

Communication to Uniform Voting System Public Participation Panel from member Harvie Branscomb. Received 10-6-13.

PPP

Unfortunately my attachment to yesterday's email was incomplete and could not be read. Here it is again and only the first 100 (but perhaps the most important pages) of the proposed rules changes for the Tuesday end of business day deadline for comments.

I have 252 separate comments on this portion of the rules- each comment appears linked to the text in a column on the right, and all of my edits to the document are in red. I won't add to any of these comments on these pages or change the numbering so that it is possible to refer to them by number.

Among the highlights- the continued conflict of interest I have been observing between election-official-run elections and citizen-run elections continues to be dominated by the former. Many examples are contained within the document, but the most grotesque is the bulk replacement of "election judge(s)" with "election official(s)" where election officials include clerk, designees, staff including SOS staff, and election judges, but not the canvass board even though the canvass board is included in the statutory definition and is arguably the most independent agent for oversight in the local election environment.

Another highlight is the audit that becomes a post election recount test of a small percentage (capped at 500) of a percentage of the scanners used in the election. there will be no requirement to audit election night totals under the new rules and no requirement to audit scanners used for the bulk of ballots. Scanners for mail ballots (a category that almost no longer exists) are not considered separately in addition to scanners used at VSPCs (if any)- and only one of the scanners used for either voting method might be audited. For example, using similar interpretation of rules, El Paso County audited only 15 ballots out of a Senate District recall election that was close and heavily contested. That isn't enough to tell you anything regardless of the victory margin. I have rewritten the auditing rules to make more sense and to do as effective an audit as our equipment can manage. I hope my proposal is read and considered (see page 85 for the random audit in rules).

Likewise I have rewritten the recount rule that is up for substantial changes too. See page 72.

Since 1303 opens a pandora's box on rules, it is time to get them right, or at least focus some energy on the defective rules if they remain as they are. Please join me in this almost Quixotic and non partisan quest.

Please take a quick look at the enclosed PDF and see if it merits further reading. there are well over 30 hours of work in editing this set of rules changes.

Harvie Branscomb  
Member, SOS Public Participation Panel

**Revised Draft of Proposed Rules**

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

**September 26, 2013**

**Disclaimer:**

The proposed draft rules have changed. This draft supersedes the Preliminary Draft that was issued with the Notice of Proposed Rulemaking on August 30, 2013. These revised proposed rules will be considered at the October 1, 2013 rulemaking hearing.

In accordance with the State Administrative Procedure Act, this revised copy of the proposed rules is made available to the public and posted on the Department of State's website.<sup>1</sup>

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
<del>Strikethrough</del>	Deletions
<i>[Italic blue font text]</i>	Annotations
Shading	Revisions to the August 30 <sup>th</sup> preliminary draft.

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*[Current 8 CCR 1505-1 is stricken in its entirety and re-codified as follows:]*

**Rule 1. Definitions**

1.1 ~~As used in these Rules and the “Uniform Election Code of 1992” unless the context otherwise requires, the following terms shall have the meanings indicated:~~

~~“District office of state concern” means any of the following offices: Member of the State Board of Education, Member of the Board of Regents of the University of Colorado, and Member of the Board of Directors of the Regional Transportation District.~~  
AS USED IN THESE RULES, UNLESS STATED OTHERWISE:

1.1.1 ~~“ACTIVE STATUS” OR “ACTIVE RECORD” MEANS THAT THE RECORD IS NOT MARKED INCOMPLETE, INACTIVE, OR CANCELLED. THERE ARE NO CONDITIONS OR RESTRICTIONS ON THE ELECTOR’S ELIGIBILITY OR REGISTRATION RECORD.~~

*[Relocated from 2.20.1 a, with amendments]*

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<sup>1</sup> Section 24-4-103(4)(a), C.R.S. (2012). “[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 1.1.2 “BALLOT MEASURE” MEANS A BALLOT ISSUE OR BALLOT QUESTION AS DEFINED IN  
2 SECTIONS 1-1-104(2.3) AND (2.7), C.R.S.

