From:	Harvie Branscomb <harvie@electionquality.com>
Sent:	Wednesday, January 13, 2016 2:53 PM
To:	SoS Rulemaking; Dwight Shellman; Suzanne Staiert; Andrea Gyger
Cc:	harvie@electionquality.com
Subject:	Branscomb comments - 12/15/2015 election rulemaking
Attachments:	Branscomb_comments_20151215ElectionsNoticeRulemaking.docx; Branscomb_comments_20151215ElectionsNoticeRulemaking.pdf

To the honorable Secretary of State of Colorado:

The attached pdf (and corresponding docx for convenience) as well as the separate thread below are my comments for improving the Colorado election rules under consideration in the Dec. 15 2015 rulemaking. (Jan. 14 2016 9AM rulemaking hearing)

The most salient comments are provided in line with the text of the rules in the attached pdf.

My most extensive focus of suggestions are on the new rule for definition of cast vote record - a rule for which there was no advance delivery of texts.

Below are comments from my discussion of the initial informal rules proposals. These comments remain valid pertaining to the current draft.

There is no need to redact my email address or my website: http://electionquality.com where supportive material can be found.

Harvie Branscomb

Here are some comments on other posted comments:

Saguache County Clerk- Like many others, I think she misunderstands the role of watcher as distinct from election judge. Watchers collect and transfer information and are not makers of decisions or performers of election actions. Watchers must be able to document successes and failures and report to suitable authority for the purpose of correction of discrepancy (or beneficial sharing of a better method). "Assist in the correction of discrepancies" could mean as little as to provide the evidence for the discrepancy, motivate the correction and verify that it is successful." It could mean more if the circumstances and election officials allow. Candidates may "watch" recounts but not the process of the original count. The new rule does not provide "more authority to watchers than to staff and judges."

Douglas County Clerk and Commisisoners- I am supportive of the arguments presented by the county in opposition to the sole vendor decision of the SOS and the proper meaning of a "Unified Voting System" as they refer to it.

Jefferson County Clerk and Commissioners - I am supportive of the arguments presented by the county in discussion opposing the sole vendor decision by the SOS. With respect to their specific suggestions for rules:

7.5.1(c) The drop box signage requirements are the absolute minimum that can be done to tighten up the integrity of "casting" a ballot through a drop box. Ideally each drop box would be either "manned" or automated such that the casting

event is recorded by detection of the barcode on the envelope.

7.8.8 The signature verification process runs over at least a two week period and time is available if not resources to retrain judges. Surely in Jefferson County of all counties there is enough resource to retrain judges deemed to be outliers.

8.9 Of course voting at a residential facility is a "step in the conduct of an election" and subject to watching. The proposed rule constrains the watcher such that the county can reinforce the defense of the voter's rights (and has done so in the rare cases of watching events I am aware of). The rule is perhaps an overstep in the direction of constraining watcher rights in favor of voter privacy and DEO control of access.

11.3.2(c) The language "if appointed" is unnecessary and not helpful. The rule could require parties to appoint the board, but does not. However this rule must surely be amended to say "at least one" because large counties will need a substantial testing board, and these boards should have partisan parity even if they are populated with staff. The rule does not prevent the DEO from appointing staff but properly does require partisan opposition.

Below are comments from my pre-rulemaking submission that are pertinent to the current rulemaking:

7.5.1

[note from Harvie: It is extremely desirable on behalf of election integrity to provide evidence for casting of the ballot at election judge monitored drop boxes - a capability to scan the barcode of envelopes at the time of casting should be provided.]

8.1.2 ~~THE COUNTY CLERK MUST CONFIRM A WATCHER'S ELIGIBILITY BEFORE ALLOWING THE WATCHER TO PERFORM HIS OR HER DUTIES.~~ IF THE ~~COUNTY CLERK~~ **ELECTION OFFICIAL RECEIVING THE WATCHER CREDENTIAL** IS UNABLE TO CONFIRM THE WATCHER'S ELIGIBILITY, HE OR SHE MUST PROMPTLY INFORM **THE COUNTY CLERK WHO MUST INFORM** THE APPOINTING ENTITY

[While some of election watching is habitual and predictable, much of it is not and occurs only when narrow margins are encountered. In these cases, the requirement for the county clerk to be initially involved prior to making access to a watcher is prohibitively obstructive. The law clearly allows for appointing entities to confirm eligibility and for watchers to affirm eligibility. The provision in these rules for watchers to carry proof of eligibility is sufficient to relieve the need for the county clerk to personally confirm eligibility of any watcher. This is a crucial consideration and will be harmful to election oversight if county clerks are placed in every path between an appointing entity and an election process that deserves to be watched.]

8.1.5 A WATCHER MUST COMPLETE A TRAINING PROVIDED BY OR APPROVED BY THE SECRETARY OF STATE BEFORE OBSERVING ELECTION ACTIVITIES WHERE CONFIDENTIAL OR PERSONALLY IDENTIFIABLE INFORMATION MAY BE WITHIN VIEW.

[It is within the power of the SOS to adjust SCORE so that PII is not spread throughout every screen that is used for signature verification. In fact, it is harmful to the integrity of signature verification that such PII exists on the

same forms that are observed by judges while deciding the eligibility of the envelope. This harm is particularly problematic in case signature verification is taking place after 7PM on election night once close election margins are known.]

8.7.1 WATCHERS MAY BE PRESENT AT EACH STAGE OF THE CONDUCT OF THE ELECTION, INCLUDING WHEN ELECTORS ARE VOTING OR WHEN ELECTION JUDGES ARE PRESENT AND PERFORMING ELECTION ACTIVITIES.

[This word **"including"** is essential to honor the meaning of the statute. Any attempt in rules to curtail watching by limiting the watchers only to situations where voting is taking place or election judges are performing activities would be destructive to the statutory purpose of watching. The reason is that many steps in the conduct of the election are performed by election officials who are not acting as election judges. If officials are alone with election records, it must be possible for a watcher to be present. At some point and in some conditions steps performed only by officials and staff must be watched in order to verify integrity of the election.]

8.13 UNLESS THE COUNTY CLERK AUTHORIZES A GREATER NUMBER, DURING ~~INITIAL~~ SIGNATURE REVIEW BY AN ELECTION JUDGE OR JUDGES, A WATCHER MAY ESCALATE NO MORE THAN TEN BALLOT ENVELOPE SIGNATURES IN AN HOUR FOR A SECOND REVIEW BY A BIPARTISAN TEAM OF ELECTION JUDGES. BY THE TIME SUCH LIMIT HAS BEEN REACHED THE SUPERVISOR JUDGE SHALL BEGIN A REVIEW THE PERFORMANCE OF BOTH THE JUDGES AND THE WATCHER FOR THE PURPOSE OF TAKING REMEDIAL ACTION.

[What I have added to 8.13 honors the intention expressed in discussions by the Election Watcher Advisory Committee. After the target number of 10 escalations per hour has been reached a review is expected to take place of both the judges and the watchers. Sigver escalation must be possible at first or second tier: it must be possible to challenge either an acceptance or a rejection at either level. This does not mean that it should be possible to challenge the decision made after escalation.]

[Note part of the watchers and judges oath is inappropriate to a recount- the part about no reporting results until the polls are closed. This has been an issue- there should be no restriction on reporting results during a recount. I suggest that a special oath for recounts be written.]

10.11 (tabulator test prior to using same methods for recount)

[The miniscule test in Rule 10.11 is utterly inadequate to determine if the election equipment is capable of achieving the accuracy needed by the recount. This is a serious flaw that must be corrected to avoid incorrect election outcomes during recounts. The risk limiting audit will be helpful in this regard.]

       10.12.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule ~~10.12~~ 10.11, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule ~~10.13.5~~ 10.12.5.

[This rule and the underlying statute are not well advised and not consistent with best election integrity. This rule is not likely to provide sufficient accuracy for purposes of overcoming the errors inherent in the means of conducting the original count. The rule causes mistakes made during the original election count to be replicated and consequent errors in results reconfirmed.]

11.3.2(c)(4)

(4)Testing Board members must ~~secretly vote~~ MARK their TEST ballots following the instructions printed on the ballots and retain a record of the tally.

[Note that this requirement to mark following the instructions harms the effectiveness of the test and also now makes the test for recount almost useless to achieve the accuracy needed when stray marks and incorrect marks will make the difference in the outcome. Rules now require the recount test to be performed with LAT ballots.]

Branscomb comments on 20151215 election rulemaking.

I express strong support of a rule change with <mark>green background</mark>.

Edits and comments are in **bold blue.**
Note my comments are in brackets and **[bold blue]** but some longer comments are contained in the transmission email.

Harvie Branscomb
harvie at electionquality.com [please CDOS do not redact the email address]

[As I have indicated in my remarks to PERC I have seen great disparity in the procedures used in different counties and I encourage increased uniformity in the procedures for management of elections but I do not support a sole vendor solution for the State of Colorado. I join representatives of Adams, Gilpin, Jefferson and Douglas counties and others in recommending that the state allow certification of more than one vendor, and perhaps alternative specific components provided by certain vendors such as the DS 850 from ES&S. Because of that, the language in 11.9.2 should at least be permissive of certification and selection by the SOS.]

Preliminary Draft of Proposed Rules

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

December 15, 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.[1]

This is a preliminary draft of the proposed rules that may be revised before the January 14, 2016 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 **January 8, 2016**.[2]

Please note the following formatting key:

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

Amendments to 8 CCR 1505-1 follow:

Amendments to Rule 2.10.2 concerning voter registration; new voter notification under section 1-2-509(3), C.R.S.:

2.10.2   If after the 20-day period outlined in section 1-2-509(3), C.R.S, the United States Postal Service returns a new voter notification to the county clerk as undeliverable, ~~or provides the clerk with a postcard notice of mail forwarding,~~ the county clerk must mark the voter's record "Inactive" and mail a confirmation card.

New Rule 2.14.5, concerning voter registration records and data:

2.14.5   IF A PERSON REQUESTS A CERTIFICATE OF REGISTRATION OR OTHER ELECTION RECORD THAT CONTAINS PERSONALLY IDENTIFIABLE INFORMATION, HE OR SHE MUST PROVIDE IDENTIFICATION AS DEFINED IN SECTION 1-1-104(19.5), C.R.S.

