained in SCORE. [Sections 1-~~
4 ~~3-101, 31-10-201, and 32-1-103(5), C.R.S.]~~

5 **2.2.2** If the elector submits an application and does not include the date he or she
moved, the county clerk must use the date the application is received or
postmarked, whichever is earlier, as the date moved. ~~If the elector submits the~~
~~application during the 22 days before election day and does not provide the date~~
~~he or she moved, the county clerk must use as the date moved the twenty-second~~
~~day before election day based upon the affidavit.~~

Concerned about
strike of the 2nd
half of this because
if they affirm they
moved 22 days,
then that should be
acceptable. This
says to use the
postmark
regardless of the
affidavit. By striking
this could invalidate
a registration. It
also seems to be in
conflict with statute.

~~3 In accordance with section 1-2-104, C.R.S., if a municipality, special district, or~~
~~school district coordinates with a county clerk to conduct an election, the county~~
~~clerk must apply the residency requirements of the municipality~~
~~or school district. Nothing in these Rules supersedes any duration~~
~~other requirements in local charters, ordinances, or titles 2-~~
~~applicable.~~

Clarify by adding
(1) specifically so
that we can still
take the other IDs
listed in this
section.

2.3.4:

4 DOCUMENTS ISSUED UNDER SECTION 42-2-505, C.R.S., ARE NOT ACCEPTABLE
FORMS OF IDENTIFICATION FOR ANY PURPOSE UNDER THE UNIFORM ELECTION
CODE OF 1992 AND THESE RULES.

20

21 *Current Rule 2.5.4 is repealed as follows:*

22 ~~2.5.4 When the county clerk provides a list of eligible electors to a municipality or~~
23 ~~special district for an election not coordinated with the county, the county clerk~~
24 ~~must request the designated election official of the municipality or special district~~
25 ~~provide the vote history information following the election. As soon as feasible~~
26 ~~after receiving the information, the county clerk must remove the ID Required~~
27 ~~flag in SCORE from the record of each person who voted, as provided in section~~
28 ~~1-2-605(4)(b), C.R.S.~~

29 *Amendments to Current Rule 2.10:*

30 2.10 An elector who has received notice that his or her application for registration may not be
31 processed or whose registration was cancelled because his or her name was matched with
32 a record bearing the same name, date of birth, and social security number in the databases
33 provided by Colorado Department of Corrections ~~or Colorado Department of Public~~
34 ~~Health and Environment~~, and who believes that the match was erroneous, may request
35 that his or her application be processed or registration be reinstated if he or she: SUBMITS
36 A COMPLETED REINSTATEMENT FORM TO THE COUNTY CLERK.

37 ~~2.10.1 Appears in person at the office of the county clerk and presents identification; or~~

1 2.10.2 ~~Submits a statement to the county clerk affirming that the applicant believes the~~
2 ~~match was in error. The applicant must include his or her printed name,~~
3 ~~residential address, and date of birth on the signed and dated statement.~~

4 *Amendments to Current Rule 2.12.1 concerning voter registration confidentiality:*

5 2.12.1 Information about an agency's name and location for an application completed at
6 a voter registration agency or driver's license office is confidential. [42 USC §-§
7 §§ 1973gg-3(c)(2)(D)(iii)]

8 *Amendments to Current Rule 2.13.2 through 2.13.5 (concerning list maintenance under section 8*
9 *of the National Voter Registration Act of 1993):*

10 2.13.2 The Secretary of State will provide monthly National Change of Address (NCOA)
11 data under section 1-2-302.5, C.R.S., to the county clerk by the fifth of each
12 month.

13 (a) The county must process the data to update registration records and send
14 notifications in accordance with section 1-2-302.5, C.R.S., by the end of
15 each month.

16 (1) The county may not change a residential address to a non-
17 residential address, like a post office box, based on the information
 in the NCOA data.

Delete this section
based on 161
change.

 (2) ~~The county is not required to automatically update a voter~~
 ~~registration record during the 60 days before a coordinated AN~~
 ~~election CONDUCTED BY THE COUNTY CLERK.~~

22 (3) If the county clerk has previously mailed a confirmation card to an
23 elector whose record is marked inactive FOR ANY REASON, the
24 county clerk is not required to mail another confirmation card to
25 the elector at the same address.

26 (4) IF AN ELECTOR MOVES WITHIN A COUNTY, THE COUNTY MAY NOT
27 MARK THE ELECTOR'S RECORD "ACTIVE" BASED ON THE NCOA
28 DATA IF THE RECORD IS INCOMPLETE, PENDING, OR CANCELED.

29 (b) When the county updates a voter registration record using NCOA data, the
30 county must use the NCOA transaction source.

31 (c) IF AN ELECTOR WHOSE ADDRESS WAS UPDATED UNDER SECTION 1-2-
32 302.5(2)(B)(I)(A), C.R.S., RETURNS THE VOTED BALLOT THAT WAS MAILED
 TO THE ELECTOR'S PREVIOUS ADDRESS, THE VOTED BALLOT SERVES AS
 NOTIFICATION UNDER SECTION 1-2-302.5(2)(B)(I)(B), C.R.S. AND THE
 COUNTY MUST CORRECT THE ELECTOR'S RECORD ACCORDING TO THAT
 SECTION.

How would this
work? If it is
returned as a voted
ballot, is that notice
under the statute?
SCORE doesn't
track this effectively
to know to move the
address back.

add 'and' here.

1 2.13.3 In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a
2 General Election, the county clerk in each county must cancel the registrations of
3 electors who have met the following requirements:

- 4 (a) Whose records have been marked “Inactive – returned mail”, “Inactive –
5 undeliverable ballot”, or “Inactive – NCOA”;
- 6 (b) Who have been mailed a confirmation card; and
- 7 (c) Who have since failed to vote in two consecutive ~~General~~ GENERAL
8 elections.

9 ~~2.13.4 An elector whose registration record was cancelled during the previous six years~~
10 ~~under section 1-2-605(7), C.R.S., and Rule 2.13.3, may request reinstatement of~~
11 ~~the record. The elector must affirm that he or she has continuously resided at the~~
12 ~~address shown on the registration record since the record was cancelled.~~

13 ~~2.13.5 No county may consolidate or cancel duplicate records in accordance with section~~
14 ~~1-2-604, C.R.S., within the period beginning 90 days before a Primary or General~~
15 ~~Election.~~

16 2.13.4 THE COUNTY MUST PROCESS ALL RECORDS DESIGNATED FOR CANCELLATION BY THE
17 SECRETARY OF STATE WITHIN SEVEN BUSINESS DAYS OF RECEIPT.

18 *Amendments to Current Rule 2.14:*

19 2.14 Voter registration at a voter service and polling center

20 2.14.1 A person registering voters or updating voter registration information
21 service and polling center must:

- 22 (a) Be a permanent or temporary county employee, staff member, or
23 temporary staff hired by the county clerk;
- 24 (b) Successfully pass the criminal background check described in Rule 6.5.
25 ~~Any person who has been convicted of an election offense~~
26 ~~with an element of fraud is prohibited from handling~~
27 ~~applications or conducting voter registration and list maintenance~~
28 ~~activities; and~~

Based on previous experience, there have been flaws in the data and queries. If research is required (which is frequent), counties should have 14-21 days if it is a large amount. Perhaps the SOS could also notify the counties in advance of sending the file so that counties can hire additional staff if needed.

29 *The deleted portion of Current Rule 2.14.1(b) moved to New Rule 6.5.*

30 (c) ~~Effective January 1, 2014, successfully~~ SUCCESSFULLY complete a training
31 course provided by the Secretary of State.

32 *[Current rule 2.14.2 is retained; unaltered]*

33 *Amendments to Current Rule 2.15:*

Suggest strike per page 17 change to line 25.

1 2.15 Voter registration records and data

2 2.15.1 Notwithstanding the retention timelines specified in section 1-2-227, C.R.S., the
3 county clerk may destroy paper voter registration records as soon as they have
4 been digitally recorded in SCORE. The SCORE system must retain digital images
5 of voter registration applications in perpetuity in accordance with ~~Title 1, C.R.S.~~
6 ~~and this Rule~~ SECTION 1-5-301, C.R.S.

7 *[Current rules 2.15.2 through 2.15.4 are retained; unaltered]*

8 *New Rule 4.1.3 concerning participation in coordinated elections:*

9 4.1.3 THE DESIGNATED ELECTION OFFICIAL OF EACH PARTICIPATING POLITICAL
10 SUBDIVISION MUST CERTIFY THE COMPLETENESS AND ACCURACY OF THE
11 RESIDENCE ADDRESSES WITHIN THE DISTRICT NO LATER THAN THE 70TH DAY
12 BEFORE ELECTION DAY.

How would this certification work?
What would the process be with the
existing tools? As written, does this
mean that the DEO validates
accessor's data? In the IGAs, DEOs
have asked special districts to certify
the address library for their districts.
Look at how 1164 impacts this.

13 *Amendments to Current Rule 4.8.3(a):*

14 4.8.3 Printing primary election ballots

15 (a) If a major political party, as de
16 nominates more than one candida
17 conduct the primary election for a

18 (1) The county clerk must include on the ballot all offices to which
19 candidates may be nominated in the primary election.

20 (2) If there are no candidates for any particular office, the county clerk
21 must print on the ballot "There are no candidates for this office".

22 [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule ~~4.3-10.1.1~~]

23 *[Current Rule 4.8.3(b) is retained; unaltered]*

24 *Amendments to Current Rule 4.8.4(a) and (b):*

25 4.8.4 Use of unique numbers on ballots

26 (a) Except for ballots sent to military or overseas electors by electronic
27 transmission under Rule 16.2, a county may not print a ballot for use in a
28 state or federal election that has a unique number, or a barcode containing
29 a unique number, that is specific to a single ballot.

30 (1) A county that uses rotating numbers must print at least ten ballots
31 of each ballot style for each number.

32 (2) Nothing in this Rule prohibits a county from printing a unique
33 number or barcode on ~~the~~A removable stub.

1 (b) After an election official dissociates a voted ballot from its envelope and
2 removes the stub, IF ANY, the county may write or print unique numbers on
3 the voted ballot for auditing and accounting purposes, including
4 duplication of damaged ballots and risk limiting audits.

5 *[Current Rule 4.8.4(c) is retained; unaltered]*

6 *Amendments to Current Rule 5:*

7 **Rule 5. Nonpartisan Elections not Coordinated by the County Clerk**

8 ~~5.1 Election Notice~~

9 ~~5.1.1-5.1~~ The designated election official must send notice of the election to the clerk of the
10 county in which the election will be held. The notice must include the date by which the
11 list of registered electors must be submitted to the political subdivision.

12 ~~5.1.2-5.2~~ For multi-county political subdivisions, the notice sent to each clerk must also
13 include the names of all other counties in which the election will be held.

14 ~~5.2 Mail ballot elections~~

15 ~~5.2.1-5.3~~ If a political subdivision coordinates with the county clerk, the designated election
16 official is not required to submit a separate mail ballot plan for the election.

17 *Current Rules 5.2.2 through 5.8 are repealed as follows:*

18 ~~5.2.2~~ If a local governing board determines an election will be conducted by mail
19 ballot, the designated election official must submit a mail ballot plan to the
20 Secretary of State no later than 55 days before the election. The designated
21 election official must use the approved mail ballot plan template.

22 (a) ~~The designated election official must include an actual sample of the~~
23 ~~secrecy sleeve or envelope that the designated election official plans to use~~
24 ~~in the election.~~

25 (b) ~~A home rule municipality must check the appropriate box on the plan~~
26 ~~indicating whether there are locally adopted election procedures different~~
27 ~~from those set forth in Title 1, C.R.S. The Secretary of State will not~~
28 ~~review any home rule municipality's mail ballot plan that fails to include~~
29 ~~this information.~~

30 ~~5.2.3 Ballots and ballot packets~~

31 (a) ~~For non-partisan elections where multiple ballots will be included in the~~
32 ~~same packet or will be sent in separate packets, the ballots and return~~
33 ~~envelopes must include distinctive markings or colors to identify political~~

1 subdivisions when the colors or distinctive markings will aid in the
2 distribution and tabulation of the ballots.

3 (b) — The designated election official for each political subdivision for whom
4 one or more county clerks are conducting the election must provide a
5 complete list of eligible electors in their political subdivision to each
6 appropriate county clerk, unless otherwise provided in the
7 intergovernmental agreement. The political subdivision must list each
8 elector only once to ensure that each elector receives one and only one
9 ballot unless otherwise authorized.

10 (c) — All election materials prepared by the designated election official,
11 including the Article X, Section 20 notice, may be included in the mail
12 ballot packet.

13 ~~5.2.4 Receipt of Ballots~~

14 (a) — The designated election official must appoint sufficient election officials
15 to process ballots.

16 (b) — Each day when ballots come in, an election official must count the ballot
17 envelopes, batch them and record the number received.

18 (c) — An election official must date stamp the envelopes upon receipt. If any
19 ballot is received after the time set for the closing of the elections, the
20 envelope must be date stamped but the ballot must not be counted.

21 (d) — Election officials must record the number of ballot packets returned as
22 undeliverable.

23 (e) — The designated election official must seal and store ballots in a safe,
24 secure place until the counting of the ballots.

