

**STATE OF  
COLORADO**  
**Department of State**  
1700 Broadway  
Suite 200  
Denver, CO 80290

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**Wayne W. Williams**  
Secretary of State

**Suzanne Staiert**  
Deputy Secretary of State

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## **Notice of Proposed Rulemaking**

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

**May 28, 2015**

### **I. Hearing Notice**

As required by the State Administrative Procedure Act,<sup>1</sup> the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for **July 7, 2015 from 2:00 p.m. - 4:00 p.m.** in the Aspen Conference Room on the 3rd floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

### **II. Subject**

The Secretary is considering amendments to the election rules<sup>2</sup> to improve the administration and enforcement of Colorado election law.<sup>3</sup>

Specifically, the Secretary is considering rule revisions necessary to implement legislation, clarify and simplify the rules, remove language duplicative of statute, and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

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

### **III. Statutory authority**

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

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<sup>1</sup> Section 24-4-103(3)(a), C.R.S. (2014).

<sup>2</sup> 8 CCR 1505-CCR 1.

<sup>3</sup> Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

- Section 1-1-107(2)(a), C.R.S., (2014), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-1.5-104(1)(b), C.R.S., (2014), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
- Section 1-1.5-104(1)(e), C.R.S., (2014), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”
- Section 1-2-217.7(7), C.R.S., (2014), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
- Section 1-5-504.5(1)(e), C.R.S., (2014) which authorizes the Secretary of State to promulgate rules to prescribe the form of “explanation of the procedures that govern the provision of voting assistance to electors with disabilities who require such assistance pursuant to section 1-7-111, C.R.S.
- Section 1-7.5-104, C.R.S. (2014), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
- Section 1-7.5-106, C.R.S., (2014), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]”
- Section 1-8.3-105(2), C.R.S., (2014), which authorizes the Secretary of State to prescribe by rule “special procedures or requirements as may be necessary to facilitate early voting by those members of the military or military support personnel directly affected by the emergency.”
- Section 1-8.5-112, C.R.S., (2014), which requires the Secretary of State to promulgate all appropriate rules...for the purpose of ensuring the uniform application of [Article 8.5 of Title 1, C.R.S.]”

#### **IV. Copies of draft rules**

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

[www.sos.state.co.us/pubs/rule\\_making/hearings/2015/ElectionsRulesHearing20150707.html](http://www.sos.state.co.us/pubs/rule_making/hearings/2015/ElectionsRulesHearing20150707.html).

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

As required by the State Administrative Procedures Act,<sup>4</sup> if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 2, 2015.

## **V. Opportunity to testify and submit written comments**

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

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office any time before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website [www.sos.state.co.us/pubs/rule\\_making/hearings/2015/ElectionsRulesHearing20150707.html](http://www.sos.state.co.us/pubs/rule_making/hearings/2015/ElectionsRulesHearing20150707.html).

We will redact contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor.

## **VI. Broadcast and audio recording of hearing**

If you are unable to attend the hearing, you may listen to the live broadcast from the Aspen Conference Room online at [www.sos.state.co.us/pubs/info\\_center/audioBroadcasts.html](http://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html). After the hearing, visit the same website and click on “archived recordings” to access an audio recording of the hearing.

## **VII. Office contact**

If you have any questions or would like to submit written comments, please contact Andrea Gyger with the Administration Division at [SoS.Rulemaking@sos.state.co.us](mailto:SoS.Rulemaking@sos.state.co.us) or (303) 894-2200 ext. 6329.

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<sup>4</sup> Section 24-4-103(3)(a), C.R.S. (2014). “Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

Dated this 28th Day of May, 2015.

A handwritten signature in blue ink that reads "Wayne W. Williams". The signature is written in a cursive style with a large initial 'W'.

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Wayne W. Williams  
Colorado Secretary of State



## **Draft Statement of Basis, Purpose, and Specific Statutory Authority**

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

**May 28, 2015**

### **I. Basis and Purpose**

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

On May 8, 2015, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: [http://www.sos.state.co.us/pubs/rule\\_making/ruleComments.html](http://www.sos.state.co.us/pubs/rule_making/ruleComments.html) and are incorporated into the official rulemaking record.

Specific proposed changes include:

- Amendments to Rule 1.1.46 to clarify how watchers are appointed for a recall election.
- Amendments to Rule 2.3 to clarify that a county must mark an elector's registration record as "ID Required" if the elector provides a driver's license or state identification card number or social security number that does not verify in the statewide voter registration database.
- New Rule 2.3.1 requires a county to process the Help American Vote Verification file on a monthly basis and remove the "ID Required" flag for those numbers that are verified.
- Amendments to Rule 2.4 to clarify that the provisions of Rule 2.4 apply to new registration applications.

