



Notice of Proposed Rulemaking

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

January 31, 2018

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for **March 2, 2018 from 1:00 p.m. to 3:00 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 rules² to improve the administration and enforcement of Colorado election law.³

Specifically, the Secretary is considering rule revisions necessary to establish uniformity in the administration of current law; organize existing rules for clarity; eliminate obsolete provisions; simplify the language of existing rules; remove language that is 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:

¹ Section 24-4-103(3)(a), C.R.S. (2017).

² 8 CCR 1505-CCR 1.

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

- Section 1-1-107(2)(a), C.R.S., (2017), 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 1-4-101(2)(b), C.R.S., (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.
- Section 1-4-1203(6), C.R.S. (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.”
- Section 1-7-515(4), C.R.S. (2017), which requires the Secretary of State to promulgate rules necessary to implement and administer risk-limiting audits.
- Section 1-7.5-104, C.R.S. (2017), 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 1-7.5-105, C.R.S. (2017), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”
- Section 1-7.5-106, C.R.S., (2017), 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 1-10.5-102(2), C.R.S., (2017), which requires the Secretary of State to “promulgate and provide each county clerk and recorder with the necessary rules and regulations to conduct the recount in a fair, impartial, and uniform manner...”
- Section 1-10.5-102(3)(c), C.R.S., (2017), which requires the Secretary of State to promulgate rule as may be necessary to provide guidance to the counties in conducting the test of voting devices for the recount required by [Section 1-10.5-102(3)(a)].”

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/2018/ElectionsRulesHearing20180302.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,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by February 23, 2018.

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/2018/ElectionsRulesHearing20180302.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. 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 or (303) 894-2200 ext. 6329.

⁴ Section 24-4-103(3)(a), C.R.S. (2017). “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 31st Day of January, 2018.



Suzanne Staiert
Deputy Secretary of State

For

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

January 31, 2018

I. Basis and Purpose

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

On January 16, 2018, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/ruleComments.html and are incorporated into the official rulemaking record.

Specific proposed changes include:

- Amendments to Rule 7.2.16 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- Amendments to Rule 7.5.4 to establish uniformity in the administration of current law.
- Amendments to Rule 10.4 to update a cross-reference.
- New Rule 10.9.2 to establish uniformity in the administration of current law.
- Renumbering of Rules 10.9.2 and 10.9.3.
- New Rule 10.9.5.
- Amendments to Rule 10.12.1 to establish uniformity in the administration of current law.
- Amendments to Rule 10.12.2 to establish uniformity in the administration of current law.

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

- Amendments to Rules 10.12.3 and 10.13.3 establish uniformity in the administration of current law.
- Amendments to Rule 20.9.3(b) to establish uniformity in the administration of current law.
- Repeal of Rule 25.1.2 to ensure proper administration of post-election audits and renumbering of Rules 25.1.3 through 25.1.10.
- New Rule 25.1.10 to ensure proper administration of risk-limiting audits.
- Amendments to Rules 25.2.2 and 25.2.3 ensure proper administration of risk-limiting audits.
- New Rules 25.2.3(d) and (e) to ensure proper administration of risk-limiting audits.
- Amendments to Rule 25.2.4 to ensure proper administration of risk-limiting audits.
- New Rule 25.2.5 to ensure proper administration of risk-limiting audits.
- Renumbering Rule 25.2.6.

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., (2017), 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 1-4-101(2)(b), C.R.S., (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.”
3. Section 1-4-1203(6), C.R.S. (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.”
4. Section 1-7-515(4), C.R.S. (2017), which requires the Secretary of State to promulgate rules necessary to implement and administer risk-limiting audits.

5. Section 1-7.5-104, C.R.S. (2017), 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.”
6. Section 1-7.5-105, C.R.S. (2017), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”
7. Section 1-7.5-106, C.R.S., (2017), 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 1-10.5-102(2), C.R.S., (2017), which requires the Secretary of State to “promulgate and provide each county clerk and recorder with the necessary rules and regulations to conduct the recount in a fair, impartial, and uniform manner...”
9. Section 1-10.5-102(3)(c), C.R.S., (2017), which requires the Secretary of State to promulgate rule as may be necessary to provide guidance to the counties in conducting the test of voting devices for the recount required by [Section 1-10.5-102(3)(a)].”