25 ~~5.2.5 Recall elections. The designated election official must submit a written plan to the~~
26 ~~Secretary of State within five days after the designated election official sets the~~
27 ~~date of the election. The Secretary of State will approve or disapprove the plan~~
28 ~~within five days from the date it is received. [Section 1-12-111.5, C.R.S.]~~

29 ~~5.3 — If a designated election official conducts an election on a day other than described in~~
30 ~~section 1-7-116(1), C.R.S., the designated election official may mail the notice required~~
31 ~~by Article X, Section 20 of the Colorado Constitution to people who are not eligible~~
32 ~~electors if the mailing is done at the “least cost” possible.~~

33 ~~5.4 — If the designated election official for the political subdivision is unable to establish a~~
34 ~~polling location within the political subdivision, the designated election official may~~
35 ~~designate a polling location outside of the political subdivision if the location is~~
36 ~~convenient for the electors.~~

- 1 ~~5.5~~ For elections not conducted in November and not coordinated with the county clerk, the
2 ballot issue or question must be identified by the name of the jurisdiction submitting the
3 ballot issue or ballot question followed by a number in the case of initiatives or by a letter
4 in the case of referred measures.
- 5 ~~5.6~~ Elections authorized by Part 1, Article 45 of Title 37, C.R.S., must be conducted in
6 accordance with Articles 1 through 13 of Title 1, C.R.S., where applicable, unless
7 otherwise ordered by the district court having jurisdiction over the water conservancy
8 district, under section 37-45-103 (3), C.R.S. (“Court”).
- 9 ~~5.6.1~~ The form and verification of any petition requesting an election conducted by a
10 water conservancy district under sections 37-45-114 (2) and 37-45-136(3.5),
11 C.R.S., (“Petition”), must conform with sections 1-40-113 and 1-40-116, C.R.S.,
12 and Rule 15; except that petitioners need not seek petition format approval from
13 the Secretary of State. Petitioners must file the petition with the court and the
14 water conservancy district must verify the signatures on the petition.
- 15 ~~5.6.2~~ The procedures for issuing the statement of sufficiency or insufficiency of the
16 petition must conform with section 1-40-117, C.R.S., and Rule 15; except that the
17 statement must be issued by the water conservancy district named in the petition,
18 unless otherwise ordered by the court.
- 19 ~~5.6.3~~ The procedures for cure of a petition deemed insufficient must conform with
20 section 1-40-117, C.R.S., and Rule 15; except any addendum to the petition must
21 be filed with both the court and the water conservancy district named in the
22 petition, unless otherwise ordered by the court.
- 23 ~~5.6.4~~ The procedures for protesting the determination that a petition is insufficient must
24 conform with section 1-40-118, C.R.S., and Rule 15, unless otherwise ordered by
25 the court.
- 26 ~~5.6.5~~ The designated election official must conduct any election under section 37-45-
27 114(2), C.R.S., after the sixtieth but before the one hundredth day after the date of
28 the court order, regardless of the actual expiration date of the term of the office,
29 unless the Court order establishes an alternate date or the water conservancy
30 district has notified the court that the election must be coordinated and conducted
31 in accordance with section 1-7-116, C.R.S.
- 32 ~~5.6.6~~ The form and procedures for filing candidate nomination forms and call for
33 candidate nominations for the office to be voted upon at the court ordered election
34 described in this Rule must be conducted under Article 1, Title 32, C.R.S., unless
35 otherwise ordered by the court.
- 36 ~~5.7~~ Non-Partisan Elections: Polling location procedures
- 37 ~~5.7.1~~ For polling place elections conducted in accordance with Article 1, Title 32,
38 C.R.S., upon execution of the self-affirming oath or affirmation under section 32-

1 ~~1-806(2), C.R.S., an eligible elector must show identification as defined in section~~
2 ~~1-1-104(19.5), C.R.S.~~

3 ~~5.7.2 The designated election official must ensure that each polling location has an~~
4 ~~adequate number of provisional ballots and affidavits.~~

5 ~~5.7.3 The designated election official must follow the provisional ballot procedures~~
6 ~~contained in Articles 1 through 13 of Title 1, C.R.S., and Rule 17.~~

7 ~~5.8 The clerk for a county that contains any portion of a political subdivision within its~~
8 ~~borders must provide election day registration for the political subdivision.~~

9 ~~5.8.1 The county clerk must provide voter registration through the 22 day period before~~
10 ~~the election during normal business hours, Monday through Friday, and 7:00 a.m.~~
11 ~~to 7:00 p.m. on election day.~~

12 ~~5.8.2 The county clerk must provide daily registration updates beginning 22 days~~
13 ~~before election day through the day before election day, to the designated election~~
14 ~~official by secure transmission as outlined in Rule 20.~~

15 ~~5.8.3 On election day, the county clerk must provide a certificate of registration to any~~
16 ~~elector who registers to vote or updates his or her registration.~~

17 *New Rules 5.4 through 5.6:*

18 5.4 REGISTRATION LIST FOR A SPECIAL DISTRICT ELECTION

19 5.4.1 IF A SPECIAL DISTRICT REQUESTS A REGISTRATION LIST UNDER SECTION 1-13.5-
20 203(1), C.R.S., THE COUNTY CLERK MUST PROVIDE TO THE DESIGNATED ELECTION
21 OFFICIAL:

22 (A) A LIST OF REGISTERED ELECTORS AS OF THE 40TH DAY BEFORE THE
23 ELECTION TO BE DELIVERED ON THE 30TH DAY BEFORE THE ELECTION,
24 FOLLOWED BY A LIST OF ALL REGISTERED ELECTORS AS OF THE CLOSE OF
25 BUSINESS ON THE 22ND DAY BEFORE THE ELECTION TO BE DELIVERED ON THE
26 20TH DAY BEFORE THE ELECTION; OR

27 (B) A COMPLETE LIST OF REGISTERED ELECTORS AS OF THE **SIXTH** DAY BEFORE
28 THE ELECTION.

29 5.4.2 UPON REQUEST, THE COUNTY MUST PROVIDE THE DESIGNATED ELECTION OFFICIAL
30 A LIST OF UOCAVA ELECTORS WHO RESIDE WITHIN THE SPECIAL DISTRICT.

31 5.4.3 BEGINNING THE 40TH DAY BEFORE THE DATE OF ELECTION AND THROUGH ELECTION
32 DAY, THE COUNTY MUST STAY CURRENT WITH ALL VOTER REGISTRATION DATA
33 ENTRY.

1 5.4.4 FOR EVERY REGISTRATION LIST SENT TO THE SPECIAL DISTRICT, THE COUNTY CLERK
2 MUST INFORM THE DESIGNATED ELECTION OFFICIAL OF THE PROPER PROCEDURES
3 FOR HANDLING PROTECTED OR CONFIDENTIAL ELECTOR INFORMATION. [SECTION
4 24-72-204(3.5), (8), AND PART 21, ARTICLE 30, TITLE 24, C.R.S.]

5 5.5 REGISTRATION LISTS FOR MUNICIPAL ELECTIONS

6 5.5.1 IF A MUNICIPALITY IS CONDUCTING A MAIL BALLOT ELECTION, THE COUNTY CLERK
7 MUST PROVIDE THE MUNICIPALITY WITH:

8 (A) A PRELIMINARY LIST OF ALL ELIGIBLE ELECTORS NO LATER THAN THE 30TH
9 DAY BEFORE THE ELECTION; AND

10 (B) A SUPPLEMENTAL LIST OF ELECTORS NO LATER THAN THE 20TH DAY BEFORE
11 THE ELECTION. THE LIST MUST CONTAIN THE NAMES OF ALL ELIGIBLE
12 ELECTORS IN THE MUNICIPALITY WHO WERE NOT ON THE 30-DAY LIST AND
13 WHO REGISTERED ON OR BEFORE THE 22ND DAY BEFORE THE ELECTION.

14 5.5.2 THE COUNTY CLERK MUST PROVIDE THE MUNICIPALITY WITH A REGISTRATION LIST
15 NO LATER THAN THE FIFTH DAY BEFORE THE ELECTION. IF PROVIDED ON THE FIFTH
16 DAY, THE LIST MUST INCLUDE ALL REGISTERED ELECTORS IN THE MUNICIPALITY AS
17 OF THE **SIXTH** DAY BEFORE THE ELECTION.

18 5.5.3 BEGINNING THE 40TH DAY BEFORE THE ELECTION AND THROUGH ELECTION DAY,
19 THE COUNTY CLERK MUST STAY CURRENT WITH ALL VOTER REGISTRATION DATA
20 ENTRY.

21 5.5.4 FOR EVERY REGISTRATION LIST SENT TO THE MUNICIPALITY, THE COUNTY CLERK
22 MUST INFORM THE DESIGNATED ELECTION OFFICIAL OF THE PROPER PROCEDURES ~~OF~~
23 FOR HANDLING PROTECTED OR CONFIDENTIAL ELECTOR INFORMATION. [SECTION
24 24-72-204(3.5), (8), AND PART 21, ARTICLE 30, TITLE 24, C.R.S.]

strike 'of'

25 5.6 IF AN ELIGIBLE ELECTOR ATTEMPTS TO REGISTER OR UPDATE HIS OR HER REGISTRATION AT
26 THE COUNTY CLERK'S OFFICE, THE COUNTY MUST PROCESS THE REQUEST AND ENSURE
27 THAT THE ELECTOR APPEARS ON THE NEXT REGISTRATION LIST PROVIDED TO THE
28 MUNICIPALITY OR ISSUE THE ELECTOR A CERTIFICATE OF REGISTRATION.

29 *Amendments to Rules 6.4 and 6.5 concerning election judges:*

30 6.4 A supervisor judge in a voter service and polling center must:

31 6.4.1 Successfully pass the criminal background check described in Rule 6.5. Any
32 person who has been convicted of an election offense or an offense with an
33 element of fraud is prohibited from handling voter registration applications or
34 conducting voter registration and list maintenance activities.

35 6.4.2 ~~Effective January 1, 2014, successfully complete~~ COMPLETE a training course
36 provided by the Secretary of State.

1 6.5 The county clerk must arrange for a criminal background check on a supervisor judge and
2 each staff member conducting voter registration activities.

3 (A) The criminal background check must be conducted by or through the Colorado
4 Bureau of Investigation ~~in the Department of Public Safety or by, the County~~
5 ~~Sheriff's COUNTY SHERIFF'S department, for the county in which the county~~
6 ~~clerk's office is located~~ OR SIMILAR STATE OR FEDERAL AGENCY.

7 (B) A PERSON CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE CONTAINING AN
8 ELEMENT OF FRAUD MAY NOT:

9 (1) HANDLE VOTER REGISTRATION APPLICATIONS OR CONDUCT VOTER
10 REGISTRATION AND LIST MAINTENANCE ACTIVITIES; OR

11 (2) HAVE ACCESS TO A CODE, COMBINATION, PASSWORD, OR ENCRYPTION KEY
12 FOR THE VOTING EQUIPMENT, BALLOT STORAGE AREA, COUNTING ROOM, OR
13 TABULATION WORKSTATION.

14 *Amendments to Rule 7.1.1 (concerning mail ballot plans for elections conducted by the county*
15 *clerk and recorder):*

16 7.1.1 The county clerk must submit a mail ballot plan to the Secretary of State by email
17 no later than 90 days before every election.

18 (a) ~~For recall elections, the county clerk must submit a mail ballot plan to the~~
19 ~~Secretary of State by email within five days after the appropriate official~~
20 ~~sets the election date. The Secretary of State will approve or disapprove~~
21 ~~the plan within five days after receipt.~~

22 (b) The county clerk must submit with the mail ballot plan the VOTER
23 INSTRUCTIONS AND secrecy sleeve ~~or envelope~~ that the clerk intends to use
24 in the election.

25 *New Rule 7.2.5 and 7.2.6 (concerning mail ballot and ballot packets):*

26 7.2.5 EFFECTIVE JANUARY 1, 2015, EACH MAIL BALLOT RETURN ENVELOPE AND MAIL
27 BALLOT INSTRUCTION MUST INCLUDE A STATEMENT INFORMING VOTERS THAT IT IS
28 A VIOLATION OF LAW TO DROP OFF MORE THAN TEN BALLOTS IN ANY ELECTION.

29 **7.2.6** EFFECTIVE JANUARY 1, 2015, IN ADDITION TO THE AFFIRMATION REQUIRED BY
30 SECTION 1-7.5-107(3), C.R.S., EACH MAIL BALLOT RETURN ENVELOPE MUST
31 INCLUDE THE FOLLOWING AFFIRMATION: "FOR THIRD PARTY DELIVERY: I AM

What is the process if voter does not fill in the blank? Does this need to be visual on the envelope? This is beyond legal requirements in statute.

UNWITTINGLY GIVING MY BALLOT TO (BLANK) FOR DELIVERY AND SEALED MY BALLOT IN PRIVATE AND HAVE NOT ALLOWED ANYONE TO OBSERVE THE MARKING OF THE BALLOT, EXCEPT FOR THOSE PERMITTED BY THE LAW. I AM NOT PROVIDING MY BALLOT TO ANY OTHER PERSONS UNDER STATE OR FEDERAL LAW."

Additions to the mail ballot envelope will require USPS approval as well. Re-design will also take time with the vendors to get approved after the 8/14 hearing.

1 *Amendments to Rule 7.2.3(c) (concerning ballots and ballot packets for elections conducted by*
2 *the county clerk and recorder):*

3 (c) In coordinated elections, the county clerk must mail ballots to all active
4 eligible electors of each political subdivision. ~~For special district elections,~~
5 ~~the designated election official of each district must certify to the county~~
6 ~~clerk the list of electors eligible to vote under section 32-1-806, C.R.S.~~

7 *Amendments to Rule 7.4.6:*

8 7.4.6 Upon receipt of the ballot, ~~a bipartisan team of~~ election judges must
9 signature on the affidavit under Rule ~~7.7-7.8~~. After the affidavit has been
10 a bipartisan team of election judges must duplicate the ballot following the
11 procedures outlined in Rule 18. Duplicating judges must not reveal how the
12 elector has cast his or her ballot.

can this also include election officials in addition to judges?

It would be more accurate to change this to 'signature' as opposed to 'affidavit.'

13 *Rule 7.4.7, concerning emergency ballot transmission, is repealed (this information*
14 *addressed by section 1-7.5-115, C.R.S.):*

15 ~~7.4.7 Notwithstanding any other provision of law, the following procedures apply to~~
16 ~~delivery and return of ballots to electors affected by a disaster emergency.~~

17 (a) ~~Definitions~~

18 (1) ~~“Affected elector” means an elector who is displaced from or~~
19 ~~isolated in the elector’s residence, as a result of a disaster~~
20 ~~emergency.~~

21 (2) ~~“Affected county” means a county in which a disaster emergency~~
22 ~~exists.~~

23 (3) ~~“Disaster emergency” means a state of disaster emergency~~
24 ~~declared by an authorized public officer under applicable law.~~

25 (b) ~~The county clerk of an affected county may issue an original or~~
26 ~~replacement ballot to an affected elector in person at the county clerk’s~~
27 ~~office under section 1-7.5-107(2.7), C.R.S., or by mail at any time after~~
28 ~~official ballots are printed and in the possession of the county clerk under~~
29 ~~section 1-5-403(1), C.R.S.~~

30 (c) ~~Disaster Emergency mail ballots~~

31 (1) ~~An affected elector who is unable to obtain his or her ballot in-~~
32 ~~person or by mail because he or she is isolated in his or her~~
33 ~~residence may apply for a disaster emergency mail ballot on a form~~
34 ~~provided by the Secretary of State.~~

- 1 ~~(2) — A disaster emergency mail ballot may be issued to and returned by~~
2 ~~an affected elector by mail, fax, or email.~~
- 3 ~~(3) — The county clerk must record the issuance and receipt of disaster~~
4 ~~emergency mail ballots sent by electronic transmission on a log~~
5 ~~approved by the Secretary of State.~~
- 6 ~~(d) — The county clerk of an affected county must submit to the Secretary of~~
7 ~~State an amendment to the county's contingency plan. The amendment, at~~
8 ~~a minimum, must include:~~
- 9 ~~(1) — A general description of the affected areas;~~
- 10 ~~(2) — A plan for notifying affected electors of procedures to obtain and~~
11 ~~return ballots;~~
- 12 ~~(3) — Procedures for delivery and return of ballots to and from affected~~
13 ~~electors; and~~
- 14 ~~(4) — Any procedures necessary to ensure the security of ballots~~
15 ~~delivered to or returned by affected electors.~~

16 *New Rule 7.5.1(c) and (d) concerning receipt and processing of ballots:*

- 17 (C) SIGNAGE AT EACH DROP-OFF LOCATION MUST INFORM VOTERS THAT IT IS A
18 VIOLATION OF LAW TO DROP OFF MORE THAN TEN BALLOTS IN ANY
19 ELECTION.
- 20 (D) THE MINIMUM NUMBER OF DROP-OFF LOCATIONS MUST BE OPEN DURING
21 REASONABLE BUSINESS HOURS AS DEFINED IN RULE 7.8.1(A) AND FROM
22 7:00 A.M. THROUGH 7:00 P.M. ON ELECTION DAY.