3 *[Relocated from 27.1.1, with amendments]*

4 1.1.3 “BLANK BALLOT” MEANS A BALLOT ON WHICH ~~THE VOTER NO ONE HAS MADE NO~~  
5 ~~MARKS IN ANY VOTING POSITION, HAS MARKED WITH AN UNREADABLE MARKER, OR HAS~~  
6 ~~CONSISTENTLY MARKED OUTSIDE OF THE “READ” AREA OF THE SCANNER.~~

**Comment [S1]:** Blank ballot is most often used as the item to be delivered to electors for voting, therefore the original definition here is dangerous.

7 *[Relocated from 27.1.2, with amendments]*

8 1.1.4 “CANCELLED STATUS” OR “CANCELLED RECORD” MEANS THAT THE COUNTY CLERK  
9 ~~AND RECORDER~~ CANCELLED THE ELECTOR’S VOTER REGISTRATION RECORD  
10 BECAUSE THE ELECTOR:

- 11 (A) ~~IS~~ WAS NOT ELIGIBLE TO VOTE;
- 12 (B) ~~IS NOT REGISTERED TO VOTE~~ FAILED TO PROPERLY COMPLETE THE  
13 REGISTRATION UNDER SECTIONS 1-2-508 AND 1-2-509(3), C.R.S.; OR
- 14 (C) ~~HAS WITHDRAWN~~ WITHDREW HIS OR HER REGISTRATION.

15 *[Relocated from 2.20.1 b, with amendments]*

16 ~~1.1.5 “Canvass board” means a committee composed of the county clerk and recorder~~  
17 ~~and the registered electors appointed by the major parties in accordance with~~  
18 ~~section 1-10-101, C.R.S.,~~

19 ~~*[Relocated from 41.1.1]*~~

20 ~~1.1.6.1.1.5~~ “Canvass workers” means workers appointed or hired by the designated  
21 election official to assist in the preparation and conduct of the canvass.

22 *[Relocated from 41.1.2]*

23 ~~1.1.7 “CENTRAL COUNT” MEANS A BALLOT COUNTING PROCESS IN WHICH THE COUNTY~~  
24 ~~CLERK AND RECORDER TABULATES CUMULATIVE VOTING TOTALS FOR MULTIPLE~~  
25 ~~PRECINCTS AND BALLOT STYLES AT A SINGLE LOCATION.~~

26 *[Relocated from 11.1.1, with amendments]*

27 ~~43.1.1 20.1.1 1.1.6~~ “Chain-of-custody log” means a written record that shows that the  
28 equipment and all associated data are secured according to ~~these~~ procedures  
29 OUTLINED IN RULE 20 and in the documented control of an ~~employee or deputized~~  
30 ~~election judge~~ ELECTION OFFICIAL through the entire time of ownership by the  
31 jurisdiction.

32 *[Relocated from 43.1.1, with amendments]*

~~“CONTEST” WHEN NOT USED IN THE CONTEXT OF CONTENTS OF A BALLOT MEANS A EITHER A BALLOT  
MEASURE OR A CHOICE BETWEEN TWO OR MORE CANDIDATES FOR OFFICE THAT IS ALSO REFERRED TO AS A RACE.~~

**Comment [S2]:** This is a very often used word in the rules, and the word race is not elsewhere defined in rules.

1 ~~1.1.8~~ 1.1.7 “DAMAGED BALLOT” MEANS A BALLOT THAT IS TORN, BENT, IMPROPERLY  
2 MANUFACTURED, OR OTHERWISE  
3 MUTILATED OR RENDERED UNREADABLE, SO THAT IT CANNOT BE PROCESSED BY  
4 THE OPTICAL SCANNER BALLOT READER.

**Comment [S3]:** Damaged ballot can include a poorly printed ballot that cannot be read correctly by machine.

4 (A) DAMAGED BALLOTS INCLUDE ALL BALLOTS THAT CONTAIN A FOREIGN  
5 SUBSTANCE THAT COULD INTERFERE WITH THE OPTICAL SCAN MACHINE (I.E.,  
6 E.G. FOOD, DRINK, ETC.).

7 (B) DAMAGED BALLOTS MAY INCLUDE BALLOTS THAT ARE MARKED IN A  
8 MEDIUM OR MANNER OTHER THAN THE MEDIUM INDICATED IN THE BALLOT  
9 INSTRUCTIONS.

10 (C) DAMAGED BALLOTS INCLUDE BALLOTS THAT THE ELECTOR MARKED IN A  
11 WAY THAT WOULD DISCLOSE HIS OR HER IDENTITY.