New Rule 4.1.3, concerning participation in coordinated elections:

4.1.3   THE COUNTY CLERK MUST INCLUDE ALL COORDINATING DISTRICTS IN THE SCORE DISTRICTS AND PRECINCTS MODULE AND ELECTION SETUP MODULE BEFORE CONDUCTING A COORDINATED ELECTION.

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[1] Sections 24-4-103(2.5) and (3)(a), C.R.S. (2015). 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. (2015). "[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."

4.8.6   THE COUNTY CLERK MUST USE THE SECRETARY OF STATE APPROVED NAMING CONVENTION FOR NAMING BALLOT STYLES IN THE COUNTY'S ELECTION MANAGEMENT SYSTEM, SCORE, AND .pdfs. THE COUNTY CLERK MUST USE THE APPROVED NAMING CONVENTION FOR CONTEST NAMES IN THE ELECTION NIGHT REPORTING SYSTEM.

Rule 6. Election Judges

6.1   Appointment of election judges under section 1-6-104, C.R.S.

6.1.1   The county clerk must request an updated list of election judges from each major party before each election the clerk conducts UNDER THE UNIFORM ELECTION CODE.

6.1.3 6.1.2 The county clerk must reasonably attempt to exhaust the UPDATED list provided by the major parties before supplementing with ADDITIONAL MAJOR PARTY JUDGES OR minor party or unaffiliated judges, or staff.

6.1.3   IF A MAJOR POLITICAL PARTY FAILS TO PROVIDE AN ADEQUATE LIST OF ELECTION JUDGES BY THE 60TH DAY BEFORE ELECTION DAY, THE COUNTY CLERK MUST NOTIFY THE SECRETARY OF STATE. THE COUNTY CLERK MAY CONSIDER A SUPPLEMENTAL LIST FROM A MAJOR POLITICAL PARTY AFTER THE 60-DAY DEADLINE.

6.1.4   THE COUNTY CLERK MUST PROVIDE A LIST OF ELECTION JUDGES, INCLUDING POLITICAL PARTY AFFILIATIONS AND ASSIGNMENTS, IF KNOWN, TO EACH APPOINTING PARTY NO LATER THAN 45 DAYS BEFORE ELECTION DAY AND A SUPPLEMENTAL LIST NO LATER THAN SEVEN DAYS BEFORE THE DATE ON WHICH THE COUNTY WILL OPEN ITS FIRST VOTER SERVICE AND POLLING CENTER. **THE LIST IS A PUBLIC RECORD TO BE POSTED ON A PUBLICLY AVAILABLE WEBSITE.**

6.1.5   THE COUNTY CLERK MAY NOT ASK AN ELECTION JUDGE OR COUNTY STAFF MEMBER TO CHANGE HIS OR HER PARTY AFFILIATION TO ACHIEVE THE BIPARTISAN BALANCE REQUIRED UNDER SECTION 1-6-109, C.R.S.

6.2   ASSIGNMENT OF ELECTION JUDGES

6.1.2 6.2.1 The county clerk may assign AN election judges to positions JUDGE based upon appropriate skill level and interest **AND BALANCE OF PARTISANSHIP**, EXCEPT THAT EACH MAJOR POLITICAL PARTY MAY DESIGNATE WHICH ELECTION JUDGES FROM ITS LIST WILL BE APPOINTED AS SIGNATURE VERIFICATION JUDGES. EACH SIGNATURE VERIFICATION JUDGE DESIGNATED BY THE PARTY IS SUBJECT TO RULES 6.2.2 AND 6.8.

6.2.2   THE COUNTY CLERK MAY REMOVE OR REASSIGN AN ELECTION JUDGE PERFORMING SIGNATURE VERIFICATION AT ANY TIME FOR CAUSE, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO:

(A)   AN INABILITY TO PERFORM SIGNATURE VERIFICATION;

(B)   AN INABILITY TO SERVE FOR THE REQUISITE AMOUNT OF TIME NEEDED; OR

(C)   AN IRREGULAR ACCEPTANCE OR REJECTION RATE, AS DETERMINED BY THE COUNTY CLERK OR HIS OR HER DESIGNEE.

6.3   THE COUNTY CLERK MAY NOT PERSONALLY CONDUCT SIGNATURE VERIFICATION.

6.4   EXCEPT FOR UOCAVA BALLOTS AND BALLOTS RECEIVED FOR COUNTING AFTER ELECTION DAY:

6.4.1   ABSENT WRITTEN CONSENT BY EACH MAJOR PARTY COUNTY CHAIR, A COUNTY WITH MORE THAN 5,000 ACTIVE ELECTORS BY THE 90TH DAY BEFORE ELECTION DAY MAY NOT USE REGULAR STAFF AS SIGNATURE VERIFICATION JUDGES; AND

6.4.2   A COUNTY WITH FEWER THAN 5,001 ACTIVE ELECTORS BY THE 90TH DAY BEFORE ELECTION DAY AND A COUNTY WITH MORE THAN 5,000 ACTIVE ELECTORS BY THE 90TH DAY BEFORE ELECTION DAY THAT HAS OBTAINED WRITTEN CONSENT BY EACH MAJOR PARTY COUNTY CHAIR MAY USE REGULAR COUNTY STAFF THAT ARE SWORN IN AS ELECTION JUDGES TO CONDUCT SIGNATURE VERIFICATION **ONLY IN THE INSTANCE INSUFFICIENT NUMBERS OF QUALIFIED ELECTION JUDGES ARE ON THE LIST PROVIDED BY A MAJOR PARTY CHAIR.**

[Note that the independence of selection of judges from the designated election official is a primary foundation of election integrity. These rule will not satisfy those who are concerned that both major parties acting together and perhaps in opposition do not represent the needs of unaffiliated voters. Note that two letters have already been received expressing the need to represent unaffiliated voters. The dependence upon major parties to provide lists of judges fulfills an even more important role to prevent the DEO from completely controlling both the mechanics and the critical eligibility and tabulation accuracy decisions of an election.]

~~6.2~~ 6.5   For purposes of training election judges, an "election cycle" means all elections held during a calendar year beginning January 1 and ending December 31.

~~6.3~~ 6.6   In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S., each student election judge must take a self-affirming oath or affirmation before serving, in substantially the following form:

" I, _____ do solemnly swear (or affirm) that I am a citizen of the United States and state of Colorado; that I am at least 16 years of age and a High School Junior or Senior; that I will perform the duties of an election judge according to law and to the best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in conducting the same; that I will not try to determine how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as a student election judge such knowledge shall come to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of election fraud, any other election offense, or fraud and that, if any ballots are counted before the polls close on the date of the election, I will not disclose the result of the votes until after the polls have closed.~~"~~"

~~6.4~~ 6.7   A supervisor judge in a voter service and polling center must complete a training course ~~provided by or approved by the Secretary of State~~ CONDUCTED BY THE COUNTY CLERK. THE SECRETARY OF STATE MUST PROVIDE OR APPROVE THE TRAINING CONTENT.

6.8   A SIGNATURE VERIFICATION JUDGE MUST COMPLETE A TRAINING COURSE CONDUCTED BY THE COUNTY CLERK AT LEAST ONCE PER ELECTION CYCLE. THE SECRETARY OF STATE MUST PROVIDE OR APPROVE THE TRAINING CONTENT.

Amendments to Rule 7.1:

Rule 7. Elections Conducted by the County Clerk and Recorder

7.1 Mail ballot plans

7.1.1   The county clerk must submit a mail ballot plan to the Secretary of State by email no later than 90 days before every election. The county clerk must submit with the mail ballot plan the voter instructions and secrecy sleeve that the clerk intends to use in the election.

7.1.2   THE COUNTY CLERK MUST LIST IN THE MAIL BALLOT PLAN ALL MATERIALS IT WILL INCLUDE IN ITS MAIL BALLOT PACKET.

~~7.1.2~~ 7.1.3   Approval of mail ballot plans and submission of amendments

(a)   If the Secretary of State requests modifications to a plan ~~prior to~~ BEFORE approval, the county clerk must submit the modified plan within ten days from the request. The Secretary of State will approve or disapprove the modified plan within 15 days from the date it is received.

(b)   A county clerk may amend a timely submitted mail ballot plan by submitting a written statement outlining the amendment. The amendment must state the specific section of the plan amended and the reason for the amendment. The Secretary of State will approve or disapprove the amendment within 15 days from the date it is received. If the amendment is received within 30 days before the election, the Secretary of State will approve or disapprove the amendment within two business days.

~~7.1.3~~ 7.1.4 The county clerk must submit a security plan under Rule 20 in addition to the mail ballot plan submitted in accordance with this Rule.

Amended Rule 7.2.6, concerning ballot return envelope:

7.2.6   Effective January 1, 2016, each mail ballot return envelope must include the following STATEMENT: "I am voluntarily giving my ballot to (name and address) for delivery on my behalf." IF THE VOTER LEAVES THE FILLABLE PORTION OF THE STATEMENT BLANK, THE COUNTY CLERK MUST ACCEPT THE BALLOT FOR COUNTING IF IT IS OTHERWISE VALID.

New Rules 7.2.8 and 7.2.9, concerning ballots and ballot packets:

7.2.8   WHERE PRACTICABLE, THE COUNTY MUST PRINT THE ELECTOR'S FULL NAME UNDER OR NEAR THE SELF-AFFIRMATION SIGNATURE LINE ON EACH BALLOT RETURN ENVELOPE. IF NOT PRACTICABLE FOR SOME OR ALL BALLOT RETURN ENVELOPES, THE COUNTY MUST EXPLAIN WHY IN ITS MAIL BALLOT PLAN.

7.2.9   THE COUNTY MUST PROVIDE A SPACE ON THE BALLOT RETURN ENVELOPE FOR A WITNESS TO THE ELECTOR'S MARK TO PROVIDE HIS OR HER FULL LEGAL NAME.

Amendments to Rule 7.5.1(c), concerning receipt and processing of ballots:

(c)   Signage at each drop-off location must inform voters that it is a violation of law FOR ANY PERSON to ~~drop off~~ RECEIVE more than ten ballots FOR MAILING OR DELIVERY in any election, AND THAT ELECTIONEERING IS PROHIBITED WITHIN 100 FEET OF ANY DROP-BOX.

(d)   The minimum number of drop-off locations must be open during reasonable business hours as defined in Rule ~~7.8.1(a)~~7.9.1(A) and from 7:00 a.m. through 7:00 p.m. on election day.