23 *Amendments to Rule 7.5.8:*

24 7.5.8 The county clerk must dissociate any batch number that could trace a ballot back
25 to the specific voter who cast it from the counted ballots OR ANY REPORTS
26 GENERATED BY THE TABULATION SOFTWARE no later than the **final certification** of
27 the abstract of votes cast.

← make sure this includes recount and contest period.

28 *New Rule 7.5.9 concerning ballots received by the wrong county:*

29 7.5.9 IF AN ELECTOR DELIVERS A BALLOT TO THE WRONG COUNTY, THAT COUNTY MUST
30 DATE STAMP THE BALLOT AND FORWARD IT TO THE CORRECT COUNTY. THE
31 CORRECT COUNTY MUST TREAT THE BALLOT AS RECEIVED AS OF THE DATE AND
32 TIME OF THE DATE STAMP.

33 *New Rule 7.6 (amended and relocated current Temporary Rule 7.13; adopted on 6/24/2014):*

Concern about this rule going forward. This was due to an issue where there was a special instance of a special district and county election on the same day. Seems like there may be unintended consequences of this rule. Another example may be a Larimer ballot in a Douglas envelope. Does Douglas return it to Larimer to be counted?

TURNED IN UNOFFICIAL ENVELOPE

THE COUNTY TIMELY RECEIVES A MAIL BALLOT FROM AN ELIGIBLE ELECTOR IN ENVELOPE OTHER THAN THE OFFICIAL BALLOT RETURN ENVELOPE FOR THAT PARTICULAR ELECTION, THE COUNTY MUST CONTACT THE ELECTOR IN WRITING WITHIN THREE CALENDAR DAYS OF RECEIVING THE BALLOT BUT NO LATER THAN FIVE CALENDAR DAYS AFTER ELECTION DAY. THE COUNTY MUST USE THE LETTER AFFIDAVIT PRESCRIBED BY THE SECRETARY OF STATE AND KEEP A COPY AS PART OF THE OFFICIAL ELECTION RECORD. IF THE COUNTY RECEIVES THE COMPLETED AFFIDAVIT NO LATER THAN THE EIGHTH DAY AFTER ELECTION DAY, THE COUNTY MUST COUNT THE BALLOT.

11 *[Current Rules 6.7 through 7.7.8 are renumbered accordingly]*

12 *New Rule 7.8.9 concerning voter service and polling centers:*

13 7.8.9 SIGNAGE AT EACH VOTER SERVICE AND POLLING CENTER MUST INFORM VOTERS
14 THAT IT IS A VIOLATION OF LAW TO DROP OFF MORE THAN TEN BALLOTS IN ANY
15 ELECTION.

16 *[Current Rules 7.8 through 7.10.3 are renumbered accordingly]*

17 *[Renumbering and amendments to Rules 7.11 and 7.12:]*

18 ~~7.11~~7.12 Assisting voters with disabilities in a voter service and polling center

19 ~~7.11.1~~7.12.1 The designated election official must post a sign at the voter service and
20 polling center that states:

21 *NOTICE*

22 *VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES*

23 *Colorado law protects a voter's legal right to assistance in voting if assistance is needed*
24 *because of a disability.*

- 25 1. *If you require assistance, please inform an election judge.*
- 26 2. *Any person, including an election judge, may assist you.*
- 27 3. *If you select a person other than an election judge, he or she must complete a*
28 *Voter Assistance Form, which includes an oath that states:*

29 *I,, certify that I am the individual chosen by the elector to assist the elector*
30 *in casting a ballot.² I FURTHER CERTIFY THAT I WILL NOT IN ANY WAY ATTEMPT TO*
31 *PERSUADE OR INDUCE THE ELECTOR TO VOTE IN A PARTICULAR MANNER, NOR WILL I*
32 *CAST THE ELECTOR'S VOTE OTHER THAN AS DIRECTED BY THE ELECTOR I AM ASSISTING.*

1 4. The person you select may provide any assistance you need, including entering
2 the voting booth, preparing the ballot, or operating the voting machine.

3 5. The person assisting you may not seek to persuade you or induce you to vote in a
4 particular manner.

5 6. The election judge must record the name of each voter who receives assistance
6 and the name of the person who provides assistance on the signature card.

7 ~~7.11.2~~ 7.12.2 If a voter has spoiled two ballots and requests a third ballot, an election
8 official must offer assistance in voting procedures and casting the ballot.

9 ~~10.10~~ 7.13 Voter history

10 ~~10.10.1~~ 7.13.1 After the canvass, the designated election official must give vote credit to
11 each voter who voted in the election.

12 ~~10.10.2~~ 7.13.2 If the voter history records do not match the number of voters who voted
13 at that election, the designated election official must ensure the following:

14 (a) Each voter received credit for voting; and

15 (b) All signature cards are accounted for.

16 ~~10.10.3~~ 7.13.3 All research concerning discrepancies must be explained and documented.

17 *[Current Rule 10.10 is relocated and incorporated into New Rule 7.13 as shown above]*

18 ~~7.12~~ 7.14 Reimbursement to counties for state ballot measure elections. No later than 90
19 days after an election, the county must submit a completed request for reimbursement
20 under section 1-5-505.5, C.R.S. The county must submit the request using the form
21 provided by the Secretary of State.

Change this to observe per SOS IT policy.
The AUP that judges sign says in part: "Users may not display or provide sensitive information to unauthorized persons. This rule applies to Social Security Numbers contained in document images on workstations, and to other personal and confidential information such as Date of Birth, Driver License Number, etc."
Also, separate this out: 1. Attempt to determine how someone voted. 2. Observe confidential information.
Also, should this be different for voters who have records marked as confidential? What does confidential information encompass?

the processing, verification, and counting of any ballots
tion.

are retained; unaltered. New Rules 8.6.8 through

HOW ANY ELECTOR VOTED OR OBTAIN CONFIDENTIAL

CONFIDENTIAL VOTER INFORMATION THAT HE OR SHE

1 8.6.10 ATTEMPT TO DETERMINE OR DISCLOSE ANY RESULTS BEFORE THE POLLS HAVE
2 CLOSED.

3 *Amendments to Rule 9*

4 **Rule 9. Voting Challenges**

5 **9.1 CHALLENGING AN IN-PERSON VOTER**

6 ~~9.19.1.1~~ Under Section 1-9-201, C.R.S., an election official, watcher, or eligible
7 elector of the precinct may challenge an elector's right to vote. A person whose
8 eligibility is challenged while voting in-person, must be offered a regular ballot
9 by an election judge if the person satisfactorily answers the applicable challenge
10 questions specified in section 1-9-203, C.R.S., and this Rule. If the person
11 challenged provides unsatisfactory answers or refuses to answer the challenge
12 questions, an election judge must offer the person a provisional ballot.

13 ~~9.29.1.2~~ Citizenship. The election judge must ask the elector, "Are you a citizen of
14 the United States?"

15 ~~9.39.1.3~~ Residency. The election judge must ask the elector the following
16 questions:

17 ~~9.3.1(A)~~ "Will you have resided in Colorado for the 22 days before election
18 day?"

19 ~~9.3.2(B)~~ "Do you reside at the address stated in your voter registration
20 record?"

21 ~~9.3.3(C)~~ "Have you been absent from Colorado during the past 22 days?" If
22 the elector responds that he or she was absent during the 22-day period,
23 the election judge must also ask the following questions:

Seems to extend the challenge that can occur for a mail ballot. 1-9-201 is actually for in person challenges as opposed to mail ballot challenges. This appears to be more of a legislative change to 1-9-201 as opposed to rule making. 1-9-207 actually deals with mail ballot challenges. What is the voter's recourse for this?

1) "Have you been absent for a temporary purpose with the intent of returning, or did you intend to remain outside Colorado?"

2) "While you were absent, did you consider Colorado to be your home or did you maintain a home or domicile elsewhere?"

3) "While you were absent, did you vote in any other state or territory of the United States?"

e. The election judge must ask the elector, "Will you be 18 years of age election day?"

32 9.2 IF AN INDIVIDUAL CHALLENGES A MAIL BALLOT UNDER SECTION 1-9-201, C.R.S., THE
33 ELECTION JUDGE MUST FORWARD THE BALLOT TO TWO OTHER ELECTION JUDGES OF

1 DIFFERENT POLITICAL PARTY AFFILIATIONS WHO MUST REVIEW THE ELECTOR'S ELIGIBILITY
2 TO VOTE.

3 9.2.1 IF BOTH ELECTION JUDGES DETERMINE THE ELECTOR IS NOT ELIGIBLE TO
4 VOTE ON A PARTICULAR BALLOT ISSUE, BALLOT QUESTION, OR RACE, THE
5 JUDGES MUST COUNT ONLY THOSE BALLOT ISSUES, BALLOT QUESTIONS, OR
6 RACES FOR WHICH THE ELECTOR IS ELIGIBLE.

7 9.2.2 IF BOTH ELECTION JUDGES DETERMINE THE SIGNATURE ON THE RETURN
8 ENVELOPE DOES NOT MATCH THE ELECTOR'S SIGNATURE IN SCORE, THE
9 JUDGES MUST FOLLOW THE PROCEDURES IN SECTION 1-7.5-107.3(2), C.R.S.,

10 9.2.3 IF BOTH ELECTION JUDGES DETERMINE THE ELECTOR IS ELIGIBLE AND THAT
11 ELECTOR'S SIGNATURE IS VALID, THE ELECTION JUDGES MUST COUNT THE
12 ELECTOR'S BALLOT.

13 *Amendments to Rule 10:*

14 **Rule 10. Canvassing and Recount**

15 *[Current Rule 10.1 is relocated to New Rule 10.2]*

16 *[New Rule 10.1 includes relocated portions of Current Rules 10.3, 10.4, and 10.5 as shown*
17 *below]*

18 10.1 PRECANVASS ACCOUNTING

19 10.1.1 FOR PURPOSES OF ARTICLE 10 OF TITLE 1, "BALLOTS CAST IN AN ELECTION" OR
20 "BALLOTS CAST IN EACH PRECINCT" MEANS PAPER OR DRE BALLOTS VOTED IN
21 PERSON BY ELECTORS AT A VOTER SERVICE AND POLLING CENTER AND VOTED MAIL
22 BALLOTS RECEIVED FOR PROCESSING BY THE COUNTY CLERK.

23 ~~10.3~~10.1.2 Detailed Ballot Log. The designated election official must keep a detailed
24 ballot log that accounts for every ballot issued and received beginning when
25 ballots are ordered and received. The election officials must reconcile the log at
26 the conclusion of each workday.

27 ~~10.4~~10.1.3 Daily voter service and polling center ballot accounting. ~~10.4.1~~—The
28 designated election official must supply each polling location with a Statement of
29 Ballots Form. Election judges must record the following information on a separate
30 statement of ballots form for each day that the polling location is open:

- 31 (a) The name or number of the polling location;
32 (b) The number of ballots provided to or printed on-demand at the polling
33 location;
34 (c) The number of ballots cast;

- 1 (d) The number of unvoted ballots;
- 2 (e) The number of damaged or spoiled ballots;
- 3 (f) The number of voted provisional ballots; and
- 4 (g) The date.

5 ~~10.4.2~~ 10.1.4 After a polling location closes for the day election judges must complete
 6 the following tasks:

- 7 (a) Reconcile the total number of voted ballots with the number of voters who
 8 voted.
- 9 (b) Verify that the total number of voted ballots, spoiled or damaged ballots,
 10 provisional ballots, and unvoted ballots is the same as the number of total
 11 ballots supplied to or printed at the polling location.
- 12 (c) Reconcile the number of people who signed signature cards to the total
 13 number of ballots cast.
- 14 (d) Provide a written explanation of any discrepancy in the numbers on the
 15 Statement of Ballots form, (for example, the voter signed in but left the
 16 polling location without voting, etc.).

Counties actually normally have the statement forms come back daily for reconciliation purposes. This should be modified to allow for daily returns or end of election return of the statement form. Also, it is physically impossible in large counties for judges to return the unvoted ballots on election night. Large counties have large secured vaults that cannot be physically moved by the judges. Small counties may be able to return the unvoted ballots on election night and do so now. This needs to be changed so that it works for all counties.

~~Return~~ AFTER THE VOTER SERVICE AND POLLING CENTER CLOSES ON ELECTION NIGHT, ELECTION JUDGES MUST RETURN the completed Statement of Ballots form FOR EACH DAY THE LOCATION WAS OPEN ALONG WITH ALL and voted, unvoted, spoiled, and provisional ballots to one of the election offices designated in the mail ballot plan.

Designated Election Official's disposition of forms

(A) The designated election official must review Ballots ~~form~~ FORMS for completion and accuracy.

(B) If the designated election official or the canvasser has a problem with the A Statement of Ballots form and it is not resolved, they may contact the election judges for correction.

and 10.9 are amended and renumbered as New Rule 10.1.4

Appointment to the Canvass Board

In all cases, the canvass board must consist of an odd number of members and each member has equal voting rights.

Suggested Language to consider:
 Lines 17 - 21:
 (e) ~~Return~~ AFTER THE VOTER SERVICE AND POLLING CENTER CLOSES ON ELECTION NIGHT, ELECTION JUDGES MUST RETURN the completed Statement of Ballots form, LISTING ALL VOTED, UNVOTED, SPOILED, AND PROVISIONAL **BALLOTS** FOR EACH DAY THE LOCATION WAS OPEN ALONG WITH ALL and voted, unvoted, spoiled, and provisional ballots to one of the election offices designated in the mail ballot plan.