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<sup>1</sup> Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

- Amendments to Rule 2.5 to clarify that those rule provisions apply to existing voter registration records. The amendments also establish that an application must meet minimum matching criteria before a county may change an elector's status.
- Amendments to Rule 2.10.4 clarify that if a new voter notification card is returned to the county clerk as undeliverable after the 20-day period outlined in section 1-2-509(3), C.R.S., expires, the county clerk must mark the voter's record as "Inactive – returned mail" and mail a confirmation card.
- Amendments to Rule 2.13.1(a) clarify that election judges are permitted to register voters or update voter registration information in SCORE.
- Repeal of Rule 2.13.1(b) to correspond with Senate Bill 15-100.
- Amendments to New Rule 2.13.1(b) allow a county to provide its own training to election judges instead of the Secretary of State provided training if the training is approved by the Secretary of State. .
- New Rule 4.3.3 clarifies canvass board appointments in odd-year November elections in which there is a statewide issue on the ballot.
- Repeal of Rule 6.4.1 and 6.5 to correspond with Senate Bill 15-100.
- Repeal of 7.2.3(c) because it is addressed by section 1-7.5-107(3)(a)(I), C.R.S.
- Repeal of 7.2.6 to correspond with Senate Bill 15-100.
- New Rule 7.2.6, which provides that each mail ballot return envelope must include a section for the elector to identify the person returning a ballot other than the voter. This rule is intended to assist with the enforcement of the ten-ballot receipt-for-delivery requirement in statute and to provide a chain-of-custody in instances of alleged ballot tampering.
- New Rule 7.2.7 clarifies that a county must issue a mail ballot to any eligible elector who requests one in person at the county clerk's office beginning 32 days before an election in accordance with section 1-7.5-107(2.7), C.R.S.
- Amendments to Rule 7.3.1 clarify that a designated election official must attempt to call all electors whose missing signature affidavits are unsigned if the designated election official calls any elector.
- Amendments to Rule 7.5.1 requires counties to adequately light all drop-off locations and clarifies that a county must monitor each drop-off location using either an election official or video security surveillance recording system as defined in Rule 1.1.42.
- Amendments to Rule 7.5.5 clarify that election officials must receive undeliverable ballots in SCORE upon receipt.

- Amendments to Rule 7.7.1 require election officials to follow the procedures for discrepant signatures outlined in section 1-7.5-107.3(2)(a), C.R.S., if a ballot return envelope lacks a signature.
- New Rule 7.1.4 clarifies that if an elector fails to cure a missing signature, the county clerk is not required to send a copy of the ballot return envelope to the district attorney.
- Repeal of Rules 7.7.2 and 7.7.3 as unnecessary with amendments to Rule 7.7.1
- Amendments to Rule 7.9.3 provide that a county clerk must configure voter service and polling centers, and provide sufficient resources to assist registrants and electors efficiently.
- New Rule 7.11.2 requires a county to use the WebSCORE application to register voters; update existing voter registrations; issue and replace mail ballots; and issue, spoil, and replace in-person ballots. It also requires that in the event that the voter service and polling center loses connectivity to WebSCORE but retains connectivity to SCORE, the county must offer an in-person voter the option to obtain a replacement mail ballot rather than a provisional ballot.
- Amendments to Rule 7.11.3 provide that an election official may not open simultaneous sessions of both SCORE and WebSCORE on a single workstation.
- Amendments to Rule 11.1.3 explaining that a person convicted of an election offense containing an element of fraud may not have access to a code, combination, password, or encryption key for the voting equipment, ballot storage area, counting room, or tabulation workstation.
- Repeal of Rule 16.1.5 as duplicative of sections 1-8.3-111 and 1-8.3-113, C.R.S.
- Amendments to Rule 16.2.1(c) to correspond with section 1-8.3-111, C.R.S., and define “not feasible” as circumstances where the elector believes the timely return of his or her ballot by mail is not certain.
- Amendments to Rule 16.2.3 to amend the affirmation to indicate the elector’s understanding that Colorado law requires an elector to return his or her ballot by a more secure method, such as mail, if available and feasible.
- New Rule 16.2.8 prohibits and defines internet voting.
- Amendments to Rule 20.4.1 and 20.4.3 to correspond to Senate Bill 15-100.
- Amendments to Rule 20.9.1(c) to correspond to Senate Bill 15-100.
- New Rule 23 to create a Bipartisan Election Advisory Commission. This Rule outlines the purpose of the Commission, the membership of the Commission, and the structure of the meetings.

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

## **II. Rulemaking Authority**

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2014), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-104(1)(b), C.R.S., (2014), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
3. Section 1-1.5-104(1)(e), C.R.S., (2014), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”
4. Section 1-2-217.7(7), C.R.S., (2014), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
5. Section 1-5-504.5(1)(e), C.R.S., (2014) which authorizes the Secretary of State to promulgate rules to prescribe the form of “explanation of the procedures that govern the provision of voting assistance to electors with disabilities who require such assistance pursuant to section 1-7-111, C.R.S.
6. Section 1-7.5-104, C.R.S. (2014), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
7. Section 1-7.5-106, C.R.S., (2014), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]”
8. Section 1-8.3-105(2), C.R.S., (2014), which authorizes the Secretary of State to prescribe by rule “special procedures or requirements as may be necessary to facilitate early voting by those members of the military or military support personnel directly affected by the emergency.”
9. Section 1-8.5-112, C.R.S., (2014), which requires the Secretary of State to promulgate all appropriate rules...for the purpose of ensuring the uniform application of [Article 8.5 of Title 1, C.R.S.]”