7.8   Signature verification procedures

[Current Rule 7.8.1 is amended and recodified as New Rule 7.8.3]

[Current Rule 7.8.2 is amended and recodified as New Rules 7.8.4, 7.8.5, and 7.8.6]

7.8.1   A SINGLE ELECTION JUDGE MAY CONDUCT **ONLY** THE FIRST **OF TWO OR MORE** LEVEL**S** OF **HUMAN** SIGNATURE VERIFICATION.

7.8.2   IF THE ELECTOR'S SIGNATURE APPEARS ANYWHERE ON ~~THE BACK OF~~ THE BALLOT RETURN ENVELOPE, THE ELECTION JUDGE MUST REVIEW THE SIGNATURE. **[Note some counties have the voter sign on the FRONT of the return envelope!]**

~~7.8.1~~ 7.8.3   ~~The election judges~~ AN**Y** ELECTION JUDGE CONDUCTING SIGNATURE VERIFICATION must compare the signature on the self-affirmation on each BALLOT return envelope with the ELECTOR'S signature**(S)** in SCORE **PRIOR TO OPENING THE ENVELOPE**.~~. The election judges must research the~~signature ~~further if there is:~~ IN ACCORDANCE WITH THE SECRETARY OF STATE'S SIGNATURE VERIFICATION GUIDE.

~~(a)   An obvious change in the signature's slant.~~

~~(b)   A printed signature on one document and a cursive signature on the other document.~~

~~(c)   A difference in the signature's size or scale.~~

~~(d)   A difference in the signature's individual characteristics, such as how the "t's" are crossed, "i's" are dotted, or loops are made on "y's" or "j's".~~

~~(e)   A difference in the voter's signature style, such as how the letters are connected at the top and bottom.~~

~~(f)   Evidence that ballots or envelopes from the same household have been switched.~~

~~(g)   Any other noticeable discrepancy such as misspelled names.~~
[Without this rule, the guide becomes crucial but should be exposed to public comment and rulemaking that guides usually are not.]

Current Rule 7.8.2 is amended and recodified as New Rules 7.8.4, 7.8.5, and 7.8.6 as follows:

~~7.8.2~~ 7.8.4   ~~In conducting further research, the election judges~~ **IF CHALLENGED AT THE FIRST LEVEL ~~AN~~ AT LEAST TWO** ELECTION JUDGE**S** MUST CONDUCT FURTHER RESEARCH ON AN ELECTOR'S SIGNATURE. ~~HE OR SHE~~ **JUDGES OF DIFFERING AFFILIATION** must check SCORE for ~~at least two~~ additional documents signed by the voter, if available AND COMPARE THESE TO THE MARKS ON THE PHYSICAL ENVELOPE.

~~The judges~~ AN ELECTION JUDGE may compare additional information written by the voter on the return envelope, such as the voter's address and date of signing. Any similarities noted when comparing other information may be used as part of the signature verification decision process.

7.8.6   ~~If it appears to the judges that members of the same household have inadvertently switched envelopes or ballots, the ballot or ballots must be counted and no letter of advisement to the electors is necessary.~~ IF AN ELECTION JUDGE DETERMINES THAT A VOTER ~~INADVERTENTLY RETURNED HIS OR HER BALLOT IN~~ SIGNED ANOTHER HOUSEHOLD MEMBER'S BALLOT RETURN ENVELOPE, THE ELECTION JUDGE MUST PROCESS AND PREPARE THE BALLOT OF THE ELECTOR WHO SIGNED THE SELF-AFFIRMATION FOR COUNTING IF IT IS OTHERWISE VALID. THE ELECTION JUDGE NEED NOT SEND A SIGNATURE DISCREPANCY LETTER TO ~~THE~~ EITHER VOTER.

[Note this sidesteps the "switch" or "swap" that most counties look for prior to signature approval in this case.]

~~7.8.3~~ 7.8.7   If, AFTER BIPARTISAN REVIEW, the election judges ~~dispute the signature they~~ DETERMINE THAT A SIGNATURE IS DISCREPANT, THE JUDGES must document the discrepancy and the research steps taken in a log~~.~~ THAT:

(A)   ~~The election judges must identify~~ IDENTIFIES the elector ONLY BY NAME AND VOTER IDENTIFICATION NUMBER. ~~in the log using a unique tracking number. The tracking number may~~ THAT DOES not contain the elector's ~~social security number, Colorado driver's license number, or the identification number issued by the Department of Revenue.~~

(B)   ~~The log may~~ DOES not contain the elector's signature.

(C)   ~~The election judges must note~~ NOTES the final resolution and ballot disposition ~~on the research log~~.

(D)   <mark>IDENTIFIES THE ELECTION JUDGES RESPONSIBLE FOR FINAL RESOLUTION AND BALLOT DISPOSITION.</mark>

7.8.8   <mark>THE COUNTY CLERK MUST PERIODICALLY AUDIT SIGNATURE VERIFICATION JUDGES. IF A JUDGE OR TEAM OF JUDGES HAS AN UNEXPLAINED, IRREGULAR ACCEPTANCE OR REJECTION RATE, THE COUNTY CLERK MUST RETRAIN OR REMOVE THAT JUDGE OR TEAM OF JUDGES FROM CONDUCTING SIGNATURE VERIFICATION.</mark>

~~7.8.4~~ 7.8.9 The election official must use the letter and the signature verification form approved by the Secretary of State. (Section 1-7.5-107.3(2)(a), C.R.S.) ~~The letter and signature verification form does not violate section 1-13-801 C.R.S.~~

~~7.8.5 All uncounted ballots must remain sealed in the return envelope and stored as election records in accordance with section 1-7-802, C.R.S.~~

~~7.8.6~~ 7.8.10 ~~Use of ballot envelope sorters and signature capture devices.~~ If the county uses a ballot sorting and signature capture device, the county clerk must test the device before using it in an election to ensure that it properly sorts envelopes, and accurately and clearly captures the signature on the envelope for comparison to the ~~correct~~ voter record **RECORDED IN SCORE.**

~~7.8.7~~ 7.8.11 Use of automated Signature Verification Devices under section 1-7.5-107.3(5)(b), C.R.S.

(a)   ~~If the county uses a signature verification device for automated signature verification on ballot envelopes, the~~ THE county clerk must test ~~the device~~ SIGNATURE VERIFICATION DEVICES before ~~using it~~ USE in an election.

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

   (2)   The county must pull and test a minimum of 150 ballot envelopes received in the election and conduct an audit of the machine-verified signatures.

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

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

(b)   ~~In addition to the initial test, the~~ THE county must conduct a regular audit of ~~the device~~ EACH SIGNATURE VERIFICATION DEVICE during its use.

   (1)   The county must pull a random sampling of ~~no fewer than~~ AT LEAST one in every fifty machine-verified signatures daily.

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

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

   (4)   If the device fails the audit, the county must immediately cease use of automated signature verification and notify the Secretary of State. The Secretary of State and the county must work in coordination to identify the issue and implement a solution.

(c)   The county must operate the device on a ~~dedicated and~~ secure AND CLOSED network.

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

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

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

7.8.8 7.8.12 If a county uses a signature capture device to compare a ballot envelope signature to a signature maintained in SCORE, the system may display only one voter's signature at a time.

7.8.13   FOLLOWING THE ELECTION, THE COUNTY CLERK MUST REPORT TO THE SECRETARY OF STATE IN WRITING THE NUMBER OF BALLOT RETURN ENVELOPES WITH DISCREPANT SIGNATURES THAT THE CLERK FORWARDED TO THE DISTRICT ATTORNEY FOR INVESTIGATION.

[Note these rules do not address signature verification and impossibility of cure for late arriving envelopes from UOCAVA and missing signature. Also out of county envelopes may lose access to cure.]

Current Rule 7.8.9 is amended and recodified as New Rule 7.9.1(d):

7.9   Voter service and polling centers

7.9.1   The county clerk must designate and open the minimum number of voter service and polling centers. The centers must be open during reasonable business hours for the minimum number of days outlined in section 1-5-102.9, C.R.S., for a general election and 1-7.5-107(4.5), C.R.S., for all other elections.

[Current Rules 7.9.1(a-c) are retained, unaltered]

7.8.9 (D) Signage at each voter service and polling center must indicate that it is a violation of law FOR ANY PERSON to drop-off RECEIVE more than ten ballots FOR DELIVERY in any election.

Amendments to Rule 7.9.5:

7.9.5   Any eligible elector may vote in-person at a voter service and polling center. An election judge must VOID mark the elector's mail ballot "surrendered" in SCORE before issuing an in-person ballot.

Amendments to Rules 7.11 through 7.14:

7.11   Voter service and polling center connectivity

7.11.1 The county must have real-time access to SCORE and WebSCORE at every voter service and polling center. designated by the county clerk.

[Current Rule 7.11.2 is amended and recodified as New Rule 7.12]

7.11.3 7.11.2 At no time may an election official open simultaneous sessions of both SCORE and WebSCORE on a single workstation.

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

7.11.2 7.12 The county clerk must instruct AT EACH VOTER SERVICE AND POLLING CENTER, election judges and, if appropriate, election staff, to MUST:

7.12.1 PROVIDE ALL SERVICES OUTLINED IN 1-5-102.9, C.R.S.;

(a) 7.12.2 Use WebSCORE to register voters; update existing voter registrations; issue and replace mail ballots; and issue, spoil, and replace in-person ballots.; and

(b) 7.12.3 Offer an in-person voter the opportunity to obtain a replacement mail ballot, **ENVELOPE AND SECRECY SLEEVE** rather than a provisional ballot in the event the voter service and polling center loses connectivity to WebSCORE but retains connectivity to SCORE. **[Counties have provided improperly printed return envelopes in some cases.]**

7.12 7.13   Assisting voters with disabilities in a voter service and polling center

7.12.1 7.13.1 The designated election official must post a sign at the voter service and polling center that states:

NOTICE

VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

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

1.   *If you require assistance, please inform an election judge.*

2.   *Any person, including an election judge, may assist you.*

3.   *If you select a person other than an election judge, he or she must complete a Voter Assistance Form, which includes an oath that states:*

     I, ………, certify that I am the individual chosen by the elector to assist the elector in casting a ballot. I further certify that I will not in any way attempt to persuade or induce the elector to vote in a particular manner, nor will I cast the elector's vote other than as directed by the elector I am assisting.