1 ~~10.1.2~~10.2.2 For a partisan election, each major party may have no more than two
2 representatives on the canvass board. The board must include an equal number of
3 representatives from each major party, unless a major party fails to certify
4 representatives for appointment.

5 ~~10.1.3~~10.2.3 Each major party representative on the canvass board must be registered to
6 vote in the county where the representative will serve and affiliated with the party
7 he or she represents.

8 ~~10.1.4~~10.2.4 A candidate for office and members of the candidate's immediate family
9 may not serve on the canvass board.

10 ~~10.9~~10.2.5 Appointment of Canvass Workers. The designated election official may
11 appoint canvass workers to help prepare and conduct the canvass.

12 *[Current Rules 10.2 and 10.12 are amended renumbered as New Rule 10.3 as follows:]*

13 ~~10.2~~10.3 Duties of the Canvass Board

14 ~~10.2.1~~10.3.1 The canvass board must make its determinations by majority vote in
15 accordance with section 1-10-101.5(1)(c), C.R.S.

16 ~~10.2.2~~10.3.2 The canvass board's duties are to:

17 (a) Conduct the canvass in accordance with section 1-10-101.5, C.R.S.,
18 including:

19 (1) Account and balance the election and certify the official abstract of
20 votes;

21 (2) Reconcile the number of ballots counted to the number of ballots
22 cast; and

23 (3) Reconcile the number of ballots cast to the number of voters who
24 voted by reviewing the reconciled detailed ballot logs and
25 Statement of Ballots.

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

28 (c) In coordination with the county clerk, investigate and report discrepancies
29 found in the audit under section 1-7-514(2), C.R.S.; and

30 (d) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and
31 this Rule. The canvass board's role in conducting a recount includes
32 selecting ballots for the random test, observing the recounting of ballots,
33 and certifying the results.

1 ~~10.2.3~~10.3.3 If the board identifies a discrepancy in the A Statement of Ballots FORM,
2 the board may review the particular ballots at issue to identify, correct, and
3 account for the error.

4 ~~10.2.4~~10.3.4 The canvass board may not perform duties typically reserved for election
5 judges, including:

- 6 (a) Determining voter intent;
- 7 (b) Evaluating voter eligibility; and
- 8 (c) Requesting new logs or reports that were not created to conduct the
9 election.

10 ~~10.12~~10.3.5 Role of Watchers. Watchers appointed under section 1-10-101(1)(a),
11 C.R.S., may observe the board while it performs its duties, subject to Rule 8.

12 *Current Rule 10.3 is amended and renumbered as New Rule 10.1.1.*

13 *Current Rules 10.4 and 10.4.1 are amended and renumbered as New Rule 10.1.2.*

14 *Current Rule 10.4.2 is amended and renumbered as New Rule 10.1.3.*

15 *Current Rule 10.5 is amended and renumbered as New Rule 10.1.4.*

16 *Current Rules 10.6, 10.7.2(e)-(7) and 10.11 are amended and renumbered as New Rule 10.4 as*
17 *follows:*

18 ~~10.6~~10.4 Procedures for the day of the Canvass

19 ~~10.6.1~~10.4.1 The designated election official must provide the following information to
20 the canvass board:

- 21 (a) The name of each candidate, office, and votes received;
- 22 (b) The number or letter of each ballot issue or question and votes received;
- 23 (c) The number of ballots cast, including the number of accepted and rejected
24 mail ballots; ~~and~~
- 25 (d) The number of provisional ballots cast, including the number accepted and
26 rejected;

27 *[Current Rules 10.7.2(e)-(h) are relocated to this New Rule 10.4.1 (e)-(h) as*
28 *follows:]*

29 (e) The number of mail ballots counted and the number rejected;

30 (f) The number of in-person ballots counted;

1 (g) The number of provisional ballots counted and the number rejected listed
2 by each rejection code; and

3 (h) The number of damaged and spoiled ballots.

4 ~~10.6.2~~10.4.2 Any written documentation regarding official ~~numbers~~ **RESULTS MUST**
5 BE included as part of the canvass.

6 ~~10.11~~10.4.3 Written Complaints

7 ~~10.11.1~~(A) The designated election official must provide the canvass board
8 with any written complaint submitted by a registered elector about a
9 voting device.

10 ~~10.11.2~~(B) If the complaint is resolved, the designated election official must
11 provide the details of the resolution.

12 ~~10.11.3~~(C) If the complaint is pending resolution when the board meets to
13 conduct the canvass, the designated election official must provide a
14 proposal for how the issue will be resolved.

15 ~~10.7~~10.5 Official Abstract and Reporting to the Secretary of State

16 ~~10.7.1~~ ~~The canvass board must use the official abstract in a format approved by the~~
17 ~~Secretary of State.~~ *[Current Election Rule 10.7.1 is incorporated into New Rule*
18 *10.5.2.]*

19 ~~10.7.2~~10.5.1 The official county abstract must include, by precinct or ballot style,
20 where applicable:

21 (a) The total number of active registered electors on election day;

22 (b) The total number of registered electors (active and inactive) on election
23 day;

24 (c) The statement of votes counted by race and ballot question or issue; AND

25 (d) The total number of ballots cast in the election;

26 *[Current Election Rules 10.7.2(e)-(h) are relocated to New Rules 10.4.1(e)-(h).]*

27 ~~10.7.3~~10.5.2 The state portion of the abstract, which the county must **USE THE FORMAT**
28 **APPROVED BY THE SECRETARY OF STATE** and transmit to the Secretary of State,
29 must include:

30 (a) The total number of active registered electors on election day;

31 (b) The total number of registered electors (active and inactive) on election
32 day;

1 (c) ~~The statement of votes counted by race and~~ THE SUMMARY OF VOTES CAST
2 FOR EACH STATE RACE AND EACH ballot question or issue ;

3 (d) The total number of ballots cast in the election; and

4 (e) The Canvass ENR upload required under Rule 11.10.4.

5 ~~10.8-10.6~~ The County Abstract is the Official Permanent Record

6 ~~10.8.1-10.6.1~~ The designated election official must keep all official canvass reports and
7 forms as part of the official permanent election record.

8 ~~10.8.2-10.6.2~~ Once the canvass board certifies the abstract it may not withdraw the
9 certification. In the event of a recount, the canvass board may only affirm or
10 amend the abstract.

11 *Current Rule 10.9 is renumbered as New Rule 10.2.5.*

12 *Current Rule 10.10 is relocated and incorporated into New Rule 7.13*

13 *Current Rule 10.11 is renumbered as New Rule 10.4.3.*

14 *Current Rule 10.12 is renumbered as New Rule 10.3.5.*

15 ~~10.13-10.7~~ Role of the Secretary of State

16 ~~10.13.1-10.7.1~~ As part of the Secretary's duties under section 1-1-107, C.R.S., the
17 Secretary may provide guidance and investigate imperfections as outlined below.

18 ~~10.13.2-10.7.2~~ The county clerk or the canvass board may request that the Secretary of
19 State provide guidance and support to the canvass board in the exercise of the
20 board's duties.

21 ~~10.13.3-10.7.4~~ If, in the course of assisting a canvass board, the Secretary of State
22 discovers an imperfection that the Secretary believes may affect the conduct of
23 other canvass boards, the Secretary may provide notice to other counties
24 regarding the nature of the imperfection.

25 ~~10.13.4~~ ~~Imperfect returns or failure to certify~~

26 (a) ~~If the canvass board fails to certify or certifies imperfect returns that have~~
27 ~~no reasonable potential to change the outcome of any race or ballot~~
28 ~~measure, the Secretary of State and county clerk must certify the election~~
29 ~~and order recounts, if any, in accordance with Part 1, Article 11 of Title 1,~~
30 ~~C.R.S.~~

31 (b) ~~If the canvass board fails to certify or certifies imperfect returns that have~~
32 ~~a reasonable potential to change the outcome of any race or ballot~~

1 ~~measure, the Secretary of State will conduct an investigation to identify~~
2 ~~the nature of, and advise the county clerk in correcting, the inaccuracy.~~

3 *[Current Rule 10.13.4 is repealed; this information is addressed by Article 10, of Title 1,*
4 *C.R.S.]*

5 ~~10.14~~-10.8 Recount generally

6 ~~10.14.1~~-10.8.1 The purpose of a recount is to re-tabulate the ballots.

7 ~~10.14.2~~-10.8.2 For statewide or federal races, ballot issues or ballot questions, the county
8 clerk must coordinate scheduling the recount through the Secretary of State's
9 office so that it can ensure adequate observer coverage.

10 ~~10.15~~-10.9 Recount cost estimates and reimbursements

11 ~~10.15.1~~-10.9.1 A county must submit a request for reimbursement for a mandatory
12 recount of a state or federal race or ballot measure using the Secretary of State
13 approved form. The county may not request reimbursement for meals or normal
14 overhead costs or regular employee compensation. The county must include
15 itemized costs for reasonable expenditures, including:

16 (a) Mailings and notices;

17 (b) Election judges, temporary staff, canvass board pay, and overtime pay;
18 and

19 (c) Copies and other office expenses related to the recount.

20 ~~10.15.2~~-10.9.2 Requested recounts

21 (a) The county clerk must provide an itemized cost estimate in accordance
22 with section 1-10.5-106, C.R.S., upon submission of a formal request for a
23 recount.

24 (b) In preparing a cost estimate for a requested recount, the county must use
25 the Secretary of State approved form. The estimate must include
26 reasonable itemized costs for conducting the recount. The county may not
27 request reimbursement for normal overhead costs.

28 (c) The county clerk must submit a cost estimate to the Secretary of State
29 when the clerk provides it to a requesting party.

30 ~~10.16~~-10.10 In accordance with section 1-10.5-107, C.R.S., and Rule ~~10.2.2(d)~~-10.3.2(D), the
31 canvass board's role in conducting a recount includes selecting ballots for the test,
32 observing the recounting of ballots, and certifying the results.

33 ~~10.17~~-10.11 Watchers and observers DURING A RECOUNT

1 ~~10.18.3~~10.12.3 The county clerk must test the VVPAT records from 1% of the
2 DREs that had votes cast for the race or measure being recounted.

3 (a) Sworn judges or staff must manually verify the results on the machines
4 selected for the test.

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

6 ~~10.19~~10.13 Counting ballots DURING A RECOUNT

7 ~~10.19.1~~10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no
8 discrepancies in the test under Rule ~~10.18~~ 10.12, the recount must be conducted in
9 the same manner as the ballots were counted in the election except as outlined in
10 this Rule. If there are unresolvable discrepancies in the test, the recount must be
11 conducted as a hand count under Rule ~~10.19.5~~ 10.13.5.

12 ~~10.19.2~~10.13.2 A clear audit trail must be maintained throughout the recount
13 including, but not limited to, a log of seal numbers on transfer cases or ballot
14 boxes, and the corresponding numbered seal for each transfer case or ballot box.

15 ~~10.19.3~~10.13.3 Ballots must be reviewed for voter intent using the standards in
16 Rule 18.

17 (a) Every over-vote or under-vote in the race(s) or measure(s) subject to the
18 recount must be reviewed for voter intent under Rule 18.

19 (b) The judges conducting the voter intent review may resolve the intent
20 differently than the judges in the election.

21 ~~10.19.4~~10.13.4 To recount ballots using “Ballot Now”:

22 (a) Back up the official election database.

23 (b) Open Ballot Now with an unused Mobile Ballot Box (MBB) from the
24 election and create a Ballot Now recount database.

25 (c) Scan and resolve all recount ballots according to this Rule 10.

26 (d) Save all recount Cast Vote Records to the MBBs after verifying that the
27 number of ballots processed matches the number of ballots cast in the
28 recount contest.

29 (e) Open a new recount election in “Tally” and process the recount MBBs
30 following the tabulation procedures above.

31 (f) Compare recount results to original results and document any differences.

32 (g) Backup the test database and the official recount database.

- 1 ~~10.19.5~~10.13.5 To recount ballots by hand count.
- 2 (a) If the tabulation of the original count was conducted by hand count, the
- 3 recount must be conducted by hand count.
- 4 (b) Ballots must be counted in batches of 25 to ensure that the number of
- 5 ballots recounted matches the number originally counted.
- 6 (c) Votes must be counted by individual hash marks in 25-count sections by
- 7 two different judges.
- 8 ~~10.19.6~~10.13.6 For tabulation of DREs, if there are no discrepancies in the test
- 9 under Rule ~~10.18.3~~ 10.12.3, the county clerk must upload the memory cards.
- 10 ~~10.19.7~~10.13.7 Tabulation of ballots cast must be completed through a precise,
- 11 controlled process that ensures each container of ballots is retabulated and
- 12 resealed before tabulation of the next container begins.
- 13 ~~10.19.8~~10.13.8 The number of ballots counted according to the final results for
- 14 that race or measure must be available during the recount for comparison
- 15 purposes.
- 16 ~~10.20~~10.14 Canvass and reporting results FOR A RECOUNT
- 17 ~~10.20.1~~10.14.1 Totals of recounted ballots must be reported in summary form as
- 18 follows:
- 19 (a) Sum total of votes cast for each race or measure recounted, under-votes,
- 20 and over-votes for each location;
- 21 (b) The totals must be a combined total, not totaled by individual precincts or
- 22 location, unless the tabulation system allows.
- 23 ~~10.20.2~~10.14.2 In accordance with section 1-10.5-107, C.R.S., and this Rule 10,
- 24 the canvass board must amend, if necessary, and re-submit the abstract of votes
- 25 cast.

26 *Amendments to Current Rule 11.3.2 concerning voting systems:*

27 11.3.2 Logic and Accuracy Test

28 *[Current Rules 11.3.2(a) and (b) are amended and renumbered as New Rules*

29 *11.3.2(c)(1) and (2). Current Rules 11.3.2(c) and (d) are amended and*

30 *renumbered as New Rules 11.3.2(a) and (b):]*

- 31 ~~(e)~~(A) The ~~designated election official~~ COUNTY CLERK must conduct the public
- 32 Logic and Accuracy Test ~~before voting~~ NO LATER THAN THE 18TH DAY
- 33 BEFORE ELECTION DAY.

1 ~~(d)~~(B) The ~~designated election official~~ COUNTY CLERK must ensure that the Logic
2 and Accuracy Test is open to the media and the public to the extent
3 allowable in accordance with section 1-7-509(2)(b), C.R.S. The ~~designated~~
4 ~~election official~~ COUNTY CLERK may limit the number of representatives
5 from each group because of space limitations.