**Working Draft of Proposed Rules**

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

**May 28, 2015**

**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.<sup>1</sup>

This is a preliminary draft of the proposed rules that may be revised before the July 7, 2015 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State’s website no later than **July 2, 2015**.<sup>2</sup>

Please note the following formatting key:

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

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

2 *Amendments to Rule 1.1.46(a):*

3 1.1.46 “Watcher” has the same meaning as in section 1-1-104(51), C.R.S.

4 (a) ~~A watcher may be appointed for a recall election in the same manner as in~~  
5 ~~a primary election. WATCHERS MAY BE APPOINTED FOR A RECALL~~  
6 ~~ELECTION BY EACH QUALIFIED SUCCESSOR CANDIDATE, THE PROPONENTS~~  
7 ~~AND OPPONENTS OF THE RECALL BALLOT ISSUE, AND EACH PARTICIPATING~~  
8 ~~POLITICAL PARTY FOR A PARTISAN RECALL ELECTION.~~

9 *[The remainder of Rule 1.1.46 is retained unaltered]*

10 *Amendments to Rule 2.3 through 2.5:*

11 2.3 ~~When an elector registers to vote, the elector must provide a verifiable driver’s license or~~  
12 ~~state identification card number, or last four digits of his or her social security number. IF~~  
13 ~~AN ELECTOR HAS A DRIVER’S LICENSE NUMBER OR STATE IDENTIFICATION NUMBER, HE OR~~

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<sup>1</sup> Sections 24-4-103(2.5) and (3)(a), C.R.S. (2014). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

<sup>2</sup> Section 24-4-103(4)(a), C.R.S. (2014). “[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 SHE MUST PROVIDE IT WHEN REGISTERING TO VOTE. IF THE ELECTOR HAS NEITHER, HE OR  
2 SHE MAY PROVIDE THE LAST FOUR DIGITS OF HIS OR HER SOCIAL SECURITY NUMBER. If the  
3 elector states that he or she does not have a driver's license, state identification card  
4 number, or social security number, OR IF THE CLERK CANNOT VERIFY THE ELECTOR'S  
5 INFORMATION IN SCORE, the county clerk must register the elector and mark the  
6 registration record "ID required".

7 2.3.1 THE COUNTY MUST PROCESS THE HELP AMERICA VOTE VERIFICATION FILE ON A  
8 MONTHLY BASIS BY VERIFYING SOCIAL SECURITY NUMBERS AND REMOVE THE "ID  
9 REQUIRED" VERIFIED RECORDS.

10 ~~2.3.1~~2.3.2 As used in section 1-1-104(19.5), C.R.S., government document means a  
11 document issued by a city, county, state, or federal government.

12 *[The remainder of New Rule 2.3.2, formerly Rule 2.3.1, is retained unaltered]*

13 ~~2.3.2~~2.3.3 As used in section 1-1-104(19.5)(a)(VII), C.R.S., "current" means that the  
14 date of the document is within 60 days of the date submitted for identification  
15 purposes unless the document states a longer billing cycle.

16 ~~2.3.3~~2.3.4 Documents issued under section 42-2-505, C.R.S., are not acceptable  
17 forms of identification for any purpose under the Uniform Election Code of 1992  
18 and these rules.

19 2.4 Treatment of INCOMPLETE NEW REGISTRATION applications ~~where the elector fails to~~  
20 ~~provide required information~~

21 *[The remainder of Rule 2.4 is retained unaltered]*

22 2.5 Changes to an elector's EXISTING voter registration record

23 2.5.1 If an elector submits a change to his or her voter registration record and fails to  
24 include the information required by sections 1-2-216 or 1-2-219, C.R.S., the  
25 county clerk ~~must~~ MAY not make the requested change unless the county clerk can  
26 ~~confidently identify the voter~~ ESTABLISH MINIMUM MATCHING CRITERIA. ~~The~~ IF  
27 THE county clerk CANNOT ESTABLISH MINIMUM MATCHING CRITERIA, THE COUNTY  
28 CLERK MAY NOT CHANGE THE ELECTOR'S STATUS AND must notify the ~~voter~~  
29 ELECTOR of the additional information that is required to process the request.

30 *[The remainder of Rule 2.5 is retained unaltered]*

31 *Amendments to Rule 2.7.1:*

32 2.7 Minimum matching criteria

33 2.7.1 Except as provided in section ~~1-2-302.5~~, C.R.S., the county clerk ~~must~~ MAY not  
34 transfer, consolidate, or cancel a voter registration record unless the APPLICABLE  
35 minimum matching criteria as set forth in sections 1-2-603 ~~and~~ OR 1-2-604,

Add, 'or except as provided in NCOA reqs, or if a confirmation card is received back from the voter...' This would give clerks more options to meet matching criteria.