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

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

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

7.12.2 7.13.2 If a voter has spoiled two ballots and requests a third ballot, an election official must offer assistance in voting ~~procedures~~ and casting the ballot.

7.13 7.14   Voter history

7.13.1 7.14.1 After the canvass, the designated election official must give vote credit to each ~~voter~~ **ELIGIBLE** PERSON who **SIGNED AND RETURNED THE RETURN ENVELOPE OR OTHERWISE** voted in the election.

7.13.2 7.14.2 If the voter history records do not match the number of voters ~~who voted~~ at that election, the designated election official must ensure the following:

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

(b)   All signature cards are accounted for.

~~7.13.3~~ 7.14.3   ~~All~~ THE DESIGNATED ELECTION OFFICIAL MUST EXPLAIN AND DOCUMENT ALL research concerning discrepancies. ~~must be explained and documented.~~

~~7.14~~ 7.15 Reimbursement to counties for state ballot measure elections. No later than 90 days after an election, the county must submit a completed request for reimbursement under section 1-5-505.5, C.R.S. The county must submit the request using the form provided by the Secretary of State.

Amendments to Rule 8:

Rule 8. Watchers

8.1   ~~Watchers must affirm that they are qualified under sections 1-1-104(51), 1-7-105, 1-7-106, 1-7-107, and 1-7-108(2), C.R.S., as applicable. Watchers must take the oath described in section 1-7-108(1), C.R.S. and, upon first entering the polling location, surrender the certificate of appointment to the supervisor judge at each location where the watcher is designated to observe.~~ A WATCHER MUST AFFIRM THAT HE OR SHE IS QUALIFIED TO ACT AS A WATCHER UNDER COLORADO LAW. THE COUNTY CLERK ~~MUST ACCEPT~~ **MAY NOT REFUSE** THE APPOINTMENT OF ALL ELIGIBLE WATCHERS DULY CERTIFIED BY A POLITICAL PARTY, CANDIDATE, OR ISSUE COMMITTEE UNDER SECTIONS 1-1-104(51), 1-7-105, 1-7-106, OR 1-7-107, C.R.S.

[Clerks should not be in a position to become a needless obstacle to the role of the watcher]
[Stricken portions of Current Rule 8.1 are amended and recodified in Rule 8.1, New Rule 8.5,

[Current Rule 8.11 is amended and recodified as the last sentence of Rule8.1]

[Current Rules 8.1.1, 8.1.2, and 8.1.3 are amended and recodified as New Rules 8.4.1, 8.4.2, and 8.4.3]

8.1.1   THE REGISTERED AGENT OR DESIGNATED FILING AGENT FOR AN ISSUE COMMITTEE IS THE AUTHORIZED REPRESENTATIVE TO APPOINT WATCHERS FOR THE ISSUE COMMITTEE.

8.1.2 ~~THE COUNTY CLERK MUST CONFIRM A WATCHER'S ELIGIBILITY BEFORE ALLOWING THE WATCHER TO PERFORM HIS OR HER DUTIES.~~ **IF THE ELECTION OFFICIAL RECEIVING THE WATCHER CREDENTIAL** ~~COUNTY CLERK~~ IS UNABLE TO CONFIRM THE WATCHER'S ELIGIBILITY, HE OR SHE MUST PROMPTLY INFORM **THE COUNTY CLERLK WHO MUST INFORM THE** APPOINTING ENTITY.

8.1.3   A WATCHER MAY PROVIDE HIS OR HER CURRENT REGISTRATION RECORD WITH THE CERTIFICATE OF APPOINTMENT TO SATISFY THE ELIGIBILITY-CONFIRMATION REQUIREMENT.

8.1.4   A WATCHER FOR AN ISSUE COMMITTEE MAY PROVIDE A TRACER PRINT-OUT OF THE ISSUE COMMITTEE REGISTRATION WITH THE CERTIFICATE OF APPOINTMENT TO SHOW THE PERSON APPOINTING THE WATCHER ON BEHALF OF THE COMMITTEE IS EITHER THE REGISTERED AGENT OR DESIGNATED FILING AGENT AS SHOWN IN TRACER AND TO SHOW THE COMMITTEE'S ELIGIBILITY TO APPOINT WATCHERS.

8.1.5   A WATCHER MUST COMPLETE A TRAINING PROVIDED BY OR APPROVED BY THE SECRETARY OF STATE BEFORE OBSERVING ELECTION ACTIVITIES WHERE CONFIDENTIAL OR PERSONALLY IDENTIFIABLE INFORMATION MAY BE WITHIN VIEW.

8.14 8.2 ~~Watchers may be appointed~~ INTERESTED PARTIES MAY APPOINT AND CERTIFY WATCHERS to observe recall elections held under Article 12, Title I, C.R.S., ~~and must be certified~~ in accordance with sections 1-7-106 and 1-7-107, C.R.S.

8.2 8.3 A political party attorney may not be in the polling location unless he or she is a duly appointed watcher or is casting his or her ballot.

8.3 ~~The supervisor judge must provide to each watcher on request a list, log, check-in card, or other similar information of voters appearing in the polling location to vote. The watcher may not remove the information or documents from the polling location. A watcher may maintain a list of eligible electors who have voted by using only information provided by the supervisor judge or a list of electors previously maintained by the watcher. [Section 1-7-108(3), C.R.S.]~~

8.13 8.4 ~~Watchers~~ A WATCHER may be certified to observe more than one ~~polling~~ location IN WHICH THE COUNTY IS CONDUCTING ELECTION ACTIVITIES. ~~See section 1-7-106, C.R.S.~~ A WATCHER MUST PRESENT A **COPY OF A** CERTIFICATE OF APPOINTMENT AT EACH LOCATION WHERE THE WATCHER IS DESIGNATED TO OBSERVE, UNLESS THE COUNTY CLERK HAS ESTABLISHED AN ALTERNATE PROCESS. **[Some counties require a physically sealed or stamped document that acts as an obstacle to obtaining credentials to watch, and may become obstructive.]**

8.1.1 8.4.1 If a watcher leaves a ~~polling~~ location but returns to the same location, another certificate of appointment is not necessary.

8.1.2 8.4.2 A new watcher who is replacing an original watcher must provide HIS OR HER~~an original~~ certificate of appointment for that polling location.

8.1.3 8.4.3 A certificate of appointment as a watcher is not transferable to another individual.

8.5   A WATCHER MUST TAKE THE OATH DESCRIBED IN SECTION 1-7-108(1), C.R.S.

[New Rule 8.5 is a recodified portion of current Rule 8.1]

8.12 8.6 Removal of Watchers.

8.12.1 8.6.1 A county clerk or his or her designee may remove a watcher upon finding that the watcher:

(a)   ~~Commits or encourages~~ COMMITTED OR ENCOURAGED fraud in connection with his or her duties;

(b)   ~~Violates~~ VIOLATED any of the limitations outlined in Rule ~~8.6~~ 8.15;

(c)   ~~Violates~~ VIOLATED his or her oath; or

(d)   ~~Is~~ WAS abusive or threatening toward election officials or voters.

8.12.2 8.6.2 Upon removal of a watcher, the county clerk must inform the political party, candidate, or committee who appointed the watcher.

8.12.3 8.6.3 A removed watcher may be replaced by an alternate watcher duly certified in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S.

8.7 THE COUNTY CLERK MUST SUBMIT A WATCHER ACCOMMODATION PLAN TO THE SECRETARY OF STATE BY EMAIL USING THE APPROVED FORM NO LATER THAN 90 DAYS BEFORE AN ELECTION **THAT SHALL BE POSTED ON A PUBLICLY AVAILABLE WEBSITE.**

    8.7.1 WATCHERS MAY BE PRESENT AT EACH STAGE OF THE CONDUCT OF THE ELECTION, **INCLUDING** WHEN ELECTORS ARE VOTING OR WHEN ELECTION JUDGES ARE PRESENT AND PERFORMING ELECTION ACTIVITIES.

    8.7.2 THE COUNTY CLERK MUST PROVIDE, AND IDENTIFY IN SOME MANNER, AT LEAST ONE PRIMARY CONTACT FOR WATCHERS AT EACH LOCATION WHERE ELECTION ACTIVITIES ARE PERFORMED WHEN WATCHERS ARE PRESENT.

    8.4.1 8.7.3 ~~The~~ AT **ALL ELECTION LOCATIONS** ~~VOTER SERVICE AND POLLING CENTERS~~ , THE designated election official must position the voting equipment, voting booths, and the ballot box so that they are in plain view of the election officials and watchers.

    8.4.2(b) 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. THE SIX-FOOT LIMIT IN RULE 1.1.26 APPLIES ONLY TO VOTING.

8.8 THE MINIMUM NUMBER OF WATCHERS THE COUNTY CLERK MUST ACCOMMODATE FOR EACH APPOINTING ENTITY IS AS FOLLOWS:

    8.8.1 IN A CENTRAL COUNT FACILITY, ONE WATCHER PER CENTRAL COUNT PROCESS, BUT IN ANY CASE NO LESS THAN ONE WATCHER FOR EVERY TEN ELECTION JUDGES.

    8.8.2 DURING SIGNATURE VERIFICATION, ONE WATCHER FOR EVERY FOUR ELECTION JUDGES.

    8.8.3 **~~AT EACH VOTER SERVICE AND POLLING CENTER, ONE WATCHER; OR~~** ONE WATCHER PER VOTER SERVICE AND POLLING CENTER PROCESS.

        8.4.2(e) 8.8.4 The number of watchers permitted in any room at one time is subject to SPACE LIMITATIONS AND local safety codes.

8.9 A WATCHER MAY OBSERVE ELECTION ACTIVITIES AT A GROUP RESIDENTIAL FACILITY, AS DEFINED IN SECTION 1-1-104(18.5), C.R.S., ONLY IF THE WATCHER CONTACTS THE COUNTY CLERK BEFOREHAND TO ARRANGE THE TIME AND LOCATION. WHILE AT A GROUP RESIDENTIAL FACILITY, A WATCHER MUST MAINTAIN AN ADEQUATE DISTANCE FROM THE ELECTOR SO THE ELECTOR MAY MARK OR RECEIVE ASSISTANCE MARKING HIS OR HER BALLOT IN PRIVATE.