6 *Current Rules 11.3.2(a), (b), (e) through (g) are amended and renumbered as*
7 *New Rules 11.3.2(c)(1) through (5):*

8 (C) PREPARING FOR THE LOGIC AND ACCURACY TEST

9 ~~(a)~~(1) The ~~designated election official~~ COUNTY CLERK must prepare a
10 sufficient number of test ballots that represent every ballot style
11 and precinct, if applicable, allow for a sufficient number of ballots
12 to mark every vote position for every candidate on every race
13 including write-in candidates, allow for situations where a race
14 may permit an elector to vote for two or more positions, where
15 applicable, and include overvotes and undervotes for each race.

16 ~~(b)~~(2) The ~~designated election official~~ COUNTY CLERK must create a
17 Testing Board of one registered elector from each of the major
18 political parties, as defined in section 1-1-104(22), C.R.S., if
19 appointed. Testing Board members must be registered to vote in
20 the county.

21 *[Current Rules 11.3.2(c) and (d) are amended and renumbered as New*
22 *Rules 11.3.2(a) and (b) as shown above.]*

23 ~~(e)~~(3) The ~~designated election official~~ COUNTY CLERK must provide at
24 least 25 ballots that are clearly marked as test ballots to each
25 Testing Board member.

26 ~~(f)~~(4) Testing Board members must secretly vote their ballots following
27 the instructions printed on the ballots and retain a record of the
28 tally. ~~Of the 25 test ballots, two must be tested as audio ballots.~~

29 ~~(g)~~(5) The Testing Board must test the ballots on each type of voting
30 device used in the election and each type of ballot including audio
31 ballots.

32 *Current Rule 11.3.2(h) is amended and renumbered as New Rule 11.3.2(d):*

33 ~~(h)~~(D) Conducting the Test

34 (1) The ~~designated election official~~ COUNTY CLERK and Testing Board
35 must observe the tabulation of all test ballots, compare the
36 tabulation with the previously retained records of the test vote

1 count, and correct any discrepancies before the device is used in
2 the election.

3 (2) The ~~designated election official~~ COUNTY CLERK must reset the
4 public counter to zero on all devices and present zero tapes to the
5 Testing Board for verification. For any device capable of
6 producing or verifying the trusted build hash value (MD5 or SHA-
7 1) of the firmware or software, the ~~Designated Election Official~~
8 COUNTY CLERK must verify and document the accuracy of the
9 value for the device.

10 (3) The ~~designated election official~~ COUNTY CLERK must make an
11 appropriate number of voting devices available and the Testing
12 Board may witness the programming and/or downloading of
13 memory devices necessary for the test.

14 (4) The Testing Board and designated election official must count the
15 test ballots as follows:

16 (A) Optical Scanners:

17 (i) The Testing Board must count test ballots on at
18 least one, but not more than five, central count
19 scanners and at least one scanner used at a voter
20 service and polling center, if applicable.

21 (ii) The Testing Board must randomly select the
22 machines to test.

23 (iii) The Testing Board must count the board and
24 county's test ballot batches separately and generate
25 reports to verify that the machine count is identical
26 to the predetermined tally.

27 (B) DREs:

28 (i) The Testing Board must count the test ballots on at
29 least one, but not more than five, DREs.

30 (ii) The Testing Board must randomly select the
31 machines to test.

32 (iii) The Testing Board must identify and test two
33 ballots as audio ballots.

34 (iv) The Testing Board must count at least 50 of the
35 board's ballots and a random sampling of at least 25
36 of the county's test ballots separately and generate

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reports to verify that the machine count is identical to the predetermined tally. For DREs with VVPAT devices, the Testing Board must manually count the paper record to verify that the pre-determined totals of the Testing Board and county test ballot batches match the VVPAT total.

Current Rules 11.3.2(h)(4)(B)(v), (vi), and (viii) are re-codified as New Rules 11.3.2(e)(1), (2), and (3):

(E) COMPLETING THE TEST

(v)-(1) The ~~designated election official~~ COUNTY CLERK must keep all test materials, when not in use, in a durable, secure box. Each member of the Testing Board must verify the seals and initial the chain-of-custody log maintained by the ~~designated election official~~ COUNTY CLERK. If the records are opened for inspection, at least two election officials must verify the seals and initial the chain-of-custody log.

(vi)-(2) After testing, the Testing Board must watch the ~~designated election official~~ COUNTY CLERK reset and seal each voting device.

(vii)-(3) The Testing Board and the ~~designated election official~~ COUNTY CLERK must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.

(4) AFTER TESTING, THE TESTING BOARD MUST WATCH THE COUNTY CLERK CREATE A BACKUP COPY OF THE ELECTION DATABASE.

(5) THE COUNTY CLERK MAY NOT CHANGE THE PROGRAMMING OF ANY VOTING DEVICE AFTER COMPLETING THE LOGIC AND ACCURACY TEST FOR AN ELECTION, EXCEPT AS REQUIRED TO CONDUCT A RECOUNT.

Can the references to county clerk be changed to 'county' since clerks cannot touch the database. SOS changed it in (2) and (4) on the 8/7/14 draft.

Amendments to Current rule 11.10:

11.10 Election Night Reporting (ENR). The county must report election night results for all primary, general, coordinated and recall elections.

11.10.1 A data entry county must program the election to support the exporting of election night results in accordance with the following upload requirements:

- 1 (a) List contest names and candidate names exactly as provided on the
2 certified list.
- 3 ~~(b) Provide contest names in all uppercase letters.~~
- 4 ~~(e)-(B)~~ (B) For counties that use the ES&S and Premier voting systems, arrange the
5 contests in the order prescribed by section 1-5-403(5), C.R.S.
- 6 ~~(d)-(C)~~ (C) Capitalize candidate names (e.g., John A. Smith).
- 7 ~~(e)-(D)~~ (D) Present a precinct name as a ten-digit precinct number.
- 8 ~~(f)-(E)~~ (E) For counties that use the Hart voting systems, use the “Split_name” field
9 split precinct naming purposes.
- 10 ~~(g)-(F)~~ (F) Create a “Provisional” precinct.
- 11 ~~(h)-(G)~~ (G) Use only the party codes certified by the Secretary of State.
- 12 ~~(i)-(H)~~ (H) Do not include the party name or code in the candidate name field.

13 11.10.2 No later than ~~eight~~ 14 days before the election, a county must send the
14 following information to the Secretary of State, at the address in Rule 11.6:

- 15 (a) A data entry county must email a sample or “zero” file.
- 16 (b) A manual entry county must send a list of all ballot content.

17 11.10.3 The county must export or produce PRELIMINARY election results and
18 upload them to the ENR system a minimum of three times on election night OR
19 UNTIL COMPLETED, WHICHEVER OCCURS FIRST:

- 20 (a) After the close of polls but no later than ~~7:30~~ 8:00 p.m.
- 21 (b) At or around 9:00 p.m.
- 22 (c) The county must indicate that reporting is complete in the ENR system for
23 election day after the county uploads the last results on election night.

24 11.10.4 ~~After canvass the~~ THE county must export or produce OFFICIAL election
25 results, and check the appropriate box in the ENR system to indicate that the
26 canvass upload is complete, NOT LATER THAN CLOSE OF BUSINESS OF THE FIRST
27 BUSINESS DAY AFTER THE STATUTORY DEADLINE FOR COMPLETING THE CANVASS.

28 *Current Rule 12.1 is repealed. Rule 12 is reserved:*

29 **Rule 12. Recall**

1 ~~12.1 Notwithstanding any other provision of law, the designated election official must count~~
2 ~~an elector's vote for a successor candidate regardless of whether the elector voted on the~~
3 ~~recall question. [In Re: Interrogatory Propounded by Governor John Hickenlooper~~
4 ~~Concerning the Constitutionality of Certain Provisions of Article XXI, § 3 of the~~
5 ~~Constitution of the State of Colorado, 2013 CO 62.]~~

6 [RESERVED]

7 *Amendments to Current Rule 13:*

8 **Rule 13. Election and HAVA Complaints**

9 13.1 Election complaint procedures

10 13.1.1 Any individual who personally witnesses a violation of ~~Title 1, C.R.S.~~ THE
11 UNIFORM ELECTION CODE OF 1992 may file an election complaint.

12 *[Current Rule 13.1.2 is retained; unaltered]*

13 13.1.3 Processing and docketing election complaints

14 (a) Within three business days of receiving a complaint, the Secretary's
15 designee will review the complaint to determine if it satisfies Rule 13.1.2
16 and sufficiently alleges a violation OF THE UNIFORM ELECTION CODE OF
17 1992.

18 (1) If the complaint does not meet the ~~criteria~~ REQUIREMENTS OF RULE
19 13.1.3(A), the Secretary's designee will notify the complainant of
20 the ~~discrepancy~~ DEFICIENCY.

21 (2) If a complaint meets the criteria, the Secretary's designee will
22 assign a complaint number, notify the complainant, and send a
23 copy of the complaint to the person or entity alleged to have
24 committed a violation.

25 (b) After notification, the person or entity alleged to have committed the
26 violation will have 15 business days to submit a written response to the
27 Secretary of State's office.

28 *[Current Rule 13.1.4 is retained; unaltered]*

29 *[Current Rules 13.1.5 (a), (b), and (d) are retained; unaltered.] Rule 13.1.5(c) is*
30 *amended as follows:*

31 13.1.5 Investigation

32 (c) Depending on the violation alleged, the Secretary's designee may:

33 (1) Review documents;

- 1 (2) Visit the county;
- 2 (3) Conduct interviews;
- 3 (4) Test equipment; ~~or~~
- 4 (5) Take other steps necessary; OR
- 5 (6) CONVENE A HEARING AND TAKE TESTIMONY FROM INTERESTED
- 6 PARTIES.

7 *Amendments to Current Rule 13.1.6:*

8 13.1.6 Resolution of election complaints

- 9 (a) After an investigation and hearing, if applicable, the Secretary’s designee
- 10 will:
- 11 (1) Dismiss the complaint as not supported by credible evidence;
- 12 (2) Refer the complaint to a prosecuting authority under Article 13 of
- 13 Title 1, C.R.S.; or
- 14 (3) Find a violation, recommend a resolution, and forward the
- 15 recommendation for resolution to the Secretary of State, ~~who will~~
- 16 ~~adopt, amend, or reject the recommendation.~~

17 *[Current Rules 13.1.7 through 13.2.5 are retained; unaltered]*

18 *Amendments to Current Rule 13.2.6:*

19 13.2.6 Hearing and Resolution of HAVA complaints

- 20 (a) If the complainant requests, ~~The~~ THE Secretary of State or his or her
- 21 designee will hold a hearing.
- 22 (b) After the investigation and hearing, if any, the Secretary’s designee will:
- 23 (1) Dismiss the complaint as not supported by credible evidence;
- 24 (2) Refer the complaint to a prosecuting authority under Article 13 of
- 25 Title 1, C.R.S.; or
- 26 (3) Find a violation, recommend a resolution, forward the
- 27 recommendation for resolution to the Secretary of State, ~~who will~~
- 28 ~~adopt, amend, or reject the recommendation.~~

29 13.2.7 ALTERNATIVE DISPUTE RESOLUTION UNDER SECTION 1-1.5-105(2)(J), C.R.S.

1 (a) IF THE SECRETARY OF STATE DOES NOT RESOLVE THE COMPLAINT WITHIN
2 90 DAYS OF THE DATE THAT IT WAS FILED AND THE COMPLAINANT DOES NOT
3 CONSENT TO AN EXTENSION OF TIME, THE SECRETARY OF STATE WILL
4 TRANSFER THE COMPLAINT TO THE OFFICE OF ADMINISTRATIVE COURTS
5 (OAC).

6 (B) THE SECRETARY OF STATE WILL PROVIDE THE RECORD AND ANY OTHER
7 MATERIALS FROM THE PROCEEDINGS TO THE OAC.

8 (C) THE SECRETARY OF STATE WILL CONSIDER THE INITIAL DETERMINATION BY
9 THE OAC AND ISSUE A FINAL DETERMINATION WITHIN 60 DAYS OF THE
10 DATE THE DETERMINATION IS RECEIVED BY THE SECRETARY.

11 ~~13.2.7~~13.2.8 The Secretary of State's determination is a final agency action.

12 *New Rule 14.4.6 concerning Voter Registration Drives:*

13 14.4.6 A VRD ORGANIZER OR CIRCULATOR MAY NOT HIGHLIGHT OR OTHERWISE MARK
14 THE APPROVED VOTER REGISTRATION DRIVE APPLICATION FORM, OTHER THAN TO
15 WRITE THE VRD NUMBER AND CIRCULATOR INFORMATION.

16 *Amendments to Current Rule 15:*

17 **Rule 15. Preparation, Filing, and Verification of Statewide Initiative Petitions**

18 *Current Rule 15.1 is amended and renumbered as New Rule 15.2. Current Rules 15.5.7, 15.6,*
19 *and 15.8, are amended and re-codified as New Rule 15.1 as follows:*

20 15.1 THE FOLLOWING REQUIREMENTS APPLY TO CANDIDATE, STATEWIDE INITIATIVE, RECALL,
21 AND REFERENDUM PETITIONS, UNLESS OTHERWISE SPECIFIED.

22 ~~15.5.7~~15.1.1 The Secretary of State OR COUNTY will not accept or count additional
23 signatures after proponents file the original petition or addendum.

24 ~~15.6~~15.1.2 Circulator affidavit

25 ~~15.6.1~~(A) If a petition section does not have a completed circulator affidavit,
26 the Secretary of State OR COUNTY will reject the entire section.

27 ~~15.6.2~~(B) If a petition section does not have a completed notary clause, or if
28 the date of the notary clause differs from the date the circulator signed the
29 affidavit, the Secretary of State OR COUNTY will reject the entire section.

30 ~~15.8~~15.1.3 Verifying individual signatures-ENTRIES

31 ~~15.8.1~~(A) Staff will check each individual entry against the information
32 contained in SCORE.

- 1 ~~(b)~~(2) A middle initial or middle name is present on the entry but not in
2 SCORE, or present in SCORE but not on the entry;
- 3 ~~(e)~~(3) A **suffix** is present on the entry but not in SCORE, or present in
4 SCORE but not on the entry; or
- 5 ~~(d)~~(4) The address on the entry is missing an apartment letter or number
6 or a street direction.

Clarify that this is
the name suffix or
address suffix.