1 C.R.S., are met. If the minimum matching criteria are not met the county clerk  
2 must send a letter to the voter requesting confirmation of the missing or non-  
3 matching information in order to transfer, consolidate, or cancel the record.

4 *[The remainder of Rule 2.7 is retained unaltered]*

5 *Amendments to Rule 2.10:*

6 2.10 ~~20-day applicants~~ NEW VOTER NOTIFICATION under section 1-2-509(3), C.R.S.

7 2.10.1 When a county clerk ~~deems~~ DETERMINES an applicant "not registered" upon  
8 receipt of an undeliverable new voter notification in accordance with section 1-2-  
9 509(3), C.R.S., the county clerk must mail a confirmation card. The confirmation  
10 card must meet the requirements of section 1-1-104(2.8), C.R.S.

11 2.10.2 If the applicant returns the signed confirmation card within 90 days the county  
12 clerk must register the applicant using the date of the original application.

13 2.10.3 During the 22 days before an election, the county clerk must defer processing  
14 undeliverable ~~20-day~~ NEW VOTER notifications. After the election is closed, the  
15 clerk must ~~deem~~ DETERMINE an applicant "not registered" under section 1-2-  
16 509(3), C.R.S., only if the applicant did not vote in the election.

17 ~~2.12.1~~ 2.10.4 ~~When~~ IF AFTER THE 20-DAY PERIOD OUTLINED IN SECTION 1-2-509(3),  
18 C.R.S, the United States Postal Service returns a new voter notification ~~or~~  
19 ~~confirmation card~~ to the county clerk as undeliverable, or provides the clerk with  
20 a postcard notice of mail forwarding, the county clerk must mark the voter's  
21 record "Inactive ~~— returned mail~~" and mail a confirmation card. ~~Where a~~  
22 ~~confirmation card sent under this Rule is returned as undeliverable, the county is~~  
23 ~~not required to mail another card.~~

24 *[Current Rule 2.12.1 is amended and recodified as New Rule 2.10.4]*

25 *Amendments to Rules 2.12 and 2.13:*

26 2.12 List Maintenance under section 8 of the National Voter Registration Act of 1993

27 ~~2.12.1~~ ~~When the United States Postal Service returns a new voter notification or~~  
28 ~~confirmation card to the county clerk as undeliverable, or provides the clerk with~~  
29 ~~a postcard notice of mail forwarding, the county clerk must mark the voter's~~  
30 ~~record "Inactive — returned mail" and mail a confirmation card. Where a~~  
31 ~~confirmation card sent under this Rule is returned as undeliverable, the county is~~  
32 ~~not required to mail another card.~~

33 *[Current Rule 2.12.1 is amended and recodified as New Rule 2.10.4; subsequent rules*  
34 *are renumbered as follows:]*

1 ~~2.12.2~~2.12.1 The Secretary of State will provide monthly National Change of Address  
2 (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk by the fifth of  
3 each month.

4 *[The remainder of New Rule 2.12.1, formerly Rule 2.12.2, is retained unaltered]*

5 ~~2.12.3~~2.12.2 In accordance with section 1-2-605(7), C.R.S., no later than 90 days  
6 following a General Election, the county clerk in each county must cancel the  
7 registrations of electors:

8 *[The remainder of New Rule 2.12.2, formerly Rule 2.12.3, is retained unaltered]*

9 ~~2.12.4~~2.12.3 The county must process all records designated for cancelation by the  
10 Secretary of State within 21 days of receipt.

11 ~~2.12.5~~2.12.4 The county must process and mail all confirmation cards using SCORE so  
12 that the elector's voter registration record audit log shows the date on which the  
13 county printed or extracted the confirmation card.

14 ~~2.12.6~~2.12.5 To the extent a county has records of confirmation cards it has generated  
15 and sent outside of SCORE, the county must retain those records as election  
16 records under section 1-7-802, C.R.S.

17 2.13 Voter registration at a voter service and polling center

18 2.13.1 A person registering voters or updating voter registration information in a voter  
19 service and polling center must:

20 (a) Be AN ELECTION JUDGE, a permanent or temporary county employee, state  
21 employee, or temporary staff hired by the county clerk;

22 ~~(b) Successfully pass the criminal background check described in Rule 6.5;~~  
23 and

24 ~~(e)~~(B) Complete a training course provided by OR APPROVED BY the Secretary of  
25 State.

26 *[Current Rule 2.13.2 is retained unaltered]*

27 *New Rule 4.3.3:*

28 4.3.3 IN ANY ODD-YEAR NOVEMBER COORDINATED ELECTION IN WHICH THERE IS A STATEWIDE  
29 ISSUE ON THE BALLOT, THE CANVASS BOARD MEMBERS MUST BE APPOINTED IN  
30 ACCORDANCE WITH SECTION 1-10-101, C.R.S.