~~8.4~~ 8.10 Watchers are subject to the provisions of section 1-5-503, C.R.S.

    ~~8.4.3~~ 8.10.1 A watcher may witness and verify activities described in Title 1, C.R.S.~~, that are outside the immediate voting area, including ballot processing and counting.~~ If election officials are conducting ~~elections~~ELECTION activities in separate rooms or areas of a building or buildings, the county clerk must allow additional watchers to observe and verify each separate activity in each room or area in the building or buildings.

    ~~8.4.2~~ 8.10.2 Watchers must be permitted access that would allow them to attest to the accuracy of election-related activities~~, including recall elections~~. This includes personal visual access at a reasonable proximity to read documents, writings or electronic screens and reasonable proximity to hear election-related discussions **AMONG AND** between **ELECTION OFFICIALS**, election judges and electors.

[Obviously election officials ought to be included, and discussions between election officials.]

~~Witness and verify means to personally observe actions of election officials in each step of the conduct of an election.~~

[The last sentence of Current Rule 8.4.2 is recodified as New Rule 8.10.2(b)]

(a)   Election~~-related~~ activities include ~~all activities in a polling location and ballot processing and counting, such as~~:

8.4.2(c) (1) ~~Watchers may be present at each stage of the conduct of the election, including the setup~~ Setup and breakdown of ~~polling locations and ballot receipt and processing~~ VOTER SERVICE AND POLLING CENTERS.

(1) (2) ~~Observing voter~~ VOTER check-in and registration activities.

(3)   BALLOT RECEIPT AND PROCESSING.

[A portion of Current Rule 8.4.2(c) is recodified as this New Rule 8.10.2(a)(3)]

(2) (4) ~~Witnessing the signature~~ SIGNATURE verification of mail ballot envelopes at close enough distance to ~~verify or~~ challenge the signature.

(3) (5) ~~Witnessing ballot~~ BALLOT duplication ~~to verify accuracy according to voter intent~~.

(4) (6) ~~Observing the~~ BALLOT tabulation. ~~process or display screens of voting equipment at any time that an elector is not in the immediate voting area for purposes of voting or casting a ballot.~~

(5)   ~~Witnessing hand count tabulations as they are being conducted.~~

(6) (7) ~~Observing all documents and materials during the LAT~~ THE LOGIC AND ACCURACY TEST and post-election audit.

[Portions of Current Rule 8.4.2(d) are amended and recodified as New Rules 8.10.2(a)(8) and (9):]

(8)   PROVISIONAL BALLOT PROCESSING.

(9)   UOCAVA BALLOT PROCESSING.

[Current Rule 8.4.4 is amended and recodified as New Rule 8.10.2(a)(10)]

(10)   CANVASS.

[Current Rule 10.11 is amended and recodified as New Rule 8.10.2(a)(11)]

(11)   RECOUNT.

[The last sentence of Current Rule 8.4.2 is recodified as New Rule 8.10.2(b)]

(B)WITNESS AND VERIFY MEANS TO PERSONALLY OBSERVE, **DOCUMENT AND REPORT ON** ACTIONS OF ELECTION OFFICIALS IN EACH STEP OF THE CONDUCT OF AN ELECTION.

[Current Rule 8.4.2(c) is recodified as New Rules 8.10.2(a)(1) and 8.10.2(a)(3)]

(d)   ~~Watchers may be present during provisional ballot processing, signature verification, and UOCAVA ballot processing, but may not have access to confidential voter information.~~

[A portion of Current Rule 8.4.2(d) is recodified as New Rule 8.10.2(a)(8)]

[Current Rule 8.4.2(e) is recodified as New Rule 8.8.4]

~~8.10~~ 8.11 ~~To assist Watchers in performing their tasks at a polling location, the~~ THE county clerk must provide a list of all voters who have ~~voted or returned~~ CAST a ballot in the county. ~~The~~ IF REQUESTED, THE county clerk must make the list available at least daily at the clerk's main office or provide the list electronically.

~~8.4.4 Watchers appointed under this Rule 8 may observe the canvass board while it performs its duties.~~

[A portion of Current Rule 8.4.4 is recodified as New Rule 8.10.2(a)(10)]

~~8.4.5~~ 8.12 A watcher may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule 9, and submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule 13. ~~A watcher may observe all activities in a polling location and the processing and counting of ballots. A watcher may be present at each stage of the election including the receiving and bundling of the ballots.~~

8.13   UNLESS THE COUNTY CLERK AUTHORIZES A GREATER NUMBER, DURING ~~INITIAL~~ SIGNATURE REVIEW BY AN ELECTION JUDGE **OR JUDGES**, A WATCHER MAY ESCALATE NO MORE THAN TEN BALLOT ENVELOPE SIGNATURES IN AN HOUR FOR A SECOND REVIEW BY A BIPARTISAN TEAM OF ELECTION JUDGES. **BY THE TIME SUCH LIMIT HAS BEEN REACHED THE SUPERVISOR JUDGE SHALL BEGIN A REVIEW THE PERFORMANCE OF BOTH THE JUDGES AND THE WATCHER FOR THE PURPOSE OF TAKING REMEDIAL ACTION UNDER RULE 7.8.8 OR 8.6.**

~~8.5~~ 8.14 In addition to the oath required by section 1-7-108(1), C.R.S., a watcher must affirm that he or she will not:

~~8.5.1~~ 8.14.1 Attempt to determine how any elector voted ~~or review confidential voter information~~;

~~8.5.2~~ 8.14.2 Disclose or record any confidential voter information that he or she may observe; or

~~8.5.3~~ 8.14.3   Disclose any results before the polls are closed.

~~8.6~~ 8.15 A watcher may not:

~~8.6.1~~ 8.15.1 Personally interrupt or disrupt the processing, verification, and counting of any ballots or any other stage of the election.

8.6.2 8.15.2 Write down any ballot numbers or any other PERSONALLY identifying information about the electors.

8.6.3 8.15.3 Touch or handle the official signature cards, ballots, mail ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.

8.6.4 8.15.4 Interfere with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots.

8.6.5 8.15.5 Interact with election judges ~~except for the supervisor judge~~ OTHER THAN A DESIGNATED WATCHER CONTACT, EXCEPT AS PERMITTED IN RULE 8.13.

8.6.6 8.15.6 Use a mobile phone or other electronic device to make or receive a call in any polling location or other place election activities are conducted.

8.6.7 8.15.7 Use any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted **UNLESS AT A PUBLIC MEETING.**

8.6.8 8.15.8 Attempt to determine how any elector voted.

8.6.9 8.15.9 Disclose or record any confidential voter information as defined in section 24-72-204(8), C.R.S., that he or she may observe.

8.6.10 8.15.10 Disclose any results before the polls have closed.

8.16 IF A WATCHER DISPUTES A DECISION MADE BY AN ELECTION JUDGE OR ALLEGES A DISCREPANCY, THE WATCHER MUST ALERT THE DESIGNATED WATCHER CONTACT. **A WATCHER MAY REQUEST OF THE DESIGNATED WATCHER CONTACT TO ALERT HIM OR HERWHEN EXCEPTIONAL CONDITIONS ARE ENCOUNTERED BY ELECTION JUDGES.**
[With this method watching can be made much more efficient and less obtrusive, but counties have refused to permit election judges to signify when they are encountering an exception such as an override on a voting system.]

8.7 8.17 The Secretary of State must approve Official Observers appointed by the federal government. Official observers are subject to Colorado law and these Rules ~~as they apply to Watchers~~. But an Official Observer is not required to be an eligible elector in the jurisdiction. This Rule does not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State are subject to the rules and regulations as prescribed by the Secretary of State. Official Observers must obtain a letter of authority from the Secretary of State and surrender the letter to the county clerk.

8.8 ~~Watchers, Official Observers, and Media Observers may be present during a recount. Watchers, Official Observers, and Media Observers must be qualified and sworn in for a recount as described in Rule 8.1 and are subject to all other provisions related to the recount process. Any political party or candidate involved in the recount or proponents or opponents of an issue or question involved in the recount may appoint one or more watchers to be present at any time during the recount. A candidate who is subject to a recount may appoint himself or herself, or a member of the candidate's family as a watcher at a recount. [Sections 1-7-105 and 1-7-106, C.R.S.]~~

8.9 8.18 Media Observers may witness all election activities. A county clerk may, in his or her discretion, require a media observer to appoint a pool reporter and a pool photographer to represent all media observers. All media observers are subject to the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Association and the Secretary of State as outlined below:

Guidelines for Member of the Media Who Observe Election Counts and Recounts (to be distributed to members of the Colorado Press Association):

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association have collaborated to develop the following guidelines and protocols for use when members of the media observe the counting or recounting of ballots. You are strongly encouraged to follow these guidelines to allow meaningful media access while not disrupting the work of county clerks to count ballots or doing anything to compromise the integrity of the election process.

1. *If practical, please contact the county clerk's office prior to coming to observe the counting of ballots. If the county clerk knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.*

2. *At the discretion of the county clerk, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there are insufficient sight lines for you to take the photos or video you need, the county clerk may be able to make arrangements to accommodate your needs.*

3. *Please observe counting procedures without disrupting the count. Please take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.*

4. *The Secretary of State's Election Rules state that if observers leave the area during a recount, they may not reenter without the consent of the county clerk. If you have occasion to leave the area, you may be denied re-admittance.*

5. *Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.*

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association are all committed to working together to ensure the media has access to election counts and recounts, but that access is afforded in manners that do not disrupt the counts and do nothing to compromise the integrity of the process. Your cooperation in following these standards will help us to meet all these goals.

[Current Rule 8.11 is amended and recodified as the last sentence of Rule 8.1]

Amendments to Rule 10.5.2:

10.5.2 A COUNTY MUST SUBMIT THE STATE PORTION OF THE ABSTRACT AND THE ENR UPLOAD REQUIRED BY RULE 11.10.5TO THE SECRETARY OF STATE IN THE FORMAT APPROVED BY THE SECRETARY OF STATE. ~~The state portion of the abstract, which the county must use~~

the format approved by the Secretary of State and transmit to the Secretary of State, must include:

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

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

(c) (A) The summary of votes **COUNTED** cast for **IN** each state race and each ballot question or issue;

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

(e) (C) The Canvass ENR upload required under Rule 11.10.4 11.10.5.