7 *Current Rules 15.1 and 15.2 are amended and renumbered as New Rules 15.2 and 15.3 as*
8 *follows:*

9 ~~15.1~~15.2 Petition entity license, registration, filing, and circulation

10 ~~15.1.1~~15.2.1 A petition entity that intends to pay petition circulators must obtain a
11 petition entity license, pay a fee, and register with the Secretary of State before
12 circulating petitions. The license application must include:

- 13 (a) The petition entity’s name, address, telephone number, and email address;
- 14 (b) The designated agent’s name; and
- 15 (c) An affirmation that the designated agent has read and understands Article
16 40 of Title 1, C.R.S., and has completed the Secretary of State’s circulator
17 training program.

18 ~~15.1.2~~15.2.2 Before compensating a circulator, the designated agent must register with
19 the Secretary of State by submitting a signed form that includes a list of the
20 proposed initiatives the petition entity will circulate.

21 ~~15.1.3~~15.2.3 If a petition entity fails to register a proposed initiative over any two-year
22 period, the license expires. The Secretary of State will notify a petition entity that
23 its license has expired within 30 days after the date of expiration.

24 ~~15.1.4~~15.2.4 A petition entity may renew an expired license without a fee by submitting
25 a new license application.

26 ~~15.2~~15.3 Petition representatives FOR INITIATIVE PETITIONS

27 ~~15.2.1~~15.3.1 A petition section must list the names of the two proponents or the names
28 of the two designated representatives, as defined in 1-40-104, C.R.S.

29 ~~15.2.2~~15.3.2 The term “person responsible,” as used in section 1-40-118(2.5)(a),
30 C.R.S., means a person who circulates a petition, or causes a petition to be
31 circulated, and who commits, authorizes, or knowingly permits fraud as defined in
32 sections 1-40-111(3)(a) and 1-40-135(2)(c), C.R.S., that results in invalid
33 signatures or petition sections.

1 ~~15.3~~ 15.4 ~~Petition~~ STATEWIDE INITIATIVE PETITION circulation

2 ~~15.3.1~~ 15.4.1 Petition circulation may begin after the title board’s final decision,
3 including disposition of any rehearing motion, after the time for filing a rehearing
4 motion, and after the Secretary of State has approved the petition format. If an
5 appeal is filed with the Supreme Court, the six-month period specified in section
6 1-40-108(1), C.R.S., begins on the date the petition is first signed or on the date
7 the Supreme Court’s decision becomes final, whichever is first. Signatures
8 gathered outside of this period are invalid.

9 ~~15.3.2~~ 15.4.2 The petition circulator must provide a permanent residence address on the
10 circulator affidavit. If the circulator is not a permanent Colorado resident, the
11 circulator must also provide the Colorado address where he or she temporarily
12 lives.

13 (a) For purposes of Article 40 of Title 1, C.R.S., and this Rule, a circulator's
14 permanent “residence” or “domicile” means his or her principal or primary
15 home or place of abode in which a circulator's habitation is fixed and to
16 which the circulator, whenever absent, has the present intention of
17 returning after a departure or absence, regardless of the duration of the
18 absence. A permanent “residence” or “domicile” is a permanent building
19 or part of a building and may include a house, condominium, apartment,
20 room in house, or mobile home. Except as provided in paragraph (b) of
21 this Rule, a vacant lot, business address, or post office box is not a
22 permanent “residence” or “domicile”. (Sections 1-2-102(1)(a)(i) and 1-40-
23 121(1)(b), C.R.S.)

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

27 (c) For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-
28 121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator’s permanent residence
29 address that does not comply with this Rule ~~15.3.2~~ 15.4.2 is a “false
30 address”.

31 ~~15.4~~ 15.4.3 Proponents may file a petition or addendum only once, and may not
32 supplement additional signatures after filing the petition or addendum, even if the
33 additional signatures are offered before the deadline to submit the original petition
34 or addendum.

35 15.5 ~~Petition~~ STATEWIDE INITIATIVE PETITION receipt by Secretary of State

36 15.5.1 Except as specified in Rule ~~15.2.1~~ 15.3.1, the Secretary of State will not accept a
37 petition that lists proponents other than those authorized by law.

38 *[Current Rules 15.5.2 through 15.5.6 are retained; unaltered]*

1 *[Current Rule 15.5.7 moved to New Rule 15.1.1]*

2 *[Current Rule 15.6 is amended and renumbered as New Rule 15.1.2.]*

3 ~~15.7~~ 15.6 ~~Petition~~ STATEWIDE INITIATIVE PETITION verification

4 ~~15.7.1~~ 15.6.1 Verification by random sample.

5 ~~15.7.2~~ 15.6.2 Preliminary count and random number generation.

6 (a) After counting the entries on each petition section, Secretary of State staff
7 will enter the petition identification number, the petition section number,
8 the page number, and the number of entries on the page into the database.

9 (b) Staff will then create a record for each entry that contains the petition
10 identification number, petition section number, page number, and the entry
11 number. Staff will tally the total number of entries.

12 (c) If the number of entries is less than the total number of signatures required
13 to certify the measure to the ballot, the Secretary of State will issue a
14 statement of insufficiency.

15 ~~15.7.3~~ 15.6.3 Random sample. The database will generate a series of random numbers
16 equal to 4,000 signatures or five percent of the total number of signatures,
17 whichever is greater. Staff will check the validity of the random signatures in
18 accordance with this Rule. Staff will maintain a master record of each accepted
19 and rejected entry, along with the reason code for each rejected entry.

20 *[Current Rule 15.8 is amended and renumbered as New Rule 15.1.3.]*

21 ~~15.9~~ 15.7 Curing insufficient STATEWIDE INITIATIVE petitions

22 ~~15.9.1~~ 15.7.1 If petition proponents submit additional signatures within the permitted
23 time, Secretary of State staff will verify the additional signatures in accordance
24 with this Rule 15.

25 ~~15.9.2~~ 15.7.2 If the Secretary of State found the original submission insufficient based
26 on the random sample verification, staff will add the number of additional valid
27 signatures to the number of projected valid signatures in the original submission.

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

31 (b) If the new projected number of valid signatures equals more than 90% but
32 less than 110% of the required signatures, staff will verify all previously
33 submitted signatures. Staff will add the total number of valid signatures in

1 the original petition to the number of additional valid signatures submitted
2 in the addendum in order to determine sufficiency.

3 ~~15.9.3-15.7.3~~ If the initial verification was of every signature, staff will add the number
4 of additional valid signatures to the number of valid signatures in the original
5 submission in order to determine sufficiency.

6 ~~15.9.4-15.7.4~~ Staff will issue a new statement of insufficiency or sufficiency that reports
7 the total number of valid signatures submitted.

8 *[Current Rule 15.10 is repealed:]*

9 ~~15.10~~ Petition protests

10 ~~15.10.1~~ A petition protest must specifically state the reasons for challenging the
11 determination of sufficiency or insufficiency.

12 (a) A protest alleging the violation of a specific statute or rule must cite the
13 statute or rule and specifically state the violation.

14 (b) A protest alleging the improper acceptance or rejection of individual
15 entries must cite the entry and petition section number and specifically
16 state why the entry should be accepted or rejected, as applicable.

17 ~~15.11-15.8~~ Referendum petitions

18 ~~15.11.1-15.8.1~~ This Rule applies to statewide referendum petitions under Article V,
19 Section 1 (3) of the Colorado Constitution.

20 ~~15.11.2-15.8.2~~ Except where this Rule states otherwise, any statutory or constitutional
21 provision that applies specifically to initiative petitions also applies to referendum
22 petitions.

23 ~~15.11.3~~ The following procedural steps that apply to initiative petitions do not
24 apply to referendum petitions:

25 (a) Review and comment by legislative staff on the text of proposed initiated
26 constitutional amendments and initiated laws, under Article V, Section
27 1(5), Colorado Constitution, and section 1-40-105, C.R.S.

28 (b) Title setting by the title setting review board established in section 1-40-
29 106, C.R.S.

30 ~~15.11.4-15.8.3~~ Proponents may submit a referendum petition to the Secretary of State for
31 approval at any time after the General Assembly has passed the bill. The
32 Secretary of State will not issue final approval of the referendum petition form
33 until the bill has become law under Article IV, Section 11 of the Colorado
34 Constitution.

1 ~~15.11.5~~15.8.4 Each referendum petition section must consist of the following, in the
2 order listed:

3 *[New Rules 15.8.4 (a)-(g), formerly numbered 15.11.5 (a)-(g), are retained;*
4 *unaltered]*

5 ~~15.11.6~~15.8.5 A referendum petition section must include only the matters required by
6 Article 40, Title 1, C.R.S., and this Rule, and no extraneous material.

7 ~~15.11.7~~15.8.6 The ballot title must consist of the title of the act on which the referendum
8 is demanded, followed by the bill number, in substantially the following form, in
9 which the underlined material is only for example:

10 “An Act concerning registration requirements for motor vehicles, and, in
11 connection therewith, authorizing two- and five-year registration periods and
12 authorizing discretionary vehicle identification number inspections, and making
13 an appropriation, being House Bill No. 02-1010.”

14 ~~15.11.8~~15.8.7 When referendum is demanded on less than an entire Act of the General
15 Assembly, the ballot title and submission clause must consist of the ballot title
16 preceded by words in substantially the following form, in which the underscored
17 material is only for example, and ending in a question mark:

18 “Shall Section 3 (concerning definition of terms) and Section 4 (eliminating
19 licensing requirements for motor vehicle dealers) of the following Act of the
20 General Assembly be approved:” The material in parentheses shall correctly and
21 fairly summarize the subject or the effect of the portion of the Act referenced.

22 ~~15.11.9~~15.8.8 If a referendum petition is timely filed with the Secretary of State with a
23 sufficient number of valid signatures, it will appear on the ballot at the next
24 general election that occurs at least three months after the referendum petition is
25 filed with the Secretary of State.

26 *Amendments to Current Rule 16.1 concerning military and overseas voters (UOCAVA):*

27 16.1 General Rules concerning voting by military and overseas electors

28 16.1.1 For the purposes of this Rule 16, elector means a covered voter as defined in
29 section 1-8.3-102(2), C.R.S.

30 16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule 16, each
31 county clerk’s office must have a dedicated fax machine for the purpose of fax
32 ballot transmission.

33 16.1.3 ~~In accordance with section 1-8.3-109, C.R.S., a ballot application submitted by an~~
34 ~~elector is effective through the next regularly scheduled General Election, unless~~
35 ~~the elector specifies otherwise.~~ THE COUNTY CLERK MUST MAIL OR
36 ELECTRONICALLY TRANSMIT A BALLOT TO ALL ACTIVE ELIGIBLE ELECTORS. AN

1 ELECTOR WHO REQUESTS COVERED-VOTER STATUS MUST SUBMIT AN APPLICATION
2 AFFIRMING HIS OR HER ELIGIBILITY TO DO SO IN ACCORDANCE WITH SECTION 1-8.3-
3 102(2), C.R.S.

4 ~~16.1.4 Notwithstanding any other provision of law, an elector may submit an application~~
5 ~~for registration and ballot request with his or her voted ballot as long as the ballot~~
6 ~~is timely submitted and received under sections 1-8.3-111 and 1-8.3-113, C.R.S.~~

7 ~~16.1.5~~ 16.1.4 Use of a Federal Write-in Absentee Ballot (FWAB) as an application for
8 registration or ballot request. Notwithstanding any other provision of law, if If an
9 unregistered elector submits a ~~FWAB~~ FEDERAL WRITE-IN ABSENTEE BALLOT
10 (FWAB) by the deadline set forth in sections 1-8.3-111 and 1-8.3-113, C.R.S., the
11 FWAB is a timely application for registration and ballot request.

12 ~~16.1.6~~ 16.1.5 In accordance with sections 1-8.3-111 and 1-8.3-113, C.R.S., all ballots
13 cast must be voted and mailed or electronically transmitted no later than 7:00 p.m.
14 MT on election day, and received by the county clerk or the Secretary of State no
15 later than the close of business on the eighth day after election day.

16 ~~16.1.7~~ 16.1.6 Ballots received by the Secretary of State

17 (a) If the Secretary of State timely receives a ballot under section 1-8.3-113,
18 C.R.S., and Rule 16, the Secretary of State will immediately notify the
19 appropriate county clerk and forward the ballot by the most efficient
20 means available no later than the next business day.

21 (b) To ensure voter secrecy, any county notified that the Secretary of State has
22 received a ballot must retain a minimum of ten voted ballots to be counted
23 with the ballot received by the State.

24 ~~16.1.8~~ 16.1.7 The county clerk must send a minimum of one correspondence no later
25 than 60 days before the Primary Election to each elector whose record is marked
26 "Inactive" The correspondence may be sent by email or mail and, at a minimum,
27 must notify the electors of:

28 (a) The status of the elector's record and ballot request;

29 (b) The upcoming federal elections;

30 (c) How to update the elector's mailing information and request a ballot; and

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

32 ~~16.1.9~~ 16.1.8 No later than 45 days before an election, the county clerk must report to
33 the Secretary of State the number ballots transmitted to military and overseas
34 electors by the 45-day deadline.

1 ~~16.1.10~~ 16.1.9 Failure to meet the 45-day ballot transmission deadline in section 1-8.3-
2 110, C.R.S.

3 (a) If a county fails to meet the 45-day ballot transmission deadline provided
4 for any state or federal election, the county clerk must immediately report
5 the failure and reason for the failure to the Secretary of State.

6 (b) The county clerk must provide a plan to the Secretary of State for
7 complying with the deadline in the next state or federal election.

8 (1) The county must submit the plan to the Secretary of State no later
9 than 60 days before the transmission deadline.

10 (2) The county must provide a weekly progress report on
11 implementing the plan to the Secretary of State beginning 50 days
12 before the transmission deadline.

13 (3) The county clerk must provide a daily progress report to the
14 Secretary of State beginning five days before the transmission
15 deadline.

16 *Amendments to Current Rule 16.2.1 concerning electronic transmission for military and*
17 *overseas voters (UOCAVA):*

18 16.2.1 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., an elector may
19 request to receive and return his or her ballot by electronic transmission.

20 *[Current Rules 16.2.1 (a) and (b) are retained; unaltered]*

21 (c) ~~At~~ IN ACCORDANCE WITH SECTION 1-8.3-113(1), C.R.S., AN elector who
22 chooses to receive his or her unvoted ballot by online ballot delivery may
23 return his or her ballot by fax or email.

24 (d) To return a voted ballot and self-affirmation by email, the elector must
scan and return the documents as an email attachment.

Same comment as previous. If email is undeliverable, should remove email transmission for future elections.