31 *Amendments to Rule 6.4 and repeal of Rule 6.5:*

32 6.4 A supervisor judge in a voter service and polling center must:

The proposed change appears to conflict with 1-10-202, which states that Canvass Board members are appointed according to the IGA.

1 ~~6.4.1 Successfully pass the criminal background check described in Rule 6.5. Any~~  
2 ~~person who has been convicted of an election offense or an offense with an~~  
3 ~~element of fraud is prohibited from handling voter registration applications or~~  
4 ~~conducting voter registration and list maintenance activities.~~

2.13.1 B should be consistent with 6.4.2.

~~6.4.2 Complete~~ COMPLETE a training course ~~provided by~~ APPROVED BY the Secretary of State.

7 ~~6.5 The county clerk must arrange for a criminal background check on a supervisor judge and~~  
8 ~~each staff member conducting voter registration activities.~~

9 ~~(a) The criminal background check must be conducted by or through the Colorado~~  
10 ~~Bureau of Investigation, the county sheriff's department in accordance with~~  
11 ~~section 24-72-305.6(3), C.R.S., or similar state or federal agency.~~

12 ~~(b) A person convicted of an election offense or an offense containing an element of~~  
13 ~~fraud may not:~~

14 ~~(1) Handle voter registration applications or conduct voter registration and list~~  
15 ~~maintenance activities; or~~

16 ~~(2) Have access to a code, combination, password, or encryption key for the~~  
17 ~~voting equipment, ballot storage area, counting room, or tabulation~~  
18 ~~workstation.~~

19 *Repeal of Rule 7.2.3(c) concerning ballots and ballot packets:*

20 ~~(c) In coordinated elections, the county clerk must mail ballots to all active~~  
21 ~~eligible electors of each political subdivision.~~

Does 'Mail Ballot Instruction' mean the secrecy envelope? Given that the rule expired last month, what impact will this new rule have?

*to Rules 7.2.5 through 7.2.7:*

~~Effective January 1, 2015, each EACH mail ballot return envelope and mail ballot instruction must include a statement informing voters that it is a violation of law to drop off more than ten ballots RECEIVE MORE THAN TEN BALLOTS FOR MAILING OR DELIVERY in any election.~~

~~Effective January 1, 2015, each mail ballot return envelope must include the following: "For third party delivery: I am voluntarily giving my ballot to (name and address) for delivery. I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law."~~

32 7.2.6 EFFECTIVE JANUARY 1, 2016, EACH MAIL  
33 INCLUDE THE FOLLOWING: "I AM VOLUNTARILY  
34 (NAME AND ADDRESS) FOR DELIVERY ON MY BEHALF."

If the rule is proposed to assist with enforcement and establishing a chain of custody, please provide clarification on what, if anything, county clerks are expected to capture or process under the proposed rule. Do the ballots or the name of the person (deliverer), if known, get referred to the DA or other law enforcement? What happens when there are "allegations of tampering"?

1 7.2.7 A COUNTY MUST ISSUE A MAIL BALLOT TO ANY ELIGIBLE ELECTOR WHO REQUESTS  
2 ONE IN PERSON AT THE COUNTY CLERK'S OFFICE BEGINNING 32 DAYS BEFORE AN  
3 ELECTION. [SECTION 1-7.5-107(2.7), C.R.S.]

4 *Amendments to Rule 7.5.1:*

5 7.5 Receipt and processing of ballots

6 7.5.1 ~~ALL~~ THE COUNTY CLERK MUST ADEQUATELY LIGHT ALL STAND-ALONE drop-off  
7 locations ~~must be monitored by~~ AND USE EITHER an election official or A video  
8 security surveillance recording system, as defined in Rule ~~20~~1.1.42 TO MONITOR  
9 EACH LOCATION.

10 *[The remainder of Rule 7.5.1 and Rules 7.5.2 through 7.5.4 are retained*  
11 *unaltered]*

12 *Amendments to Rule 7.5.5:*

13 7.5.5 Election officials must record the number of ballot packets returned as  
14 undeliverable AND RECEIVE THE BALLOT PACKETS IN SCORE upon receipt.

15 *Amendments to Rule 7.7:*

16 7.7 Missing signature.

17 7.7.1 If a mail or provisional ballot return envelope lacks a signature, ~~the election~~  
18 ~~official must contact the elector in writing no later than two calendar days after~~  
~~election day.~~ THE COUNTY CLERK MUST FOLLOW THE PROCEDURES FOR DISCREPANT  
SIGNATURES OUTLINED IN SECTION 1-7.5-107.3(2)(A), C.R.S., EXCEPT AS PROVIDED  
IN RULE 7.7.4.

Historically, a copy of ID has not been required to resolve a missing signature. This is a process change. Since signature verification procedures are enacted with the signed affidavit, a copy of ID is not necessary.

2 The ~~designated election official~~ COUNTY CLERK must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record.

3 Nothing in this Rule prohibits the ~~designated election official~~ COUNTY CLERK from calling the elector, but a phone call may not substitute for written contact. If the ~~designated election official~~ COUNTY CLERK calls any elector he or she must ATTEMPT TO call all electors whose affidavits are unsigned.