12 *[Relocated from 27.1.3, with amendments]*

13 ~~1.1.9~~ 1.1.8 “DATA ENTRY COUNTY” MEANS A COUNTY USING AN ELECTION  
14 MANAGEMENT SYSTEM THAT EXPORTS A FILE TO BE DIRECTLY UPLOADED TO THE  
15 ELECTION NIGHT RESULTS SYSTEM.

16 ~~1.1.10~~ 1.1.9 “DESIGNATED ELECTION OFFICIAL,” AS USED IN RULE 11, INCLUDES THE  
17 DESIGNATED ELECTION OFFICIAL’S SWORN, DEPUTIZED DESIGNEE.

**Comment [S4]:** Any form of designation must be signified in writing on a single easily identifiable document accessible to the public. See my general comments. This particular designation is especially dangerous and ought to require a public process of some kind with oversight. Note the power of “DEO” in CRS. Note the definition is no longer limited to Rule 11

18 ~~43.1.2~~ ~~20.1.2~~ 1.1.10 “DRE” “DIRECT RECORDING ELECTRONIC VOTING DEVICE” (DRE)  
19 means a direct recording electronic voting device. A DRE is a voting device that  
20 VISUALLY DISPLAYS OR AUDIBLY PRESENTS THE CONTENTS OF A BALLOT AND RECORDS AN ELECTOR’S  
21 VOTES DIRECTLY INTO ELECTRONIC STORAGE MEDIA, records votes by means of a  
22 ballot display provided with mechanical or electro-optical components or an audio  
23 ballot that the voter can activate; that processes data by means of a computer  
24 program; and that records voting data and ballot images in memory components  
25 or other media. The device may produce a tabulation of the voting data stored in a  
26 removable memory component and as printed copy. The device may also provide  
27 a means for transmitting individual ballots or vote totals to a central location for  
28 consolidating and reporting results from remote sites to the central location.

**Comment [S5]:** I am concerned about the effect of this definition, depending on the uses of it in the rest of the rules. For example, only “scanners” and “DRE” will be audited under this definition.

29 *[Relocated from 43.1.2, with amendments]*

30 ~~1.1.11~~ 1.1.11 “DUPLICATED BALLOT” MEANS A BALLOT FOR WHICH A TRUE COPY MUST BE  
31 MADE FOR THE BALLOT TO BE PROPERLY PROCESSED AND COUNTED BECAUSE OF  
32 DAMAGE, IMPROPER MARKING, TO OBTAIN ANONYMITY OF THE BALLOT OR ANY  
33 ISSUE THAT WOULD PREVENT A BALLOT  
34 TABULATING MACHINE FROM ACCURATELY COUNTING THE BALLOT.

**Comment [S6]:** To achieve anonymity is a very important reason for duplication and the policy of marking original and duplicate with the same number is problematic in that particular case.

34 *[Relocated from 27.1.4, with amendments]*

35 ~~1.1.12~~ 1.1.12 “ELECTION COMPLAINT” MEANS A COMPLAINT FILED WITH THE SECRETARY  
36 OF STATE UNDER ARTICLES 1 THROUGH 13 OF TITLE 1, C.R.S.

**Comment [S7]:** Note that there are election complaints filed with the canvass board and county clerk. These should not be confused or forgotten by this definition.

1 ~~1.1.14~~1.1.13 “ELECTION OFFICIAL” MEANS THE DESIGNATED ELECTION OFFICIAL, HIS OR  
2 HER DEPUTY OR DESIGNEE, ELECTION STAFF, SECRETARY OF STATE STAFF, AND  
3 ELECTION JUDGES.

**Comment [S8]:** This definition contrasts with the definition in CRS that includes the canvass board. Also the bulk removal of the phrase “election judge” or judges from the rules and replacement by “election officials” is very troubling and signifies a further distancing of citizens from their election. There is a good reason for election judges to be called out for special purposes but the current version of rules has mostly eliminated this distinction and special role of the “judges”.