New Rule 10.8.3, concerning recount generally:

10.8.3 IF THERE IS A RECOUNT IN A LOCAL JURISDICTION WHOSE BORDERS ENCOMPASS AREA IN MORE THAN ONE COUNTY, THE CONTROLLING COUNTY, AS DEFINED IN RULE 4.2.2, MUST COORDINATE THE SCHEDULING AND CONDUCT OF THE RECOUNT WITH EACH COUNTY THAT SHARES THE JURISDICTION.

[Current Rule 10.11 is amended and recodified as New Rule 8.10.2(a)(11)]

10.11   Watchers and observers during a recount

10.11.1 The Secretary of State may appoint official observers in any recount.

10.11.2 Each candidate or the candidate's watcher, media observers, and official observers, may be present and witness the recount in accordance with Rule 8.

10.11.3 The recount board must take the canvass board oath, assisting election judges must take the election judge's oath, and any person observing the recount must take a watcher's oath.

10.11.4 Complaints. A watcher may submit a complaint in writing to the county clerk or designee. Written complaints during a recount will be addressed in accordance with Rule 13.

The remainder of Rule 10 is renumbered. Additionally, the following rule cross-references are amended accordingly:

10.13.1 10.12.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule 10.12 10.11, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule 10.13.5 10.12.5.

[This rule and the underlying statute are not well advised and not consistent with best election integrity. This rule is not likely to provide sufficient accuracy for purposes of overcoming the errors inherent in the means of conducting the original count. The rule causes mistakes made during the original election count to be replicated and consequent errors in results reconfirmed.]

10.13.6 10.12.6 For tabulation of DREs, if there are no discrepancies in the test under Rule 10.12.3 10.11.3, the county clerk must upload the memory cards.

Amendments to Rule 11.2.3 concerning Voting System Inventory:

11.2.3 The designated election official must file the inventory with the Secretary of State no later than ten days before the election for use in the Logic and Accuracy Test and the Post-Election Audit ~~Test~~.

Amendments to Rule 11.3.2:

11.3.2 Logic and Accuracy Test

(a) The county clerk must conduct the public Logic and Accuracy Test no later than the 18th day before election day.

(b) The county must ensure that the Logic and Accuracy Test is open to the extent allowable in accordance with section 1-7-509(2)(b), C.R.S. The county clerk may limit the number of representatives from each group because of space limitations.

(c) Preparing for the Logic and Accuracy Test

(1) The county must prepare a ~~sufficient number of test ballots that represent~~TEST DECK OF BALLOTS THAT INCLUDES every ballot style and, WHERE APPLICABLE, precinct~~, if applicable,~~. THE COUNTY TEST DECK MUST INCLUDE ~~allow for~~ a sufficient number of ballots to mark every vote position for every ~~candidate on every race~~CONTEST including write-in candidates, allow for situations where a ~~race may~~CONTEST ~~permit~~PERMITS an elector to vote for two or more positions, ~~where applicable,~~ and include overvotes and undervotes for each ~~race~~CONTEST.

(2) The county must ~~create~~CONVENE a Testing Board of **AT LEAST** one registered elector from each of the major political parties~~, if appointed~~. Testing Board members must be registered to vote in the county.

(3) The county must provide at least 25 ballots that are clearly marked as test ballots to each Testing Board member.

(4) Testing Board members must ~~secretly vote~~MARK their TEST ballots following the instructions printed on the ballots and retain a record of the tally.

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

(d) Conducting the Test

(1) The county and Testing Board must observe the tabulation of all test ballots, compare the tabulation with the previously retained records of the test vote count, and correct any discrepancies before the device is used in the election.

(2) The county must reset the public counter to zero on all devices and present zero tapes to the Testing Board for verification. ~~For any device capable of producing or verifying the trusted build hash value (MD5 or~~

SHA-1) of the firmware or software, the county clerk must verify and document the accuracy of the value for the device.

(3)   The county must make an appropriate number of voting devices available and the Testing Board may witness the programming and/or downloading of memory devices necessary for the test.

(4)   The Testing Board and designated election official must count the test ballots as follows, IF APPLICABLE:

    (A)   Optical Scanners:

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

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

        (iii)   The Testing Board must count the board and county's test ballot batches separately and generate reports to ~~verify that~~ **DETERMINE IF** the machine count is identical to the predetermined tally.

    (B)   DREs:

        (i)   The Testing Board must ~~count the test ballots on at least one, but not more than five, DREs.~~TEST AT LEAST ONE DRE.

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

        (III)   EACH MEMBER OF THE TESTING BOARD MUST SEPARATELY CAST [**no need to signify ownership** HIS OR HER] TEST BALLOTS ON THE SELECTED DRES. EACH TESTING BOARD MEMBER MUST CAST AT LEAST TWO [OF HIS OR HER] TEST BALLOTS USING THE AUDIO BALLOT PLAYBACK AND ACCESSIBLE INPUT DEVICES.

        ~~(iii)~~ (IV)   ~~The Testing Board must identify and test two ballots as audio ballots.~~ EACH TESTING BOARD MEMBER MUST EXAMINE THE TABULATION TAPE OR REPORT AND ~~VERIFY THAT~~ **DETERMINE IF** THE DRE TABULATED THE BALLOTS AND VOTES CAST IN THE SAME MANNER THAT THE TESTING BOARD MEMBER MANUALLY MARKED ~~[HIS OR HER] TEST~~ BALLOTS.

[Ballots are anonymous public records. To signify them as HIS or HER is to create an argument for private ownership that is counter to the intention of the law.]

        ~~(iv)   The Testing Board must count at least 50 of the board's ballots and a random sampling of at least 25 of the~~

county's test ballots separately and generate 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.

    (C)   BALLOT MARKING DEVICES (BMDs):

        (I)   THE TESTING BOARD MUST TEST AT LEAST ONE BMD.

        (II)   AT LEAST TWO MEMBERS OF THE TESTING BOARD MUST USE THE SELECTED BMD TO MARK AND PRINT AT LEAST 25 BALLOTS IN THE SAME MANNER THAT THE TESTING BOARD MEMBER MANUALLY MARKED [HIS OR HER] TEST BALLOTS. AT LEAST TWO MEMBERS OF THE TESTING BOARD MUST MARK AT LEAST TWO [OF HIS OR HER] TEST BALLOTS USING THE AUDIO BALLOT PLAYBACK AND ACCESSIBLE INPUT DEVICES.

        (III)   A TESTING BOARD MEMBER OR COUNTY ELECTION OFFICIAL MUST SEPARATELY SCAN AND TABULATE THE TEST BALLOTS MARKED WITH AND PRINTED FROM THE BMD ON ONE CENTRAL COUNT OR POLLING LOCATION SCANNER, AND GENERATE A RESULTS REPORT.

        (IV)   EACH TESTING BOARD MEMBER MUST VERIFY THAT THE RESULTS REPORT GENERATED FROM THE SCANNER EXACTLY CORRESPONDS TO THE TESTING BOARD MEMBER'S TALLY OF THE VOTES ON THE MANUALLY MARKED PAPER BALLOTS COMPRISING [HIS OR HER] THE TEST BALLOTS.

(e)   Completing the ~~Test~~ TEST

(1)   The county 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 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.

(2)   THE COUNTY MUST UPLOAD THE RESULTS FROM ALL TESTED SCANNERS AND DRES TO THE TABULATION SOFTWARE, AND SAVE THE TABULATION RESULTS FOR THE ENR TEST REQUIRED UNDER RULE 11.10.3.

~~(2)~~(3) After testing, the Testing Board must watch the county reset and seal each voting device.

~~(3)~~(4) The Testing Board and the 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 create a backup copy of the election database.~~

(5) The county 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 or as authorized by the Secretary of State.

Amendments to Rule 11.9:

11.9 Purchases and Contracts

11.9.1 In accordance with section 1-5-623(3), C.R.S., a political subdivision may not purchase, lease, transfer, or receive an electronic voting device or system or any related component of a device or system without approval from the Secretary of State.

11.9.2 A political subdivision may only purchase or lease a certified voting system OR COMPONENT if:

(a) ~~The contract contains training and maintenance costs; and~~ THE SECRETARY OF STATE CERTIFIED THE VOTING SYSTEM BEFORE JANUARY 1, 2015. OR

(b) ~~The voting system components and accessories appear complete and capable of successfully conducting an election in Colorado.~~ THE SECRETARY OF STATE CERTIFIED AND SELECTED THE VOTING SYSTEM **OR COMPONENT** AS **PART OF** COLORADO'S UNIFORM VOTING SYSTEM ON OR AFTER DECEMBER 15, 2015.
[This language should not artificially build a presumption that Uniform Voting System means full system from a single vendor.]

11.9.3 A POLITICAL SUBDIVISION'S CONTRACT TO PURCHASE OR LEASE A VOTING SYSTEM UNDER RULE 11.9.2 MUST PROVIDE FOR USER TRAINING AND PREVENTATIVE MAINTENANCE.

11.9.4 THE SECRETARY OF STATE WILL ONLY APPROVE A POLITICAL SUBDIVISION'S APPLICATION TO PURCHASE OR LEASE A VOTING SYSTEM OR COMPONENT IF THE VOTING SYSTEM OR COMPONENT ALLOWS THE DESIGNATED ELECTION OFFICIAL TO CONDUCT ELECTIONS IN ACCORDANCE WITH COLORADO LAW, AS AMENDED.

~~11.9.3~~ 11.9.5 The Secretary of State will maintain a list of all components used and purchased. The list will include, at minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices and name of the voting systems that were purchased.

Amendments to 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:

(I)   FOR A PRIMARY ELECTION, CONTEST NAMES MUST INCLUDE PARTY ABBREVIATION.

11.10.2 No later than ~~14~~ 21 days before the election, a county must ~~send~~ PROVIDE the following information to the Secretary of State~~, at the address in Rule 11.6~~:

(a)   A data entry county must email a sample or "zero" file. EXCEPT IN THE CASE OF WITHDRAWN OR DECEASED CANDIDATES, A DATA ENTRY COUNTY MAY NOT CHANGE OR ALTER THE ELECTION DATABASE OR EXPORT FILE AFTER SUBMITTING ITS ZERO FILE.

(b)   A manual entry county must send a list of all ballot content.