(E) IF AN ELECTOR REQUESTS TO RECEIVE HIS OR HER BALLOT BY ELECTRONIC TRANSMISSION, THE COUNTY CLERK MUST TRANSMIT THE ELECTOR'S BALLOT ELECTRONICALLY FOR ALL COVERED ELECTIONS UNTIL THE ELECTOR REQUESTS OTHERWISE.

30 *Amendments to Rule 16.2.6:*

31 16.2.6 Upon receipt of a voted ballot sent by electronic transmission, the county clerk
32 must verify the elector's signature in accordance with Rule 7.7-7.8. After the
33 affidavit has been verified, a bipartisan team of judges must duplicate the ballot.
34 Duplicating judges must not reveal how the elector voted.

1 *Amendments to Current Rule 18.3.2(d)(6) concerning sequence of resolution procedures for*
2 *central count optical scan:*

3 (6) The county must separately log the seal number of each box
4 containing one or more valid write-in votes. ~~The total write-in~~
5 ~~votes must be indicated on the final summary along with seal~~
6 ~~numbers for each sealed box of scanned ballots.~~

7 *Amendments to Current Rule 21 concerning voting system standards for certification:*

8 ~~21.1—Definitions. The following definitions apply to their use in this Rule only.~~

9 *Current Rule 21.1.1 is moved to New Rule 1.1.1.*

10 *Current Rule 21.1.2 is amended and moved to New Rule 1.1.2.*

11 *Current Rule 21.1.3 is amended and moved to New Rule 1.1.3*

12 *Current Rule 21.1.4 is amended and moved to New Rule 1.1.4.*

13 *Current Rule 21.1.5 is amended and moved to New Rule 1.1.7.*

14 *Current Rule 21.1.6 is amended and move to New Rule 1.1.11.*

15 *Current Rule 21.1.8 is repealed as follows:*

16 ~~21.1.8—“EAC” means the United States Election Assistance Commission.~~

17 *Current Rule 21.1.9 is amended and moved to New Rule 1.1.18.*

18 *Current Rule 21.1.10 moved to New Rule 1.1.19.*

19 *Current Rules 21.1.11 and 21.1.12 are repealed as follows:*

20 ~~21.1.11—“Equipment” or “device” means a complete and inclusive term to~~
21 ~~represent all items submitted for certification by the voting system provider. This~~
22 ~~can include, any voting device, accessory to voting device, DRE, touch screen~~
23 ~~voting device, card programming device, software, and hardware. “Equipment”~~
24 ~~may also mean a complete end to end voting system solution.~~

25 ~~21.1.12—“Modification” means a revision or a new release of an electronic or~~
26 ~~electromechanical voting system.~~

27 *Current Rule 21.1.13 is amended and moved to New Rule 1.1.29.*

28 *Current Rules 21.1.14 through 21.1.17 are repealed as follows:*

29 ~~21.1.14—“Remote site” means any physical location identified by a designated~~
30 ~~election official as a location where the jurisdiction conducts the casting of ballots~~

1 for a given election. A remote site includes, locations such as voter service and
2 polling centers.

3 ~~21.1.15~~ —“Removable storage media” means storage devices that can be removed
4 from the system and transported to another location for readout and report
5 generation. Examples of removable storage media include, but are not limited to,
6 programmable read-only memory (PROM), random access memory (RAM) with
7 battery backup, thumb drives, magnetic media, and optical media.

8 ~~21.1.16~~ —“Secretary of State” means the Colorado Secretary of State, his or her
9 designee, and agents including employees, contractors, and volunteers.

10 ~~21.1.17~~ —“Security” means the ability of a voting system to protect election
11 information and election system resources with respect to confidentiality,
12 integrity, and availability.

13 *Current Rule 21.1.18 is amended and moved to New Rule 1.1.36.*

14 *Current Rules 21.1.19 and 21.1.20 are repealed as follows:*

15 ~~21.1.19~~ —“Test Log” or “test records” means the documentation of certification
16 testing and processes. This documentation may include, certification testing
17 reports, test plans, requirements matrices, photographs, written notes, video, and
18 audio recordings.

19 ~~21.1.20~~ —“Trusted build” means the write once installation disk or disks for
20 software and firmware for which the Secretary of State has established the chain
21 of evidence to the building of a disk, which is then used to establish or re-
22 establish the chain of custody of any component of the voting system that
23 contains firmware or software. The trusted build is the origin of the chain of
24 evidence for any software and firmware component of the voting system.

25 *Current Rule 21.1.21 is amended and moved to New Rule 1.1.44.*

26 ~~21.2~~-21.1 Introduction

27 ~~21.2.1~~ 21.1.1 For Colorado purposes, no single component of a voting system, or
28 device, meets the definition of a voting system except that nothing in this Rule
29 requires the testing of an entire modified system if the Secretary of State
30 determines in accordance with section 1-5-618, C.R.S., that a modification to any
31 certified voting system requires testing for security and accuracy. Only the
32 modification and any affected features or capabilities must be tested to ensure
33 compliance with this Rule.

34 ~~21.2.2~~ 21.1.2 Sufficient components must be assembled to create a configuration that
35 allows the system or modification as a whole to meet the requirements as
36 described for a voting system in this Rule.

1 ~~21.2.3~~21.1.3 The certification of a voting system is not a requirement that a county
2 purchase or lease all of the components of the voting system. Counties may
3 choose to configure and use a subset of the certified voting system and may use
4 the services of a vendor or third party to provide ballot definition and election
5 programming of memory cards. Counties are not required to use a paper ballot
6 tabulation device if they choose to manually tabulate the election results.

7 ~~21.3~~21.2 Certification Process Overview and Timeline

8 ~~21.3.1~~21.2.1 The voting system will be considered as a unit, and all components tested
9 at once, unless the circumstances necessitate otherwise. Any change made to
10 individual components of a voting system will require the entire voting system to
11 be recertified unless the change is a modification that can be approved under
12 section 1-5-618(1.5), C.R.S.

13 ~~21.3.2~~21.2.2 For a voting system to be certified, the voting system provider must
14 successfully complete all phases of the certification process. The certification
15 process includes: submission of a complete application, a documentation review,
16 a public demonstration of the system, and functional testing.

17 ~~21.3.3~~21.2.3 The flow of each phase of certification is as follows:

18 (a) Phase I – The voting system provider must submit an application and all
19 documentation required in Rule ~~21.4~~–21.3. The Secretary of State will
20 review the application and inform the voting system provider whether or
21 not the application is complete. If the application is incomplete, the
22 Secretary of State will identify the deficiencies and the voting system
23 provider will have 30 days to remedy the deficiencies and make the
24 application complete. When the application is complete, the Secretary of
25 State will make arrangements with the voting system provider for a public
26 demonstration.

27 (b) Phase II – The Secretary of State will review the submitted
28 documentation, VSTL reports from previous testing, and evaluations
29 provided by other states.

30 (c) Phase III – The Secretary of State will prepare a certification test plan. If a
31 VSTL is contracted to test the voting system, the VSTL will work with the
32 Secretary of State to prepare a certification test plan. The certification test
33 plan will be presented to the voting system provider for review before
34 execution of the test plan.

35 (d) Phase IV– Upon receipt of the voting system provider’s agreement to the
36 certification test plan, the Secretary of State or the VSTL will execute the
37 test plan.

38 (e) Phase V – The Secretary of State will review the test results and determine
39 whether the voting system substantially meets the requirements for

1 certification. Within 30 days of a decision, the Secretary of State will post
2 the certification test report for the voting system on its website.

3 ~~21.3.4~~21.2.4 The Secretary of State will certify voting systems that substantially
4 comply with the requirements in this Rule 21, Colorado Election Code, and any
5 additional testing the Secretary of State finds necessary.

6 ~~21.4~~21.3 Application Procedure

7 ~~21.4.1~~21.3.1 Any voting system provider may apply to the Secretary of State for
8 certification at any time.

9 ~~21.4.2~~21.3.2 A voting system provider that desires to submit a voting system for
10 certification must complete the Secretary of State's "Application for Certification
11 of Voting System" that is available on the Secretary of State's website.

12 ~~21.4.3~~21.3.3 The Secretary of State, in accordance with section 24-21-104(1)(a),
13 C.R.S., will charge the voting system provider all direct and indirect costs
14 associated with the testing of a voting system submitted for certification. The
15 Secretary of State will provide an estimate of costs for certification testing before
16 the certification process begins. In order to begin testing, the voting system
17 provider must provide a written approval of the cost estimate. The voting system
18 provider must pay all costs before the Secretary of state will issue a final
19 determination.

20 ~~21.4.4~~21.3.4 Along with the application, the voting system provider must submit all
21 documentation required in this Rule 21 in electronic format.

22 ~~21.4.5~~21.3.5 The vendor must identify any material it asserts is exempt from public
23 disclosure under the Colorado Open Records Act, Part 2, Article 72 of Title 24,
24 C.R.S., together with a citation to the specific grounds for exemption before
25 beginning Phase III of the certification process.

26 ~~21.4.6~~21.3.6 The voting system provider must coordinate with the Secretary of State for
27 the establishment of the trusted build. The voting system provider must submit all
28 documentation and instructions necessary for the creation and guided installation
29 of files contained in the trusted build which will be created at the start of
30 functional testing and will be the model tested. At a minimum, the trusted build
31 must include a compilation of files placed on write-once media, and an
32 established hash file distributed from a VSTL or the National Software Reference
33 Library to compare federally certified versions. The trusted build disks should all
34 be labeled with identification of the voting system provider's name and release
35 version.

36 ~~21.4.7~~21.3.7 All materials submitted to the Secretary of State must remain in the
37 custody of the Secretary of State as follows:

1 (a) For certified systems, until the certification is permanently revoked, or
2 until no components of the certified system are used in the State of
3 Colorado; and

4 (b) For systems that are not certified, a period of 25 months.

5 ~~21.5~~-21.4 Voting System Standards

6 ~~21.5.1~~21.4.1 The 2002 Voting Systems Standards are incorporated by reference.
7 Material incorporated by reference in the Election Rules does not include later
8 amendments or editions of the incorporated material. Copies of the material
9 incorporated by reference may be obtained by contacting the Federal Election
10 Commission, 999 E Street NW, Washington, DC, 20463, 800-424-9530. Copies
11 are also available online at
12 [http://www.eac.gov/testing_and_certification/voluntary_voting_system_guideline](http://www.eac.gov/testing_and_certification/voluntary_voting_system_guidelines.aspx)
13 [s.aspx](http://www.eac.gov/testing_and_certification/voluntary_voting_system_guidelines.aspx).

14 ~~21.5.2~~21.4.2 All voting systems must meet the 2002 Voting System Standards.

15 ~~21.5.3~~21.4.3 The voting system provider must document that all voting system
16 software, hardware, and firmware meet all requirements of federal law that
17 address accessibility for the voter interface of the voting system. These laws
18 include:

19 (a) The Help America Vote Act,

20 (b) The Americans with Disabilities Act, and

21 (c) The Federal Rehabilitation Act.

22 ~~21.5.4~~21.4.4 Independent Analysis.

23 (a) — Before completion of functional testing, all voting system providers
24 submitting a voting system must complete an independent analysis of the
25 system, which includes:

26 (1)(A) An application penetration test conducted to analyze the system for
27 potential vulnerabilities according to ent industry standards that may
28 result from poor or improper system configuration, known or unknown
29 hardware or software flaws, or operational weaknesses in process or
30 technical countermeasures. The test must involve active exploitation of
31 security vulnerabilities of the voting system, whether or not the
32 vulnerabilities can be mitigated through compensating controls.

33 (2)(B) A source code evaluation conducted in accordance with Software Design
34 and Coding Standards of the 2002 Voting System Standard or the most
35 current version of the Voluntary Voting System Guidelines approved after
36 January 1, 2008.

1 ~~(3)~~ (C) A complete report detailing all findings and recommended compensating
2 controls for vulnerabilities and deficiencies identified.

3 ~~(4)~~ (D) The voting system provider must use at least one of the following to
4 perform the independent analysis:

5 ~~(A)~~ (1) An EAC approved VSTL;

6 ~~(B)~~ (2) Testing conducted in another state; or

7 ~~(C)~~ (3) Some combination of such VSTL and state testing that meets the
8 requirements of this Rule.

9 ~~(5)~~ (E) The Secretary of State or VSTL will conduct a quality review of all work
10 under this section. The review may include an examination of the testing
11 records, interviews of the individuals who performed the work, or both.
12 Review of testing records may be conducted at the VSTL, the state in
13 which the testing was conducted, or at the site of any contractor or
14 subcontractor utilized by another state to conduct the testing.

15 ~~(6)~~ (F) The Secretary of State may reject any evaluation if not satisfied with the
16 work product and to require additional analysis to meet the requirements
17 of section 1-5-608.5, C.R.S., and this Rule.

18 ~~21.5.5~~ 21.4.5 Functional Requirements

19 (a) Functional requirements must address all detailed operations of the voting
20 system related to the management and controls required to successfully
21 conduct an election.

22 (b) The voting system must provide for appropriately authorized users to:

23 (1) Set up and prepare ballots for an election;

24 (2) Lock and unlock system to prevent or allow changes to ballot
25 design;

26 (3) Conduct hardware diagnostic testing;

27 (4) Conduct logic and accuracy testing;

28 (5) Conduct an election and meet requirements as identified in this
29 Rule 21 for procedures for voting, auditing information, inventory
30 control where applicable, counting ballots, opening and closing
31 polls, recounts, reporting and accumulating results;

32 (6) Conduct the post-election audit; and

33 (7) Preserve the system for future election use.