4 ~~1.1.13~~1.1.14 “ELECTION SETUP RECORDS” MEANS THE ELECTRONIC RECORDS, OFTEN IN  
5 THE FORM OF A DATABASE OR A SET OF DATABASES, GENERATED BY ELECTION  
6 ~~TABULATION~~ SOFTWARE TO CREATE AND DEFINE BALLOTS, TABULATION  
7 INSTRUCTION, AND OTHER FUNCTIONS RELATED TO THE ELECTION.

8 *[Relocated from 11.1.2, with amendments]*

9 ~~1.1.14~~1.1.15 “ELECTION SOFTWARE” MEANS THE SOFTWARE FOR ELECTION EQUIPMENT  
10 OR COMPUTERS THAT CONTROLS ELECTION SETUP VOTE RECORDING, VOTE  
11 TABULATION, AND REPORTING.

12 *[Relocated from 11.1.4, with amendments]*

13 ~~1.1.15~~1.1.16 “ELECTRONIC BALLOT” MEANS A NON-PAPER BALLOT SUCH AS ON A TOUCH  
14 SCREEN OR THROUGH AUDIO FEEDBACK. AFTER A VOTER CASTS AN ELECTRONIC  
15 BALLOT, THE VOTER’S CHOICES MUST BE:

16 (A) MARKED AND PRINTED ON A PAPER BALLOT FOR SUBSEQUENT COUNTING BY  
17 A PAPER BALLOT SCANNING DEVICE; OR

18 (B) DIGITALLY RECORDED AND COUNTED BY THE TOUCH SCREEN DEVICE;  
19 COMMONLY REFERRED TO AS A DIRECT RECORDING  
20 ELECTRONIC (DRE) DEVICE.

**Comment [S9]:** This definition of “electronic ballot” is not needed and may otherwise be counterproductive. It was very poorly worded in any case.

21 *[Relocated from 11.1.6, with amendments]*

22 ~~1.1.16~~1.1.17 “ELECTRONIC TRANSMISSION” MEANS:

23 (A) FOR THE PURPOSE OF SENDING AN UNVOTED BALLOT:

24 (1) TO A MILITARY OR OVERSEAS ELECTOR UNDER ARTICLE 8.3 OF TITLE  
25 1, C.R.S., ~~TO THE ELECTOR~~ FAX, EMAIL, OR ONLINE BALLOT  
26 DELIVERY.

27 (2) TO AN ELECTOR REQUESTING A REPLACEMENT FOR A MEDICAL  
28 EMERGENCY UNDER SECTION 1-7.5-115, C.R.S., FAX OR EMAIL.

29 (B) FOR THE PURPOSE OF RETURNING A VOTED BALLOT TO THE COUNTY CLERK  
30 ~~AND RECORDER~~ FAX ~~AND~~ OR EMAIL.

31 ~~1.1.17~~1.1.18 “ELECTRONIC VOTING DEVICE” MEANS A DEVICE BY WHICH VOTES ARE  
32 RECORDED ELECTRONICALLY, INCLUDING A TOUCH SCREEN SYSTEM.  
33

**Comment [S10]:** This definition is not needed and would only be confusing if left in the rules.

1 *[Relocated from 11.1.7, with amendments]*

2 ~~1.1.18~~ 1.1.19 “FIRMWARE” MEANS COMPUTER PROGRAMS, STORED ON READ-ONLY  
3 MEMORY DEVICES OR OTHER ELECTRONIC CIRCUITRY IN VOTING DEVICES, THAT  
4 CONTROL THE BASIC OPERATION AND FUNCTION OF THOSE DEVICES.

5 *[Relocated from 11.1.8, with amendments]*

6 ~~1.1.19~~ 1.1.20 “HELP AMERICA VOTE ACT COMPLAINT” OR “HAVA COMPLAINT” MEANS  
7 A COMPLAINT FILED WITH THE SECRETARY OF STATE UNDER TITLE III OF THE HELP  
8 AMERICA VOTE ACT (HAVA) AND ARTICLE 1.5 OF TITLE 1, C.R.S.

9 ~~1.1.20~~ 1.1.21 “IMMEDIATE VOTING AREA” MEANS THE AREA THAT IS WITHIN SIX FEET OF  
10 THE VOTING EQUIPMENT, VOTING BOOTHS, AND THE BALLOT BOX WHILE A VOTER IS  
PRESENT FOR THE PURPOSE OF VOTING.