11.10.3 NO LATER THAN 14 DAYS BEFORE THE ELECTION, A DATA ENTRY COUNTY MUST UPLOAD THE LAT RESULTS FILE TO ENR.

~~11.10.3~~11.10.4 ELECTION NIGHT UPLOADS. Manual entry counties must produce preliminary election results and upload them to the ENR system once counting is completed. All other counties must export or produce preliminary election results and upload them to the ENR system a minimum of three times on election night:

(a)   After the close of polls but no later than 8:00 p.m.

(b)   At or around 9:00 p.m.

(c)   The county must indicate that ELECTION NIGHT reporting is complete in the ENR system ~~for election day~~ after the county uploads the last results on election night.

~~11.10.4~~11.10.5 CANVASS UPLOAD. The county must export or produce official election results, and check the appropriate box in the ENR system to indicate that the canvass upload is complete, not later than close of business of the first business day after the statutory deadline for completing the canvass.

Amendments to Rule 20.3.1 concerning physical locking mechanisms and seals:

20.3.1 DREs, ~~ballot marking devices~~BMDS, and Judge's Booth Controllers (JBCs)

[The remainder of Rule 20.3.1 is retained; unaltered]

Amendments to Rule 20.6:

20.6   ~~Temperature controlled storage.~~ The county must ~~maintain~~KEEP all components of the voting system, ~~and~~ ballots, SERVERS, WORKSTATIONS, DRES, OPTICAL SCANNERS, BMDS, VVPAT RECORDS, AND VIDEO DATA RECORDS in a temperature-controlled storage environment THAT MAINTAINS A MINIMUM TEMPERATURE OF 50 DEGREES FAHRENHEIT AND A MAXIMUM TEMPERATURE OF 90 DEGREES FAHRENHEIT. THE STORAGE ENVIRONMENT MUST BE DRY WITH STORAGE AT LEAST FOUR INCHES ABOVE THE FLOOR. The county must ~~attest to the temperature control settings used with the following components of a voting system. Information submitted to the Secretary of State must indicate the specifics for each type of component, as well as~~ PROVIDE

THE SECRETARY OF STATE WITH A DESCRIPTION OF the specific environment used FOR EACH TYPE OF COMPONENT.~~, which may include, but is not limited to controlled offices, controlled vaults, and controlled warehouses. The county must maintain the following required temperature settings:~~

~~20.6.1 Servers, andworkstations. The county must maintain the temperature so that the maximum temperature at no time exceeds 90 degrees Fahrenheit.~~

~~20.6.2 DREs and optical scanners. The county must maintain the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.~~

~~20.6.3 VVPAT records, paper ballots, and video data records. In addition to the requirements set forth in Rule 11, the county must maintain a dry environment and a temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit, with storage at least four inches above the finished floor, for a period of 25 months following the election.~~

Amendments to Rule 21.4.5(f) concerning voting system functional requirements:

(f) The election management system must ensure that an election setup RECORD may not be changed once ballots are printed and/or election media devices are downloaded without proper authorization and acknowledgement by the application administrative account. The application and database audit transaction logs must accurately reflect the name of the system operator making the change(s)~~,~~ AND the date and time of the change(s)~~, and~~. THE APPLICATION AND DATABASE AUDIT TRANSACTION LOGS MUST SUPPORT USER'S ABILITY TO EXAMINE the "old" and "new" values of the change(s).

[This rule is critical and if my understanding is correct, the current choice for the UVS, Dominion, does have software for which operation is dependent on parameters that are not included in accessible reports. In particular the parameter that controls what range of density of voter marks will cause a ballot image to be reviewed for adjudication is not provided in a standard Dominion report. I have been unable to obtain the audit log for Dominion to determine if the change of parameter is listed there. However, it is important for election integrity that this rule be fastidiously followed and that all parameters that control functionality as well as metrics of proper functionality are clearly reported in a manner that makes them easily available to officials and public for purposes of verification. Adherence to this rule should be included in conditions for use of the Dominion system.]

Amended Rule 21.4.7(d) and New Rule 21.4.7(e) concerning ballot definition subsystem requirements:

(d) The ballot definition subsystem must:

(1) Provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates; ~~and~~

(2) Generate all required masters and distributed copies of the ballot definition files~~.~~; AND

(3) PERMIT A USER TO PROGRAM THE ELECTION AND BUILD THE ELECTION DATABASE TO GENERATE AND LAYOUT BALLOTS AND REPORT RESULTS BY BALLOT STYLE OR PRECINCT, AS PERMITTED OR REQUIRED BY SECTION 1-7.5-208, C.R.S.

(E) THE VOTING SYSTEM VENDOR MAY NOT ADD ANY CAPTION OR ENDORSEMENT TO BALLOT ARTWORK, INCLUDING COPYRIGHT NOTICE OR NAME OF SYSTEM PROVIDER. THE COUNTY MUST HAVE THE ABILITY TO SUPPRESS ANY CAPTIONS AND ENDORSEMENTS NOT AUTHORIZED BY SECTION 1-5-407(1), C.R.S.

Repeal of duplicate Rule 21.4.8 from publication:

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

(g)   All voting systems must meet the following minimum requirements for removable storage media with data controls:

    (1)   All ~~voting~~ data stored that includes~~,~~ ballot images, tally data, and cast vote records must be authenticated, ENCRYPTED OR SECURED AGAINST TAMPERING, and validated.

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

    ~~(3)~~ (2) All removable media, upon insertion on server and~~/or~~ workstations hosting the elections management software, must automatically be scanned by antivirus software OR SECURED AGAINST EXECUTION OF UNAUTHORIZED SOFTWARE.

21.4.11 Telecommunications requirements

(a)   Telecommunications includes all components of the system that transmit data outside of the closed network as defined in this Rule.

(b)   All electronic transmissions from a voting system must meet the 2002 Voting System Standards.

~~(c)   Modems from remote devices must be programmed to be "dial only" and not receive a call;~~

~~(d)   Any modem that fails to meet the requirements of this Rule may not be used by any voting system.~~

~~(e)~~ (C) Line of sight infrared technology may only be used in a closed environment where the transmission and reception is shielded from external infrared signals and can only accept infrared signals generated from within the system.

~~(f)~~ (D) All systems that transmit data over public telecommunications networks must maintain an audit trail when election results are transmitted.

~~(g)~~ (E) Voting systems that transmit data through any telecommunications medium must be able to recover, either automatically or with manual intervention, from incomplete or failed transmission sessions and resume transmissions when telecommunications are reestablished.

(1)   Recovery of transmissions must include notations of the interrupted transmission session and the resumed transmission session in the system and application transaction logs.

(2)   Failure and recovery of transmissions must not cause any error in data transmitted from the voter service and polling centers to the central election site during a recovered transmission session.

Amendments to Rule 21.4.12(b)(1) concerning VVPAT component requirements:

(1)   A paper audit trail writer or printer that must be attached, built into or used in conjunction with the DRE OR BMD, and must duplicate a voter's selections from the DRE OR BMD onto a paper record;

Amendments to Rule 21.4.12(c)(7) concerning VVPAT functional requirements:

(7)   ~~Upon spoiling, the voter must be able~~ ALLOW A VOTER to modify and verify selections on the DRE OR BMD without having to reselect all of his or her choices.

[It is my understanding that when creating write-in names on the Dominion BMD that a change of selected screen font size will erase the existing input. Could this be applicable to this rule?]

Amendments to Rule 21.4.12(d)(3) concerning VVPAT design requirements:

(3)   Allow each voter to verify his or her vote on a paper record in the same language that they voted in on the DRE OR BMD.

Amendments to Rule 21.4.13(l)through (r) concerning documentation requirements:

(l)   ~~The voting system provider must publish and specify processing standards for each component of the voting system as part of the documentation required for certification.~~

~~(m)~~ (L) For the purpose of evaluating software, the voting system provider must provide detailed information as to the type of hardware required to execute the software.

~~(n)~~ (M) The documentation supplied by the voting system must include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other facility or resource required for the installation, operation and storage of the voting system.

~~(o)~~ (N) The voting system provider must provide any available data on problems caused for persons who experience epileptic seizures due to the DRE **OR BMD** voting device's screen refresh rate.

~~(p)~~ (O) The voting system provider must deliver to the Secretary of State documentation detailing estimated time of battery operation for each type of device submitted for certification, assuming continuous use of the devices by voters during an interruption of normal electrical power.

~~(q)~~ (P) The voting system provider must deliver to the Secretary of State documentation specifying the steps and times required for charging batteries for each type of device submitted for certification.

(r̶) (Q) The voting system provider must submit documentation containing a list of minimum **EQUIPMENT,** services and executables required to run the election management system.

New Rules 21.4.14 and 21.4.15:

21.4.14 SINGLE-BALLOT CAST VOTE RECORDS AND EXPORT. ALL VOTING SYSTEMS SUBMITTED FOR CERTIFICATION AFTER DECEMBER 15, 2015 MUST COMPLY WITH THE REQUIREMENTS OF THIS RULE 21.4.14.

(A) THE VOTING SYSTEM MUST CAPTURE A CAST VOTE RECORD (CVR) CONSISTING OF A SINGLE B̶A̶L̶L̶O̶T̶ SET OF ENTRIES FOR EACH BALLOT TABULATED, SHOWING THE M̶A̶N̶N̶E̶R̶ ̶I̶N̶ ̶W̶H̶I̶C̶H̶ **RESULT OF** THE VOTING SYSTEM INTERPRET**ATION**E̶D̶ A̶N̶D̶ ̶T̶A̶B̶U̶L̶A̶T̶E̶D̶ **OF** THE VOTER²'S̶ MARK̶I̶N̶G̶S ON THE BALLOT AS ADJUDICATED IF REFERRED TO ELECTION JUDGES..

(B) THE VOTING SYSTEM MUST BE ABLE TO AGGREGATE IN A SINGLE FILE AND EXPORT ALL CVRS **FOR ONE ELECTION** IN COMMA-SEPARATED VALUE (CSV) TEXT FORMAT.