29 7.7.4 IF AN ELECTOR FAILS TO CURE A MISSING SIGNATURE, THE COUNTY CLERK NEED  
30 NOT SEND A COPY OF THE MAIL BALLOT RETURN ENVELOPE TO THE DISTRICT  
31 ATTORNEY FOR INVESTIGATION.

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

1 ~~7.7.2 The letter must inform the elector that the elector must sign the affidavit and~~  
2 ~~return the form in person or by mail, fax, or email, and that the county must~~  
3 ~~receive the form no later than eight calendar days after the election.~~

4 ~~7.7.3 The election official must use the letter and the signature verification form~~  
5 ~~approved by the Secretary of State. The letter and missing signature affidavit form~~  
6 ~~does not violate section 1-13-801, C.R.S.~~

7 *Amendments to Rule 7.9.3:*

8 7.9.3 ~~Voter check in at the voter service and polling center~~

9 (a) ~~Each voter service and polling center must include an adequately staffed~~  
10 ~~designated voter check in table or area.~~

11 (b) ~~The check in judge must verify each elector's registration information,~~  
12 ~~including address.~~

13 (c) ~~If an elector has moved or is not registered, the check in judge must direct~~  
14 ~~the elector to the registration area. If the elector is registered and has no~~  
15 ~~updates, the check in judge must direct the elector to the voting table. IN~~  
16 ~~ORDER TO ASSIST APPLICANTS AND ELECTORS EFFICIENTLY, A COUNTY~~  
17 ~~CLERK MUST CONFIGURE VOTER SERVICE AND POLLING CENTERS TO~~  
18 ~~PROVIDE: SUFFICIENT ELECTION JUDGES, SCORE WORK STATIONS, VOTING~~  
19 ~~EQUIPMENT, AND BALLOTS AND OTHER SUPPLIES.~~

20 *Amendments to Rule 7.11:*

21 7.11 ~~Voter service and polling center connectivity~~

22 7.11.1 ~~The county must have real-time access to SCORE AND WEBScore at every~~  
23 ~~voter service and polling center designated by the county clerk.~~

24 7.11.2 ~~THE COUNTY CLERK MUST INSTRUCT ELECTION JUDGES AND, IF APPROPRIATE,~~  
25 ~~ELECTION STAFF, TO:~~

26 (A) ~~USE WEBScore TO REGISTER VOTERS; UPDATE EXISTING VOTER~~  
27 ~~REGISTRATIONS; ISSUE AND REPLACE MAIL BALLOTS; AND ISSUE, SPOIL, AND~~  
28 ~~REPLACE IN-PERSON BALLOTS: AND~~

29 (B) ~~OFFER AN IN-PERSON VOTER THE OPPORTUNITY TO OBTAIN A REPLACEMENT~~  
30 ~~MAIL BALLOT RATHER THAN A PROVISIONAL BALLOT IN THE EVENT THE~~  
31 ~~VOTER SERVICE AND POLLING CENTER LOSES CONNECTIVITY TO~~  
32 ~~WEBScore BUT RETAINS CONNECTIVITY TO SCORE.~~

33 ~~7.11.2-7.11.3~~ At no time may an election official open SIMULTANEOUS SESSIONS OF both  
34 ~~the SCORE voter registration screen and the voting module WEBScore on a~~  
35 ~~single workstation.~~

Suggest changing 'official' to 'judge'  
if rule is kept.

1           ~~7.11.3~~7.11.4 Every voter service and polling center designated by the county clerk must  
2           meet the minimum security procedures for transmitting voter registration data as  
3           outlined in section 1-5-102.9, C.R.S., and Rule 2.16.

4           *Amendments to Rule 11.1.3 concerning voting system access:*

5           11.1.3 In accordance with section 24-72-305.6, C.R.S., all permanent and temporary  
6           county staff and all vendor staff who have access to the voting system or any  
7           voting or counting equipment must pass ~~the~~ A criminal background check  
8           described in ~~Rule 6.5~~. A PERSON CONVICTED OF AN ELECTION OFFENSE OR AN  
9           OFFENSE CONTAINING AN ELEMENT OF FRAUD MAY NOT HAVE ACCESS TO A CODE,  
10          COMBINATION, PASSWORD, OR ENCRYPTION KEY FOR THE VOTING EQUIPMENT,  
11          BALLOT STORAGE AREA, COUNTING ROOM, OR TABULATION WORKSTATION.