11 *[Relocated from 8.6.1, with amendments]*

12 ~~1.1.21~~ 1.1.22 “INACTIVE STATUS” MEANS A RESTRICTION A COUNTY CLERK AND  
13 ~~RECORDER~~ PLACES ON AN ELECTOR’S RECORD IF THE UNITED STATES POSTAL  
14 SERVICE RETURNS A MAIL BALLOT, ~~VOTER INFORMATION CARD~~, OR CONFIRMATION  
15 CARD TO THE COUNTY ~~CLERK AND RECORDER~~ AS UNDELIVERABLE.

16 *[Relocated from 2.20.1 d, with amendments]*

17 ~~1.1.22~~ “LOGIC AND ACCURACY TEST” OR “LAT” MEANS A STEP-BY-STEP DOCUMENTED  
18 REVIEW OF A VOTING DEVICE’S ABILITY, PRIOR TO USE IN ANY ELECTION, TO  
19 ACCURATELY PRODUCE VOTER CHOICES FOR THE CANDIDATES AND BALLOT  
20 MEASURES IN AN ELECTION. ~~THE LOGIC AND ACCURACY TEST MUST FULFILL THE~~  
21 ~~REQUIREMENTS OF THE PUBLIC TEST DESCRIBED IN SECTION 1-7-509 (2), C.R.S.~~

22 *[Relocated from 11.1.9, with amendments]*

23 ~~1.1.23~~ 1.1.23 “MANUAL ENTRY COUNTY” MEANS A COUNTY THAT DOES NOT USE AN  
24 ELECTION MANAGEMENT SYSTEM TO EXPORT DATA TO THE ELECTION NIGHT  
25 RESULTS SYSTEM.

26 ~~1.1.24~~ 1.1.24 “MEDIA OBSERVER” MEANS AN OBSERVER WITH VALID AND CURRENT  
27 MEDIA CREDENTIALS.

28 *[Relocated from 8.1.3, with amendments]*

29 ~~1.1.25~~ 1.1.24 “OFFICIAL OBSERVER” MEANS EITHER AN OBSERVER APPOINTED BY THE  
30 SECRETARY OF STATE OR AN OBSERVER APPOINTED BY THE FEDERAL GOVERNMENT  
31 AND APPROVED BY THE SECRETARY OF STATE. OFFICIAL OBSERVERS MAY BE  
32 PRESENT IN ALL PHASES OF THE ELECTION PROCESS, BUT ARE SUBJECT TO RULES  
33 AND REGULATIONS AS PRESCRIBED BY THE SECRETARY OF STATE AND PERFORM  
34 DUTIES AS MAY BE ASSIGNED BY THE SECRETARY OF STATE.

**Comment [S11]:** This caveat is needed to allow watching at locations where voter privacy is not at issue, and is consistent with the definition in CRS. Six feet is too far for watching at mail ballot processing, ballot duplication and verification of zero counts on DRE etc.

2 ~~1.1.26~~ 1.1.25 “OVERVOTE” MEANS ~~A RACE OR BALLOT MEASURE AN INSTANCE~~ WHERE  
3 THE VOTER MARKED VOTES FOR MORE THAN THE MAXIMUM NUMBER OF  
4 CANDIDATES OR RESPONSES FOR A BALLOT MEASURE ALLOWED.

~~POLLING LOCATION MEANS A VOTER SERVICE AND POLLING CENTER (VSPC) OR AN  
ENVELOPE DROPOFF LOCATION.~~

5 *[Relocated from 27.1.6, with amendments]*

6 ~~1.1.27~~ 1.1.26 “QUALIFIED POLITICAL ORGANIZATION” MEANS AN ORGANIZATION THAT  
7 HAS PLACED A CANDIDATE FOR CONGRESSIONAL OR STATE OFFICE ON THE BALLOT  
8 IN A CONGRESSIONAL VACANCY OR GENERAL ELECTION, WHOSE OFFICERS HAVE  
9 FILED PROOF OF ORGANIZATION WITH THE SECRETARY OF STATE, AND THAT  
10 CONTINUES TO MEET THE REQUIREMENTS OF RULES 3.3 AND 3.4. [*BAER V. MEYER*,  
11 728 F.2D 47 (10TH CIR. 1984)]

12 *[Relocated from 3.1, with amendments]*

13 ~~1.1.28~~ 1.1.27 “RELATED TO THE SECOND DEGREE” MEANS SPOUSE, CIVIL UNION PARTNER,  
14 PARENTS, CHILDREN, BROTHERS AND SISTERS, GRANDPARENTS, AND  
15 GRANDCHILDREN RELATED BY BLOOD OR MARRIAGE.