Preliminary Draft of Proposed Rules

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

January 31, 2018

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 March 2, 2018 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 **February 23, 2018**.²

Please note the following formatting key:

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

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

2 *Amendments to Rule 7.2.16 concerning mail ballot instructions:*

3 7.2.16 Each mail ballot return envelope and mail ballot instruction for an unaffiliated voter WHO
4 HAS NOT DECLARED A PREFERENCE in a primary election must include a statement
5 instructing the voter to return only one ballot.

6 *Amendments to Rule 7.5.4 concerning drop-off locations:*

7 7.5.4 The county clerk must arrange for the collection of ballots by bipartisan teams of election
8 judges OR STAFF from all drop-off locations and receive them into SCORE:

9 *Amendments to Rule 10.4; cross-reference update:*

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2017). 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. (2017). “[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 10.4 No canvass board may certify official results until authorized to do so by the Secretary of State.
2 The Secretary of State may extend the canvass deadline for one or more counties in order to
3 complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a
4 county that conducts a comparison audit as defined in Rule ~~25.1.5~~-25.1.4 must manually adjust
5 the preliminary results to account for discrepancies identified in the risk-limiting audit if directed
6 by the Secretary of State.

7 *Amendments to Rule 10.9 concerning recount:*

8 *(No changes to Rule 10.9.1)*

9 10.9.2 A COUNTY THAT HAS SUCCESSFULLY COMPLETED A COMPARISON AUDIT UNDER RULE
10 25.2, NEED NOT RE-SCAN BALLOTS DURING A RECOUNT BUT MUST RE-ADJUDICATE
11 BALLOT IMAGES FOR VOTER INTENT IN ACCORDANCE WITH RULE 10.13.3.

12 ~~10.9.2~~-10.9.3 For statewide or federal races, ballot issues or ballot questions, the county clerk
13 must coordinate scheduling the recount through the Secretary of State's office so that it
14 can ensure adequate observer coverage.

15 ~~10.9.3~~-10.9.4 If there is a recount in a local jurisdiction whose borders encompass area in more
16 than one county, the controlling county, as defined in Rule 4.2.2, must coordinate the
17 scheduling and conduct of the recount with each county that shares the jurisdiction.

18 10.9.5 IF ALL LOSING CANDIDATES WHO RECEIVED ENOUGH VOTES TO TRIGGER A MANDATORY
19 RECOUNT SUBMIT LETTERS OF WITHDRAWAL TO THE DEO IN ACCORDANCE WITH
20 SECTION 1-4-1001, C.R.S., THE DEO MUST IMMEDIATELY NOTIFY THE COUNTY CLERK
21 AND THE COUNTY CLERK NEED NOT CONDUCT THE RECOUNT.

22 *Amendments to Rule 10.12 concerning testing recount equipment:*

23 10.12 Testing recount equipment

24 10.12.1 The canvass board must review the post-election audit before selecting the equipment for
25 testing under section 1-10.5-102(3), C.R.S. ~~To the extent feasible, the board must select~~
26 ~~equipment for testing that was not included in the post-election audit.~~

27 10.12.2 ~~The~~ IF THE COUNTY RE-SCANS BALLOTS DURING THE RECOUNT, THE county clerk must
28 test all ~~optical~~ BALLOT scanners that will be used ~~in the recount~~. The purpose of the test is
29 to ensure that the ~~tabulation machines are counting properly~~ VOTING SYSTEM
30 ACCURATELY TABULATES VOTES IN THE RECOUNTED CONTEST.

31 (a) ~~The test deck must include 50 ballots or 1% of the total number of ballots~~
32 ~~counted in the election, whichever is greater, except that the total number~~
33 ~~of ballots tested may not exceed the total number of ballots comprising~~
34 ~~the county's test deck for the Logic and Accuracy test before the~~
35 ~~election. The ballots must be marked to test every option for the race or~~
36 ~~measure that will be recounted.~~ THE COUNTY MUST PREPARE AND
37 TABULATE THE FOLLOWING TEST DECKS:

38 (1) ~~In a mandatory recount, the canvass board must select the ballots to be~~
39 ~~tested from the county's test deck for the Public Logic and Accuracy test.~~

1 THE COUNTY RECOUNT TEST DECK MUST INCLUDE EVERY BALLOT STYLE
2 AND, WHERE APPLICABLE, PRECINCT STYLE CONTAINING THE
3 RECOUNTED CONTEST. IT MUST CONSIST OF ENOUGH BALLOTS TO MARK
4 EVERY VOTE POSITION AND EVERY POSSIBLE COMBINATION OF VOTE
5 POSITIONS, AND INCLUDE OVERVOTES, UNDERVOTES, AND BLANK VOTES
6 IN THE RECOUNTED CONTEST.