- 1 (c) The voting system must integrate election day voting results with mail and
2 provisional ballot results.
- 3 ~~(d) The voting system must provide for the tabulation of votes cast in~~
4 ~~combined precincts at remote sites, where more than one precinct is voting~~
5 ~~at the same location, on either the same ballot style or on a different ballot~~
6 ~~style.~~
- 7 (e)-(D) The election management system must provide authorized users with the
8 capability to produce electronic files including election results in either
9 ASCII (both comma-delimited and fixed-width) or web-based format. The
10 software must provide authorized users with the ability to generate these
11 files on an “on-demand” basis. After creating such files, the authorized
12 users must have the capability to copy the files to diskette, tape, CD-ROM
13 or other media type.
- 14 (1) Exports necessary for the Secretary of State must conform to a
15 format approved by the Secretary of State. The format must be
16 compatible with a commercially available data management
17 program such as a spreadsheet, database, or report generator.
- 18 (f)-(E) The voting system must include hardware or software to enable the
19 closing of the voting location and disabling the acceptance of ballots on all
20 vote tabulation devices to allow for the following:
- 21 (1) Printout of the time the voting system was closed.
- 22 (2) Printout of the public counter and protective counter upon closing
23 the ballot casting functionality.
- 24 (3) Ability to print a report which must contain:
- 25 (A) Names of the offices;
- 26 (B) Names of the candidates and party, when applicable;
- 27 (C) A tabulation of votes from ballots of different political
28 parties at the same voting location in a primary election;
- 29 (D) Ballot titles;
- 30 (E) Submission clauses of all initiated, referred or other ballot
31 issues or questions;
- 32 (F) The number of votes counted for or against each candidate
33 or ballot issue;
- 34 (G) Date of election (day, month and year);

- 1 (H) Precinct number (ten digit format);
- 2 (I) County or jurisdiction name;
- 3 (J) “State of Colorado”;
- 4 (K) Count of votes for each contest; and
- 5 (L) An election judge’s certificate with an area for judges’
6 signatures with the words similar to: “Certified by us”, and
7 “Election Judges”. Space must allow for a minimum of two
8 signatures.
- 9 (4) Votes counted by a summary of the voting location and by
10 individual precincts.
- 11 (5) Ability to produce multiple copies of the unofficial results at the
12 close of the election.
- 13 ~~(g)~~(F) The election management system must ensure that an election setup may
14 not be changed once ballots are printed and/or election media devices are
15 downloaded without proper authorization and acknowledgement by the
16 application administrative account. The application and database audit
17 transaction logs must accurately reflect the name of the system operator
18 making the change(s), the date and time of the change(s), and the “old”
19 and “new” values of the change(s).
- 20 ~~(h)~~(G) All DRE or BMD voting devices must use technology providing visual or
21 auditory ballot display and selection methods used by people with
22 disabilities.
- 23 ~~(i)~~(H) All electronic voting devices supplied by the voting system provider and
24 used at voter service and polling centers must have the capability to
25 continue all normal voting operations and provide continuous device
26 availability during a 2-hour period of electrical outage without any loss of
27 election data.
- 28 ~~(j)~~(I) The voting system must provide capabilities to protect the anonymity of
29 ballot choices.
- 30 (1) All optical scan devices, associated ballot boxes, and VVPAT
31 storage devices must provide physical locks and procedures during
32 and after the vote casting operation.
- 33 (2) All DRE devices must provide randomization of all voter choices
34 and stored electronic ballot information during and after storage of
35 the voters’ ballot selections.

1 ~~21.5.6~~21.4.6 Physical and design characteristics

2 *[Rules 21.4.6 (a) and (b), formerly numbered 21.5.6 (a) and (b), are retained;*
3 *unaltered]*

4 ~~21.5.7~~21.4.7 Ballot Definition Subsystem

5 *[Rules 21.4.7 (a)-(d), formerly numbered 21.5.7 (a)-(d), are retained; unaltered]*

6 ~~21.5.8~~21.4.8 Trusted Build. The voting system must allow the operating system
7 administrative account to verify that the software installed is the certified software
8 by comparing it to the trusted build or other reference information.

9 ~~21.5.9~~21.4.9 Audit Capacity

10 *[Rules 21.4.9 (a)-(d), formerly numbered 21.5.9 (a)-(d), are retained; unaltered]*

11 ~~21.5.10~~21.4.10 Security requirements. ~~(a)~~— All voting systems must meet the
12 following minimum system security requirements:

13 ~~(1)~~(A) The voting system must meet the following requirements to accommodate
14 a general system of access by least privilege and role-based access control:

15 ~~(A)~~(1) Operating system administrative accounts may not have access to
16 read or write data to the database;

17 ~~(B)~~(2) Operating system user/operator accounts must be able to be created
18 that are restricted from the following aspects of the operating
19 system:

20 ~~(i)~~(A) No access to system root directory;

21 ~~(ii)~~(B) No access to operating system specific folders;

22 ~~(iii)~~(C) No access to install or remove programs; and

23 ~~(iv)~~(D) No access to modify other user accounts on the
24 system.

25 ~~(C)~~(3) Application administrative accounts must have full access and
26 rights to the application and database;

27 ~~(D)~~(4) Application user/operator accounts must have limited rights
28 specifically designed to perform functional operation within the
29 scope of the application. This user/operator must be restricted in
30 the creation or modification of any user/operator accounts.

31 ~~(2)~~(B) The voting system must meet the following requirements for network
32 security:

- 1 ~~(A)~~ (1) All network-applicable components of the voting system must
2 have the ability to operate on a closed network dedicated to the
3 voting system;
- 4 ~~(B)~~ (2) All network-applicable components of the voting system must
5 include the limited use of non-routable IP address configurations
6 for any device connected to the closed network. For the purposes
7 of this requirement, non-routable IP addresses are those defined in
8 the RFC 1918 Address base; and
- 9 ~~(C)~~ (3) The voting system must include provisions for updating security
10 patches, software and/or service packs without access to the open
11 network.
- 12 ~~(3)~~ (C) All voting systems that use databases must: Have databases hardened to
13 specifications developed by the voting system provider. Documentation
14 included with the application must provide a detailed procedure for
15 hardening according to current industry standards. Any government or
16 industry guidelines adopted in whole, or in part, are to be identified in the
17 documentation.
- 18 ~~(4)~~ (D) The voting system must meet the following requirements for operating
19 system security:
- 20 ~~(A)~~ (1) All voting systems must have all operating systems hardened to
21 specifications developed by the voting system provider according
22 to current industry standards. Documentation included with the
23 application must provide a detailed procedure for hardening. Any
24 government or industry guidelines adopted in whole, or in part, are
25 to be identified in the documentation.
- 26 ~~(B)~~ (2) The voting system provider must configure the voting system
27 operating system of the workstation and server used for the
28 election management software to the following requirements:
- 29 ~~(i)~~ (A) The ability for the system to take an action upon inserting a
30 removable media (auto run) must be disabled; and
- 31 ~~(ii)~~ (B) The operating system must only boot from the drive or
32 device identified as the primary drive.
- 33 ~~(C)~~ (3) The voting system provider must use a virus protection/prevention
34 application on the election management server(s)/workstations
35 which must be capable of manual updates without the use of direct
36 connection to the internet.
- 37 ~~(5)~~ (E) The voting system must meet the following requirements for password
38 security:

- 1 ~~(A)~~ (1) All passwords must be stored and used in a non-reversible format;
- 2 ~~(B)~~ (2) Passwords to the database must not be stored in the database;
- 3 ~~(C)~~ (3) Password to the database must be owned and only known by the
4 application;
- 5 ~~(D)~~ (4) The application's database management system must require
6 separate passwords for the administrative account and each
7 operator account;
- 8 ~~(E)~~ (5) The system must be designed in such a way to ensure that the use
9 of the administrative account password is not required for normal
10 operating functions;
- 11 ~~(F)~~ (6) The system must allow users to change passwords;
- 12 ~~(G)~~ (7) The use of blank or empty passwords must not be permitted at any
13 time with the exception of a limited one-time use startup password
14 which requires a new password to be assigned before the system
15 can be used; and
- 16 ~~(H)~~ (8) All voting systems must have all components of the voting system
17 capable of supporting passwords of a minimum of eight characters,
18 and must be capable of including numeric, alpha and special
19 characters in upper case or lower case used in any combination.
- 20 ~~(I)~~ (F) All modules of the system must meet the 2002 voting system standards
21 requirements for installation of software, including hardware with
22 embedded firmware:
- 23 ~~(A)~~ (1) Where the system includes a feature to interpret and control
24 execution using data from a script, code tokens, or other form of
25 control data file separate from the source code, the human-readable
26 source information must be made available as part of a source code
27 review.
- 28 ~~(B)~~ (2) Security features and procedures must be defined and implemented
29 to prevent any changes of interpreted data files after the initial
30 election testing of the final election definition Replacement of the
31 interpreted data files with tested and approved files from the
32 trusted build must be by authorized personnel before the election
33 definition is finalized for an election.
- 34 ~~(C)~~ (3) The introduction of interpreted data during execution must not be
35 permitted unless defined as a predefined set of commands or
36 actions subject to security review and the interpretation function

1 provides security edits on input to prevent the introduction of other
2 commands or the modification or replacement of existing code.

3 ~~(D)~~ (4) The application must not allow users to open database tables for
4 direct editing.

5 ~~(F)~~ (G) All voting systems must meet the following minimum requirements for
6 removable storage media with data controls:

7 ~~(A)~~ (1) All voting data stored that includes, ballot images, tally data and
8 cast vote records must be authenticated and validated.

9 ~~(B)~~ (2) All non-voting data stored must be authenticated, encrypted, and
10 validated.

11 ~~(C)~~ (3) All removable media, upon insertion on server and/or workstations
12 hosting the elections management software, must automatically be
13 scanned by antivirus software.

14 ~~21.5.11~~-21.4.11 Telecommunications requirements

15 *[Rules 21.4.11 (a)-(g), formerly numbered 21.5.11 (a)-(g), are retained;*
16 *unaltered]*

17 ~~21.5.12~~-21.4.12 Voter-verifiable paper record requirements

18 *[Rules 21.4.12 (a)-(d), formerly numbered 21.5.12 (a)-(d), are retained;*
19 *unaltered]*

20 ~~21.5.13~~-21.4.13 Documentation Requirements

21 *[Rules 21.4.13 (a)-(c), formerly numbered 21.5.13 (a)-(c), are retained;*
22 *unaltered]*

23 (d) For the review of VSTL or other state testing in Rule ~~21.5.12(a)~~
24 21.4.12(A) copies of all VSTL or state qualification reports, test logs and
25 technical data packages must be provided to the Secretary of State.

26 (1) The voting system provider must execute and submit any
27 necessary releases for the applicable VSTL, state or EAC to
28 discuss any and all procedures and findings relevant to the voting
29 system with the Secretary of State and allow the review by the
30 Secretary of State of any documentation, data, reports, or similar
31 information upon which the VSTL or other state relied in
32 performing its testing. The voting system provider must provide a
33 copy of the documentation to the Secretary of State.

1 (2) The voting system provider, the VSTL, the state or the EAC will
2 identify to the Secretary of State any specific sections of
3 documents for which they assert a legal requirement for redaction.

4 *[Rules 21.4.13 (d)-(r), formerly numbered 21.5.13 (d)-(r), are retained;*
5 *unaltered]*

6 ~~21.6~~21.5 Testing preparation procedures

7 ~~21.6.1~~21.5.1 Voting system provider demonstration

8 *[Rules 21.5.1 (a)-(p), formerly numbered 21.6.1 (a)-(p), are retained; unaltered]*

9 (q) Functional testing must be completed according to the phases identified in
10 Rule ~~21.3.3~~21.2.3.

11 *[Rules 21.5.1 (r) and (s), formerly numbered 21.6.1 (r) and (s), are retained;*
12 *unaltered]*

13 (t) The Secretary of State will maintain records of the test procedures in
14 accordance with Rule ~~21.4.7~~21.3.7. The records must identify the system
15 and all components by voting system provider name, make, model, serial
16 number, software version, firmware version, date tested, test number, test
17 plan, requirements matrix, test team notes, and other supplemental
18 information, and results of test. The test environment conditions must be
19 described.

20 *[Rules 21.5.1 (u), formerly numbered 21.6.1 (u), is retained; unaltered]*

21 ~~21.6.2~~21.5.2 General testing procedures and instructions

22 *[Rules 21.5.2 (a)-(i), formerly numbered 21.6.2 (a)-(i), are retained; unaltered]*

23 ~~21.7~~21.6 Temporary use

24 ~~21.7.1~~21.6.1 If a voting system provider has a system that has not yet been approved for
25 certification through the Secretary of State, the voting system provider or the
26 designated election official may apply to the Secretary of State for temporary
27 approval of the system to be used for up to one year.

28 ~~21.7.2~~21.6.2 Upon approval of temporary use, a jurisdiction may use the voting system,
29 or enter into a contract to rent or lease the voting system for a specific election
30 upon receiving written notice from the Secretary of State's office. At no time may
31 a jurisdiction enter into a contract to purchase a voting system that has been
32 approved for temporary use.

- 1 ~~21.11.1~~21.10.1 The voting system provider must place in escrow a copy of the
2 election MANAGEMENT software, firmware, and supporting documentation being
3 certified with either the Secretary of State or an independent escrow agent
4 approved by the Secretary of State. [Section 1-7-511, C.R.S.]
- 5 ~~21.11.2~~21.10.2 Within ten days of the voting system provider receiving
6 notification of examination of voting equipment as part of the certification
7 process, the voting system provider must arrange for the completion of escrow
8 requirements as indicated by this Rule.
- 9 ~~21.11.3~~21.10.3 The voting system provider must sign a sworn affidavit that the
10 election MANAGEMENT software in escrow is the same as the election
11 MANAGEMENT software used in its voting systems in this state.
- 12 ~~21.11.4~~21.10.4 A complete copy of the certified election MANAGEMENT software
13 including any and all subsystems of the certified software will be maintained in
14 escrow.
- 15 ~~21.11.5~~21.10.5 Any changes to current configurations or new installations must be
16 approved through the certification program of the Secretary of State.
- 17 ~~21.11.6~~21.10.6 In addition to the requirements listed below, the voting system
18 provider must include a cover/instructions sheet for any escrow material to
19 include the voting system provider, address and pertinent contact information,
20 software version, hardware version, firmware revision number, and other uniquely
21 identifying numbers of the software submitted for certification.
- 22 ~~21.11.7~~21.10.7 Election MANAGEMENT software source code, maintained in
23 escrow, must contain internal documentation such that a person reasonably
24 proficient in the use of the programming language can efficiently use the
25 documentation to understand the program structure, control techniques, and error
26 processing logic in order to maintain the source code should it be removed from
27 escrow for any reason.
- 28 ~~21.11.8~~21.10.8 System documentation will include instructions for converting the
29 escrowed source code into object code, organized and configured to produce an
30 executable system, if warranted.
- 31 ~~21.11.9~~21.10.9 System documentation will include technical architecture design,
32 analysis, detail design, testing and an installation and configuration guide.
- 33 ~~21.11.10~~21.10.10 A set of schematics and drawings on electronic vote casting and
34 counting equipment purchased or in use by the county clerk must be filed with the
35 Secretary of State.
- 36 ~~21.11.11~~21.10.11 All parties must treat as confidential the terms of this Rule
37 including all escrow materials and any other related information that comes into
38 their possession, control or custody in accordance with this section.

1 ~~21.11.12~~21.10.12 Copies of electronic media and supporting documentation for
2 escrow within the Secretary of State will be sent to:

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

7 ~~21.11.13~~21.10.13 Any cost of using an alternative third party escrow agent must be
8 borne by the voting system provider.