16 *[Relocated from 42.10, with amendments]*

17 ~~43.1.4~~ ~~20.1.6~~ 1.1.28 “Removable card or cartridge” means ~~any~~ A programming card or  
18 cartridge, except a voter activation card, that stores firmware, software, or data.

19 *[Relocated from 43.1.4, with amendments]*

20 ~~1.1.29~~ 1.1.29 “SCORE” MEANS THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM  
21 AND THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST DESCRIBED IN  
22 PART 3 OF ARTICLE 2 OF TITLE 1.

23 ~~43.1.5~~ ~~20.1.7~~ 1.1.30 “Seal” means a serial-numbered tamper-evident device that  
24 indicates a seal is broken or removed, IF BROKEN OR MISSING, INDICATES THAT THE  
25 CHAIN OF CUSTODY IS BROKEN AND A DEVICE IS NOT SECURE.

26 *[Relocated from 43.1.5, with amendments]*

27 ~~1.1.30~~ 1.1.31 “Statement of Ballots Form” means the form used at the polling location  
28 that accounts for all ballots at that location and includes all information required  
29 by ~~this rule~~ **RULE 10**.

30 *[Relocated from 41.1.3, with amendments]*

31 ~~1.1.31~~ 1.1.32 “TARGET AREA” MEANS:

32(A) ~~THE SQUARE OR OVAL OPPOSITE THE CANDIDATE’S NAME OR BALLOT~~  
33 ~~RESPONSE ON A PAPER BALLOT; OR~~

**Comment [S12]:** Polling location is used often without definition and clearly shown to be different from just VSPC. I know it must include more than just VSPC. I’m not sure of other locations that should be included.

1 (B) THE SQUARE, OVAL, INCOMPLETE LINE, OR INCOMPLETE ARROW OPPOSITE  
2 CORRESPONDING TO THE CANDIDATE'S NAME OR BALLOT RESPONSE  
3 (EXAMPLES: "YES", "NO", "FOR" OR "AGAINST") ON AN OPTICAL SCAN  
4 BALLOT A PAPER BALLOT.

5 *[Relocated from 27.1.8, with amendments]*

6 ~~38.1.2~~ ~~20.1.8~~ 1.1.33 "Teleprocessing lines" means secure, dedicated communication  
7 transmission facilities used for the purpose of transferring elector data between  
8 Vote Centers VOTER SERVICE AND POLLING CENTER and a centralized  
9 computerized pollbook maintained by the county clerk and recorder ACCESSING  
10 SCORE, to ensure the security and integrity of voting information so that no  
11 deviation can go undetected.

"THE ELECTION" USED AS A DATE CERTAIN MEANS THE LAST DAY OF VOTING AT A  
POLLING LOCATION ALSO SOMETIMES REFERRED TO AS ELECTION DAY.

**Comment [S13]:** There are many references to "the election" as a date as if everything happened on one day. This is no longer the case and while "election day" is still a useful phrase, it is losing its meaning since the passage of 1303.

13 ~~43.1.6~~ ~~20.1.9~~ 1.1.34 "Trusted build" means the write-once installation disk or disks for  
14 software and firmware for which the Secretary of State or his/her agent has  
15 established the chain of evidence to the building of a the disk(s), which is then  
16 used to establish and/or re-establish the chain of custody CHAIN-OF-CUSTODY of  
17 any component of a voting system that contains newly installed firmware or  
18 software. The trusted build is the origin of the chain of evidence for any software  
19 and firmware component of the voting system.

20 *[Relocated from 43.1.6, with amendments]*

21 ~~1.1.32~~ 1.1.35 "UNDERVOTE" MEANS A RACE OR BALLOT MEASURE AN INSTANCE WHERE  
22 THE VOTER MARKED VOTES FOR FEWER THAN THE MAXIMUM NUMBER OF  
23 CANDIDATES OR RESPONSES FOR A BALLOT MEASURE ALLOWED.