7 (2) In a requested recount, the person requesting the recount may mark up to
8 ~~25~~10 ballots. Any other candidate in the ~~race~~ CONTEST, OR PERSON OR
9 ORGANIZATION WHO COULD HAVE REQUESTED THE RECOUNT, may also
10 mark up to ~~25~~10 ballots. ~~The canvass board must randomly select ballots~~
11 ~~from the county's test deck for the Public Logic and Accuracy test to~~
12 ~~ensure the minimum number of test ballots required by this Rule.~~

13 (3) IN A MANDATORY RECOUNT, AT LEAST TWO CANVASS BOARD MEMBERS
14 OF DIFFERENT PARTY AFFILIATIONS MUST EACH MARK AN ADDITIONAL
15 10 BALLOTS CONTAINING THE RECOUNTED CONTEST.

16 (b) ~~Sworn judges~~ A BIPARTISAN TEAM OF ELECTION JUDGES or staff must hand tally
17 the RECOUNTED CONTEST ON THE test ballots ~~for comparison to the tabulation~~
18 ~~results~~ AND VERIFY THAT THE HAND TALLY MATCHES THE VOTING SYSTEM'S
19 TABULATION.

20 (c) The test is limited to the race or measure that is recounted.

21 10.12.3 ~~The~~ IN A COUNTY USING A VOTING SYSTEM CERTIFIED BEFORE JANUARY 1, 2016, THE
22 county clerk must test the VVPAT records from ~~1%~~ AT LEAST ONE of the DREs that had
23 votes cast on the ballot ~~style~~ STYLES containing the race or measure being recounted.

24 (a) ~~Sworn judges~~ A BIPARTISAN TEAM OF ELECTION JUDGES or staff must manually
25 verify the results OF THE RECOUNTED CONTEST on the machines selected for the
26 test AND VERIFY THAT THE TALLY MATCHES THE VVPAT RECORD.

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

28 *Amendments to Rule 10.13.3 concerning counting ballots during recount:*

29 10.13.3 Ballots must be reviewed for voter intent using the standards in Rule 18.

30 (a) Every ~~over vote or under vote~~ OVERVOTE, UNDERVOTE, BLANK VOTE,
31 AMBIGUOUS MARK, AND WRITE-IN VOTE in the race(s) or measure(s) subject to
32 the recount must be reviewed ~~for voter intent under Rule 18~~ IN ACCORDANCE
33 WITH THE VOTER INTENT GUIDE.

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

36 *Amendments to Rule 20.9.3 concerning transportation of ballot boxes:*

37 20.9.3 Required procedures for transportation of ballot boxes:

- 1 (a) Election officials must seal all ballot boxes that contain voted ballots so that no
2 person can access the ballots without breaking a seal. The election officials must
3 record all seals in the chain-of-custody log and two election judges must verify,
4 and indicate by signing and dating the log, that the required seals are intact.
- 5 (b) ~~Two election officials~~ A BIPARTISAN TEAM OF ELECTION JUDGES OR STAFF must
6 accompany all ballot boxes that contain voted ballots at all times, except when
7 the ballot box is located in a vault or secure physical location.
- 8 (c) The ballot box exchange requirements of section 1-7-305, C.R.S., are met if a
9 chain-in-custody log is completed for each ballot box.
- 10 (d) If a seal is broken or chain-of-custody is unverifiable, the county clerk must
11 investigate, document his or her findings, and report the incident to the Secretary
12 of State, as appropriate.