12          *Current Rule 16.1.5, concerning voting by military and overseas electors, is repealed and*  
13          *subsequent rules are renumbered as follows:*

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

18          ~~16.1.6~~16.1.5 Ballots received by the Secretary of State

19                           *[The remainder of New Rule 16.1.5, formerly Rule 16.1.6, is retained unaltered]*

20          ~~16.1.7~~16.1.6 The county clerk must send a minimum of one correspondence no later  
21          than 60 days before the Primary Election to each elector whose record is marked  
22          “Inactive.” The correspondence may be sent by email or mail and, at a minimum,  
23          must notify the electors of:

24                           *[The remainder of New Rule 16.1.6, formerly Rule 16.1.7, is retained unaltered]*

25          ~~16.1.8~~16.1.7 No later than 45 days before an election, the county clerk must report to  
26          the Secretary of State the number ballots transmitted to military and overseas  
27          electors by the 45-day deadline.

28          ~~16.1.9~~16.1.8 Failure to meet the 45-day ballot transmission deadline in section 1-8.3-  
29          110, C.R.S.

30                           *[The remainder of New Rule 16.1.8, formerly Rule 16.1.9, is retained unaltered]*

31          *Amendments to Rule 16.2.1(c), concerning electronic transmission for military and overseas*  
32          *electors:*

ESRC supports this rule as drafted because it strikes an appropriate balance between access and integrity.

→ (c) In accordance with section 1-8.3-113(1), C.R.S., an elector who chooses to receive his or her unvoted ballot by ~~online ballot delivery~~ ELECTRONIC TRANSMISSION may return his or her ballot by fax or email ONLY IF THE

1 ELECTOR DETERMINES THAT A MORE SECURE METHOD, SUCH AS RETURNING  
2 THE BALLOT BY MAIL, IS NOT AVAILABLE OR FEASIBLE. "NOT FEASIBLE"  
3 MEANS CIRCUMSTANCES WHERE THE ELECTOR BELIEVES THE TIMELY  
4 RETURN OF HIS OR HER BALLOT BY MAIL IS NOT CERTAIN.

5 *Amendments to Rule 16.2.3:*

6 16.2.3 The self-affirmation must include the standard oath required by the Uniformed  
7 and Overseas Citizen Voting Act (42 U.S.C sec. 1973ff(b)(7) and 1(a)(5)), the  
8 elector's name, date of birth, signature, and the following statement: I also  
9 understand that by returning my voted ballot by electronic transmission, I am  
10 voluntarily waiving my right to a secret ballot AND THAT COLORADO LAW  
11 REQUIRES THAT I RETURN THIS BALLOT BY A MORE SECURE METHOD, SUCH AS MAIL,  
12 IF AVAILABLE AND FEASIBLE. (~~Section~~ SECTIONS 1-8.3-113 AND 1-8.3-114, C.R.S.)

13 *New Rule 16.2.8:*

14 16.2.8 NOTHING IN THIS RULE 16.2 PERMITS INTERNET VOTING. INTERNET VOTING MEANS  
15 A SYSTEM THAT INCLUDES REMOTE ACCESS, A VOTE THAT IS CAST DIRECTLY INTO A  
16 CENTRAL VOTE SERVER THAT TALLIES THE VOTES, AND DOES NOT REQUIRE THE  
17 SUPERVISION OF ELECTION OFFICIALS.

18 *Amendments to Rule 20.4:*

19 20.4 Individuals with access to keys, door codes, and vault combinations

20 20.4.1 For employees with access to areas addressed in Rule 20.4.3, the county must  
21 state in the security plan each employee's title and the date of the criminal  
22 background check WAS performed ~~under Rule 6.5~~. [Section 24-72-305.6, C.R.S.]

23 *[Current Rule 2.4.2 is retained unaltered]*

24 20.4.3 Employee access. The county may grant employees access to the codes,  
25 combinations, passwords, and encryption keys described in this Rule in  
26 accordance with the following limitations:

- 27 (a) Access to the code, combination, password, or encryption key for the  
28 voting equipment, ballot storage areas, counting room, or tabulation  
29 workstations is restricted to employees who have successfully passed ~~the~~  
30 A criminal background check ~~described in Rule 6.5~~. Any person who has  
31 been convicted of an election offense or an offense with an element of  
32 fraud is prohibited from having access to a code, combination, password,  
33 or encryption key for the voting equipment, ballot storage areas, counting  
34 room, or tabulation workstations.

35 *[Current Rules 20.4.3(b), 20.4.3(c), and Rule 20.4.5 are retained unaltered]*

1 *Amendments to Rule 20.9.1(c), concerning transportation of equipment, memory cards, ballot*  
2 *boxes, and ballots:*

3 (c) Transportation by contract. If a county contracts for the delivery of  
4 equipment to remote voting locations, each individual delivering  
5 equipment must successfully pass ~~the~~ A criminal background check  
6 ~~described in Rule 6.5~~. Any person who has been convicted of an election  
7 offense or an offense with an element of fraud is prohibited from handling  
8 or delivering voting equipment. Two election officials must verify, sign,  
9 and date the chain-of-custody log upon release of the equipment to the  
10 individual(s) delivering the equipment.