(C) **EXCEPT THOSE MARKED AS OPTIONAL,** THE CVR EXPORT MUST CONTAIN THE FOLLOWING FIELDS, WITH VALUES OR DATA POPULATED BY THE VOTING SYSTEM:

(1) CVR NUMBER. A SEQUENTIAL NUMBER FROM ONE TO THE NUMBER OF CVRS IN THE EXPORT FILE. THIS CAN BE USED AS AN ALTERNATE METHOD TO̶ ̶I̶D̶E̶N̶T̶I̶F̶Y̶ **ASSOCIATE** EACH CVR **WITH THE RELATED PAPER BALLOT AND ANY OTHER DIGITAL IMAGE RELATED TO IT.**

(2) BATCH ID. **(COUNTY OPTIONAL)** IDENTIFIES THE BATCH IN WHICH THE PAPER BALLOT CORRESPONDING TO THE CVR IS LOCATED. **THIS FIELD IS NOT APPROPRIATE FOR A COUNTY IN WHICH BATCHES BY NECESSITY OR BY CHOICE SIGNIFY AN IDENTIFIABLE GROUP OF VOTERS SUCH AS AT A SINGLE VSPC. IN SUCH CASE, THIS FIELD MUST BE SUPPRESSED FROM THE CVR. COUNTIES PERFORMING 100% CENTRAL COUNT MAY INCLUDE THIS FIELD WITHIN THE CVR.**
[In such counties the ballot manifest that contains the batch and location information can be kept separately so that the CVR can be committed to as a public record. In most but perhaps not all cases, the batches can be crafted so that they do not correspond to a known list of voters. When that is not possible, the suppression of the batch number from the CVR is needed.]

(3) BALLOT POSITION. IDENTIFIES THE POSITION OF THE PAPER BALLOT CORRESPONDING TO THE CVR WITHIN THE BATCH. TARGET CARDS SCANNED TO IDENTIFY THE BATCH MUST NOT BE INCLUDED IN THIS COUNT.

(4) IMPRINTED ID. IF THE SCANNER MODEL SUPPORTS IMPRINTING A UNIQUE CHARACTER STRING ON THE BALLOT DURING THE SCANNING PROCESS, THE VOTING SYSTEM MUST POPULATE THIS FIELD WITH T̶H̶E̶ **A** UNIQUE **SEQUENTIAL** CHARACTER STRING **THAT IS NOT ASSOCIATED WITH A VOTER.**

(5) BALLOT STYLE. INDICATES THE BALLOT STYLE OF THE PAPER BALLOT CORRESPONDING TO THE CVR.

(6) DEVICE ID. **(COUNTY OPTIONAL)** IDENTIFIES THE SCANNING DEVICE BY MODEL, SERIAL NUMBER, AND/OR SCANNING STATION IDENTIFIER. **THIS FIELD IS NOT APPROPRIATE FOR A COUNTY IN WHICH**

DEVICES BY NECESSITY OR BY CHOICE SIGNIFY AN IDENTIFIABLE GROUP OF VOTERS SUCH AS AT A SINGLE VSPC. IN SUCH CASE, THIS FIELD MUST BE SUPPRESSED FROM THE CVR. COUNTIES PERFORMING 100% CENTRAL COUNT MAY INCLUDE THIS FIELD WITH THE CVR.

(7) CONTEST NAME AND ID. EACH CONTEST ON ANY BALLOT IN THE ELECTION MUST HAVE ITS OWN FIELD. THIS FIELD CONTAINS EITHER A "V" FOR FULLY VOTED, A "U" FOR UNDERVOTED IN A SINGLE CHOICE CONTEST, A "P" FOR UNDERVOTED IN A MULTIPLE OUTCOME CONTEST, AN "O" FOR OVERVOTED, A "W" FOR ONE OR MORE WRITE-INS OR A BLANK FOR A CONTEST NOT ON THE BALLOT. THESE ENTRIES MAY BE USED TO SORT THE CVRS FOR VERIFICATION PURPOSES.

(8) ~~CONTEST AND~~ CHOICE NAMES AND IDS. EACH ~~CONTEST AND~~ CHOICE INCLUDING WRITE-INS ON ANY BALLOT CAST IN THE ELECTION MUST HAVE ITS OWN FIELD SO THAT VOTERS' CHOICES IN ALL CONTESTS CAN BE EASILY AND INDEPENDENTLY TABULATED AFTER THE CVR EXPORT IS IMPORTED INTO A SPREADSHEET APPLICATION.THESE FIELDS MAY CONTAIN EITHER A "1" OR A "0" OR BE LEFT BLANK.

(9) (OPTIONAL) FOR EACH CONTEST CHOICE AN ADDITIONAL ADJACENT FIELD THAT CONTAINS THE MARK DENSITY OR OTHER MEASUREMENT OF THE MERIT OF THE VOTER MARK DETECTED BY THE VOTING SYSTEM.

[Having this in the CVR will greatly improve our ability to audit the election data starting from the most likely misinterpreted voter marks.]

(A) THE HEADER OR FIELD NAMES **FOR CONTEST AND CHOICE FIELDS** IN THE CVR EXPORT MUST ~~UNAMBIGUOUSLY~~ CORRESPOND **UNAMBIGUOUSLY FOR ANY OBSERVER** TO NAMES OF THE CONTESTS AND CHOICES ON THE PAPER BALLOTS. THE USE OF **AN ALPHANUMERICAL** CHOICE ID **AND** CONTEST ID TO ~~IDENTIFY~~ **SIGNIFY** EACH **CONTEST AND** CHOICE ~~MUST BE AVOIDED BECAUSE THEY REQUIRE CROSS-REFERENCING TO OTHER SOURCES TO DETERMINE THE CHOICE AND CONTEST NAMES.~~ **IS ALSO NECESSARY IN ORDER TO SIMPLIFY THE USE OF THE CVRS FOR AUDIT OF MULTI-COUNTY CONTESTS. THE IDS SHOULD MATCH THOSE USED TO COMPLY WITH RULE 21.4.15.**

(B) THE CONTESTS AND CHOICES MUST BE LISTED IN THE SAME ORDER AS THEY APPEAR ON THE BALLOTS.

(C) A **MARK SIGNIFYING A TABULATED** VOTE FOR A CHOICE MUST BE INDICATED BY A "1". **MARKS THAT PRODUCE** ~~NO VOTE FOR ANY~~ ~~CHOICE~~ ~~AN OVERVOTED~~ **CONDITION** MUST BE INDICATED BY A "0". CHOICES THAT ARE ~~NOT~~ APPLICABLE TO THE CVR **OR FOR WHICH THERE IS NO MARK (UNDERVOTE)** MUST BE LEFT BLANK. **FOR EVERY INTENTIONAL MARK ON EACH PAPER BALLOT THE CVR SHOULD CONTAIN EITHER A "1" OR A "0".**

21.4.15 ELECTION NIGHT REPORTING EXPORT. ALL VOTING SYSTEMS SUBMITTED FOR CERTIFICATION AFTER DECEMBER 15, 2015 MUST COMPLY WITH THE REQUIREMENTS OF THIS RULE 21.4.15.

(A) THE VOTING SYSTEM MUST BE ABLE TO EXPORT A REPORT FOR USE IN AN ELECTION NIGHT REPORTING (ENR) SYSTEM.

(B) THE ENR EXPORT FILE MUST BE IN A TABULAR FORMAT THAT USES COMMA-SEPARATED VALUE (CSV) FORMAT, WHICH MAY BE OPENED IN ANY TEXT EDITOR OR SPREADSHEET APPLICATION, OR IN A FORMAT THAT IS BASED UPON A RANGE OF CHARACTER POSITIONS WITHIN A LINE.

(C) THE EXPORT FILE MUST CONTAIN A HEADER LINE THAT DEFINES THE FIELDS.

   (1) THE HEADER NAMES DO NOT NEED TO BE EXACTLY AS SHOWN IN PARAGRAPH (D), BUT MUST UNAMBIGUOUSLY IDENTIFY THE CONTENT OF EACH FIELD.

   (2) THE ORDER OF THE FIELDS WITHIN THE EXPORT FILE MAY DEVIATE FROM THE ORDER SPECIFIED IN PARAGRAPH (D).

   (3) ADDITIONAL FIELDS NOT SPECIFIED IN PARAGRAPH (D) MAY NOT CONTAIN "NON-STANDARD" CHARACTERS.

(D) THE FOLLOWING ITEMS ARE REQUIRED IN THE ENR EXPORT FILE:

   (1) PRECINCT NAME. AN ALPHANUMERIC STRING CONSISTING OF A 10-DIGIT PRECINCT CODE OR A BALLOT STYLE NAME.

   (2) PRECINCT ID. A UNIQUE INTEGER FOR EACH PRECINCT OR PRECINCT SPLIT.

   (3) REGISTERED VOTERS. THE NUMBER OF REGISTERED VOTERS IN THE PRECINCT OR PRECINCT SPLIT.

   (4) BALLOTS CAST. THE NUMBER OF BALLOTS CAST IN THE PRECINCT OR PRECINCT SPLIT.

(5)   CONTEST NAME. THE CONTEST NAME AS IT APPEARS ON THE BALLOTS. IF THE CONTEST NAME CONTAINS CARRIAGE RETURN(S) FOR BALLOT FORMATTING PURPOSES THEN THE CARRIAGE RETURN(S) MAY NOT APPEAR IN THE EXPORT.

(6)   CONTEST ID. A UNIQUE INTEGER FOR EACH CONTEST.

(7)   CONTEST SEQUENCE NUMBER. A UNIQUE INTEGER THAT DEFINES THE SEQUENCE OF CONTESTS AS THEY APPEAR ON THE BALLOTS.

(8)   VOTES ALLOWED. THE MAXIMUM NUMBER OF CHOICES THAT A VOTER MAY SELECT IN EACH CONTEST (E.G., "VOTE FOR 2").

(9)   CHOICE NAME. THE CHOICE NAME AS IT APPEARS ON THE BALLOTS. PARTY AFFILIATION MAY NOT BE INCLUDED IN THE CHOICE NAME.

10)   CHOICE ID. A UNIQUE INTEGER FOR EACH CHOICE WITHIN A CONTEST.

(11)   PARTY CODE. AN INDICATOR OF PARTY AFFILIATION FOR EACH CHOICE, IF APPLICABLE.

(12)   VOTE COUNT. THE TOTAL NUMBER OF VOTES FOR EACH CHOICE.

(13)   REPORTING FLAG. THE REPORTING FLAG FIELD MUST CONTAIN A VALUE OF "0".

Amendments to Rule 21.5.2(e)(2):

(2)   Polling location / DRE OR BMD = 500;