13 *Amendments to Rule 25.1 concerning post-election audits:*

14 25.1 Definitions. As used in this rule, unless stated otherwise:

15 *(No changes to Rule 25.1.1)*

16 ~~25.1.2 “Audited contest” means a contest selected by the Secretary of State for a risk limiting~~
17 ~~audit. The audited contest determines the number of ballot cards that must be examined~~
18 ~~and verified during the RLA.~~

19 ~~25.1.3~~ 25.1.2 “Ballot cards” means the individual pieces of paper that together constitute a
20 single ballot containing all of the contests an elector is eligible to vote. For example, a
21 ballot consisting of a single piece of paper with content printed on the front or the front
22 and back contains one ballot card, and a ballot consisting of two pieces of paper with
23 content printed on the front and back of the first page and the front or front and back of
24 the second page contains two ballot cards.

25 ~~25.1.4~~ 25.1.3 “Ballot polling audit” means a type of risk-limiting audit in which the audit board
26 examines and reports to the Secretary of State voter markings on randomly selected ballot
27 cards seeking strong evidence that the reported tabulation outcome is correct.

28 ~~25.1.5~~ 25.1.4 “Comparison audit” means a type of risk-limiting audit in which the audit board
29 examines and reports to the Secretary of State voter markings on randomly selected ballot
30 cards, then compares them to the voting system’s tabulation as reflected in the
31 corresponding cast vote records.

32 ~~25.1.6~~ 25.1.5 “Reported tabulation outcome” means the presumed winning and losing
33 candidates or voting choices of a ballot contest as reflected in preliminary results.

34 ~~25.1.7~~ 25.1.6 “Risk limit” means the largest statistical probability that an incorrect reported
35 tabulation outcome is not detected and corrected in a risk-limiting audit.

36 ~~25.1.8~~ 25.1.7 “Risk-limiting audit” or “RLA” means a post-election audit of votes on paper
37 ballot cards and VVPAT records, conducted in accordance with section 1-7-515, C.R.S.,

1 and Rule 25.2, which has a pre-specified minimum chance of requiring a full hand count
2 if the outcome of a full hand count would differ from the reported tabulation outcome.

3 ~~25.1.9~~ 25.1.8 “RLA tabulation” means the tabulation of all in-person and accepted mail ballots
4 cast by electors registered in the county, and any accepted provisional and property
5 owner ballots that the county opts to include on the ninth day after election day.

6 ~~25.1.10~~ 25.1.9 “RLA Tool” means the software and user interfaces provided by the Secretary of
7 State in order to conduct RLAs.

8 25.1.10 “TARGET CONTEST” MEANS A CONTEST SELECTED BY THE SECRETARY OF STATE FOR A
9 RISK-LIMITING AUDIT. THE TARGETED CONTESTS DETERMINE THE NUMBER OF BALLOT
10 CARDS THAT MUST BE EXAMINED AND VERIFIED DURING THE RLA.

11 *Amendments to Rule 25.2 concerning risk-limiting audits:*

12 25.2 Risk limiting audit. The designated election official must conduct a risk-limiting audit in
13 accordance with section 1-7-515, C.R.S. and this rule.

14 25.2.2 Preparing for the audit

15 (c) Ballot manifest. The county must maintain an accurate ballot manifest in a form
16 approved by the Secretary of State AND INDEPENDENT OF THE VOTING SYSTEM.

17 (f) Comparison audit uploads. No later than ~~4:59~~ 5:00 p.m. MT on the ninth day
18 after election day, each county conducting a comparison audit must upload:

19 (1) Its verified and hashed ballot manifest, and the ballot manifest’s hash
20 value, to the ~~RLA tool~~ SECRETARY OF STATE’S OFFICE;

21 (2) Its verified and hashed CVR export, and the CVR export’s hash value, to
22 the ~~RLA tool~~ SECRETARY OF STATE’S OFFICE; and

23 (3) Its RLA tabulation results export to the Secretary of State’s election
24 night reporting system.