11 *New Rule 23:*

12 **RULE 23. COMMISSIONS**

13 23.1 BIPARTISAN ELECTION ADVISORY COMMISSION

14 23.1.1 THE SECRETARY OF STATE FINDS AND DECLARES THAT OPEN DISCUSSION ABOUT  
15 THE ADMINISTRATION AND CONDUCT OF ELECTIONS IN COLORADO IS NECESSARY TO  
16 ENSURE THAT EVERY ELIGIBLE CITIZEN HAS THE OPPORTUNITY TO PARTICIPATE IN  
17 FAIR, ACCESSIBLE, AND IMPARTIAL ELECTIONS, AND HAS THE ASSURANCE THAT  
18 ELECTIONS ARE CONDUCTED WITH INTEGRITY AND HIS OR HER VOTE WILL COUNT.  
19 BECAUSE THE COLORADO GENERAL ASSEMBLY DISCONTINUED THE COLORADO  
20 VOTER ACCESS AND MODERNIZED ELECTION COMMISSION, THE SECRETARY OF  
21 STATE WILL ESTABLISH A BIPARTISAN ELECTION ADVISORY COMMISSION (THE  
22 COMMISSION) TO IDENTIFY PROCESSES FOR IMPROVEMENT AND WORK TO OBTAIN  
23 BIPARTISAN SUPPORT IN THE ADMINISTRATION OF ELECTIONS. THE COMMISSION  
24 WILL MAKE RECOMMENDATIONS TO THE SECRETARY OF STATE REGARDING THE  
25 DEVELOPMENT AND IMPLEMENTATION OF BEST PRACTICES, ADMINISTRATIVE RULES  
26 AND SUGGESTIONS FOR LEGISLATION.

27 23.1.2 MEMBERSHIP OF THE COMMISSION

28 (A) THE SECRETARY OF STATE WILL APPOINT AT LEAST 13 MEMBERS TO THE  
29 COMMISSION. THE COMMISSION MAY INCLUDE:

30 (1) A REPRESENTATIVE OF AN ORGANIZATION THAT ADVOCATES ON  
31 BEHALF OF PEOPLE WITH DISABILITIES;

32 (2) A MEMBER OF THE EXECUTIVE BRANCH AND AT LEAST ONE  
33 LEGISLATOR FROM EACH PARTY;

34 (3) TWO COUNTY CLERK AND RECORDERS REPRESENTING THE  
35 COLORADO COUNTY CLERKS ASSOCIATION PRESIDENTIAL LINE OF  
36 LEADERSHIP;

- 1 (4) IF BOTH CLERKS IN (3) ARE FROM THE SAME PARTY OR IF NOT ALL  
2 COUNTIES ARE MEMBERS OF THE CCCA, ADDITIONAL CLERKS MAY  
3 BE APPOINTED;
- 4 (5) TWO REPRESENTATIVES OF ORGANIZATIONS THAT ADVOCATE ON  
5 BEHALF OF LOCAL GOVERNMENTS, INCLUDING COUNTIES,  
6 MUNICIPALITIES, AND SPECIAL DISTRICTS;
- 7 (6) CHAIR, PARTY OFFICER, OR LEGAL COUNSEL FOR EACH MAJOR  
8 POLITICAL PARTY; AND
- 9 (7) TWO MEMBERS WITH EXPERTISE ON VOTING RIGHTS AND/OR  
10 ELECTION INTEGRITY.
- 11 (B) THE SECRETARY OF STATE OR HIS OR HER DESIGNEE, WILL BE A MEMBER  
12 AND SERVE AS CHAIR OF THE COMMISSION.
- 13 (C) THE SECRETARY OF STATE'S OFFICE WILL PROVIDE STAFF SUPPORT TO THE  
14 COMMISSION AS MAY BE DIRECTED BY THE SECRETARY OF STATE.

15 23.1.3 MEETINGS

- 16 (A) THE COMMISSION MUST MEET NO FEWER THAN THREE TIMES ANNUALLY.
- 17 (B) THE MEETINGS WILL BE HELD AT THE OFFICE OF THE SECRETARY OF STATE  
18 OR REGIONAL LOCATIONS THROUGHOUT THE STATE AS THE COMMISSION  
19 DETERMINES APPROPRIATE.
- 20 (C) MEETINGS MUST COMPLY WITH COLORADO OPEN MEETINGS LAW AND  
21 WILL PERMIT AN OPPORTUNITY FOR PUBLIC COMMENT.
- 22 (D) NOTICES, RECORDS OF MEETINGS, WRITTEN COMMENTS, AND DOCUMENTS  
23 SUBMITTED TO THE COMMISSION WILL BE PUBLISHED ON THE OFFICIAL  
24 WEBSITE OF THE SECRETARY OF STATE. DOCUMENTS THAT ARE OTHERWISE  
25 PUBLICLY AVAILABLE NEED NOT BE POSTED. ANY SUBMISSION CONTAINING  
26 INFLAMMATORY OR OTHERWISE INAPPROPRIATE CONTENT WILL NOT BE  
27 POSTED, INCLUDING ANY MATERIAL THAT IS DEFAMATORY, IRRELEVANT,  
28 DUPLICATIVE, OR OBSCENE.