25 (g) Ballot polling audit uploads. No later than ~~4:59~~ 5:00 p.m. MT on the ninth day
26 after election day, each county conducting a ballot polling audit must submit or
27 upload:

28 (1) Its verified and hashed ballot manifest, and the ballot manifest’s hash
29 value, by email to the Secretary of State’s office;

30 (2) Its cumulative tabulation report, by email to the Secretary of State’s
31 office; and

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

34 (i) Selection of ~~audited~~ TARGET contests. No later than 5:00 p.m. MT on the Friday
35 after election day, the Secretary of State will select ~~for audit~~ THE TARGET
36 CONTESTS. IN A GENERAL OR COORDINATED ELECTION, THE SECRETARY OF

1 STATE WILL SELECT at least one statewide contest, and for each county at least
2 one ~~countywide~~-OTHER contest. The Secretary of State will select other ballot
3 contests for audit if in any particular election there is no statewide contest ~~or a~~
4 ~~countywide contest in any county~~. IN A PRIMARY ELECTION, THE SECRETARY OF
5 STATE WILL SELECT AT LEAST ONE COUNTYWIDE CONTEST OF EACH MAJOR
6 POLITICAL PARTY IN EACH COUNTY. The Secretary of State will publish a
7 complete list of all ~~audited~~-TARGET contests on the Audit Center. The Secretary
8 of State will consider at least the following factors in ~~determining which contests~~
9 ~~to audit~~-SELECTING THE TARGET CONTESTS:

- 10 (1) The closeness of the reported tabulation outcome of the contests;
- 11 (2) The geographical scope of the contests;
- 12 (3) The number of ballots counted in the contests;
- 13 (4) Any cause for concern regarding the accuracy of the reported tabulation
14 outcome of the contests;
- 15 (5) Any benefits that may result from ~~opportunistically~~-auditing certain
16 contests; and
- 17 (6) The ability of the county clerks to complete the audit before the canvass
18 deadline.

19 (j) Number of ballot cards to audit. The Secretary of State will determine the
20 number of ballot cards to audit to satisfy the risk limit for the ~~audited~~-TARGET
21 contests based on the ballot manifests submitted by the counties. The number of
22 ballot cards to audit will be determined according to the formulas and protocols
23 published by Mark Lindeman and Philip B. Stark in *A Gentle Introduction to*
24 *Risk-limiting Audits*, as applied in Philip Stark's *Tools for Comparison Risk-*
25 *Limiting Election Audits*, and *Tools for Ballot-Polling Risk-Limiting Election*
26 *Audits*, BUT EACH COUNTY CONDUCTING AN ELECTION MUST AUDIT A MINIMUM
27 OF 10 BALLOTS. ~~These materials~~-THE PUBLICATIONS CITED IN THIS RULE are
28 incorporated by reference in the election rules and do not include later
29 amendments or editions of the incorporated material. The following materials
30 incorporated by reference are posted on the Secretary of State website and
31 available for review by the public during regular business hours at the Colorado
32 Secretary of State's office:

- 33 (1) Mark Lindeman and Philip B. Stark, *A Gentle Introduction to Risk-*
34 *limiting Audits*, IEEE Security and Privacy, Special Issue on Electronic
35 Voting, (Mar. 16, 2012), at
36 [https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditReso](https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html)
37 [urces.html](https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html).
- 38 (2) Philip B. Stark, *Tools for Comparison Risk-Limiting Election Audits*,
39 (Feb. 26, 2017), at
40 [https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditReso](https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html)
41 [urces.html](https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html).

- 1 (3) Philip B. Stark, *Tools for Ballot-Polling Risk-Limiting Election Audits*,
2 (Feb. 16, 2017), at
3 [https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditReso](https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html)
4 [urces.html](https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html).

5 25.2.3 Conducting the audit

- 6 (a) The audit board must locate and retrieve, or observe the location and retrieval by
7 county election staff, each randomly selected ballot card or VVPAT record from
8 the appropriate storage container. The audit board must verify that the seals on
9 the appropriate storage containers are those recorded on the applicable chain-of-
10 custody logs.

- 11 (1) In counties conducting comparison audits, the audit board must examine
12 each randomly selected ballot card and report the voter markings or
13 choices in all contests using the RLA Tool or other means specified by
14 the Secretary of State. ~~If supported by the county's voting system, the~~
15 THE audit board may refer to the digital image of the audited ballot card
16 captured by the voting system in order to confirm it retrieved the correct
17 ballot card randomly selected for audit. If the scanned ballot card was
18 duplicated prior to tabulation, the audit board must retrieve, compare,
19 and report the markings on the original ballot card rather than on the
20 duplicated ballot card. The audit board must complete its reports of all
21 ballot cards randomly selected for audit no later than 5:00 p.m. MT one
22 business day before the canvass deadline.

- 23 (2) In counties conducting ballot polling audits, the audit board must
24 examine and report the voter markings or choices in only the ~~audited~~
25 TARGET contest on each randomly selected ballot card in a form
26 approved by the Secretary of State. ~~If supported by the county's voting~~
27 ~~system, the~~ THE audit board may refer to the digital image of the audited
28 ballot card captured by the voting system in order to confirm it retrieved
29 the correct ballot card. If a randomly selected ballot card was duplicated
30 prior to tabulation, the audit board must retrieve, compare, and report the
31 voter markings in the ~~audited~~ TARGET contest from the original ballot
32 card rather than the duplicated ballot card. The audit board must
33 complete its reports of all ballot cards randomly selected for audit no
34 later than 5:00 p.m. MT one business day before the canvass deadline.

- 35 (b) The audit board must interpret voter markings on ballot cards selected for audit
36 in accordance with the Secretary of State's Voter Intent Guide. If the audit board
37 members cannot unanimously agree on the voter's intent, they must indicate that
38 in the appropriate contest in the RLA tool's audit board user interface, OR THE
39 BALLOT POLLING AUDIT FORM APPROVED BY THE SECRETARY OF STATE.

- 40 (c) To the extent applicable, the Secretary of State will compare the audit board's
41 reports of the audited ballot cards to the corresponding CVRs and post the results
42 of the comparison on the Audit Center. The RLA will continue until the risk limit
43 for the ~~audited~~ TARGET contests is met or until a full hand count results. If the
44 county audit reports reflect that the risk limit has not been satisfied in ~~an audited~~

1 A TARGET contest, the Secretary of State will randomly select additional ballots
2 for audit.

3 (D) THE AUDIT BOARD MUST SIGN, DATE, AND SUBMIT TO THE SECRETARY OF STATE
4 A REPORT OF THE RESULTS OF THE RISK-LIMITING AUDIT ON THE APPROVED
5 FORM NO LATER THAN 5:00 P.M. MT ON THE BUSINESS DAY BEFORE THE
6 CANVASS DEADLINE. THE REPORT MUST INCLUDE ANY DISCREPANCIES FOUND
7 AND THE CORRESPONDING BALLOT IMAGES.

8 (E) THE SECRETARY OF STATE WILL REVIEW THE AUDIT BOARD'S REPORT AND MAY
9 DIRECT THE COUNTY CLERK TO CONDUCT ADDITIONAL AUDIT ROUNDS, A
10 RANDOM AUDIT, A FULL HAND COUNT, OR OTHER ACTION. THE SECRETARY OF
11 STATE MAY INSTRUCT THE COUNTY TO DELAY CANVASS UNTIL IT COMPLETES
12 ANY ADDITIONAL AUDIT OR OTHER ACTION.

13 25.2.4 ~~Concluding the audit.~~ No later than the third business day following the expiration of the
14 deadline to request a recount under section 1-10.5-106(2), C.R.S. or the completion of
15 any recount, whichever is later, a county that conducted a comparison audit must review
16 its CVR file and redact voter choices corresponding to any ballot card susceptible to
17 being personally identified with an individual voter ~~before sending it to the Secretary of~~
18 ~~State~~, as required by section 24-72-205.5(4)(b)(iii), C.R.S.

19 25.2.5 IF A COUNTY CLERK FAILS TO FOLLOW THE PROCEDURES FOR A RISK LIMITING AUDIT AS
20 OUTLINED IN THIS RULE, THE SECRETARY OF STATE WILL DIRECT THE COUNTY CLERK
21 ON THE STEPS TO TAKE TO COMPLETE A POST-ELECTION AUDIT. IN ADDITION, NO LATER
22 THAN 90 DAYS BEFORE THE NEXT ELECTION, THE COUNTY CLERK MUST SUBMIT A
23 WRITTEN RLA PLAN OUTLINING THE PROCEDURES THE COUNTY WILL FOLLOW TO
24 ENSURE COMPLIANCE WITH THIS RULE.

25 ~~25.2.5~~ 25.2.6 The Secretary of State may, by order, alter any of the requirements outlined in
26 Rule 25.2.