**Comment [S14]:** Ideally the definition of undervote also allows for counting the total number of "votes" so that the contest can be balanced to the number of ballots counted.

24 *[Relocated from 27.1.7, with amendments]*

25 ~~43.1.7~~ ~~20.1.10~~ 1.1.36 "Video security surveillance recording" means video monitoring  
26 by a device that continuously records a designated location or a system using  
27 motion detection that records one frame, or more, per minute until detection of  
28 motion triggers continuous recording.

29 *[Relocated from 43.1.7]*

30 ~~1.1.33~~ 1.1.37 "VOTING SYSTEM" AS DEFINED IN 1-1-104(50.8), C.R.S., MEANS:

31 (A) THE TOTAL COMBINATION OF MECHANICAL, ELECTROMECHANICAL, OR  
32 ELECTRONIC EQUIPMENT (INCLUDING THE SOFTWARE, FIRMWARE,  
33 PROCEDURES, AND DOCUMENTATION REQUIRED TO PROGRAM, CONTROL, AND SUPPORT THE  
34 EQUIPMENT) THAT IS USED TO:

**Comment [S15]:** It is helpful to recognize that as well as documentation, the procedures for use of equipment are part of the voting system and belong in the definition.

35 (1) DEFINE PRODUCE, DELIVER AND RETURN BALLOTS;

**Comment [S16]:** It must be obvious to everyone that Everyone Counts is part of the voting system as a means to deliver and mark and collect ballots from UOCAVA voters. Likewise ballot on demand must be considered part of the voting system.

- 1 (2) CAST ~~CAPTURE~~ AND COUNT VOTES;
- 2 (3) REPORT OR DISPLAY ELECTION RESULTS; AND
- 3 (4) ~~COLLECT.~~ MAINTAIN AND PRODUCE ANY AUDIT TRAIL  
INFORMATION; AND (5) ASCERTAIN ELIGIBILITY TO VOTE
- 4 (B) THE PRACTICES AND ASSOCIATED DOCUMENTATION USED TO:
  - 5 (1) IDENTIFY SYSTEM COMPONENTS AND VERSIONS OF SUCH  
6 COMPONENTS;
  - 7 (2) TEST THE SYSTEM DURING ITS DEVELOPMENT AND MAINTENANCE;
  - 8 (3) MAINTAIN RECORDS OF SYSTEM ERRORS AND DEFECTS;
  - 9 (4) DETERMINE SPECIFIC SYSTEM CHANGES TO BE MADE TO A SYSTEM  
10 AFTER THE INITIAL QUALIFICATION OF THE SYSTEM; AND
  - 11 (5) MAKE AVAILABLE ANY MATERIALS TO THE VOTER (SUCH AS  
12 NOTICES, INSTRUCTIONS, FORMS, OR PAPER BALLOTS).

**Comment [S17]:** To include ballot marking devices

**Comment [S18]:** This will include automatic signature comparison and envelope sorting equipment (included in the definition in the UVS RFP).

13 ~~(6C) "VOTING SYSTEM" AS DEFINED IN 1-1-104(50.8), C.R.S., DOES NOT~~  
 14 ~~INCLUDE ANY OTHER COMPONENT OF ELECTION ADMINISTRATION, SUCH AS,~~  
 15 ~~VOTER REGISTRATION APPLICATIONS OR SYSTEMS, ELECTRONIC~~  
 16 ~~POLLBOOKS, BALLOT DELIVERY AND RETRIEVAL SYSTEMS, SIGNATURE~~  
 17 ~~VERIFICATION AND BALLOT SORTING DEVICES, BALLOT ON DEMAND~~  
 18 ~~PRINTERS, ELECTION NIGHT REPORTING AND OTHER ELECTION REPORTING~~  
 19 ~~SYSTEMS, AND OTHER COMPONENTS USED THROUGHOUT THE ELECTION~~  
 20 ~~PROCESS THAT DO NOT CAPTURE AND TABULATE VOTES.~~

**Comment [S19]:** This paragraph acts to eliminate provisions for security (e.g. 21.1.17), documentation requirements, and other important safeguards that would otherwise apply to the above components of the voting system. Therefore it should be deleted.

21 **1.1.34 1.1.38** "VVPAT" HAS THE SAME MEANING AS IN SECTION 1-1-104 (50.6), C.R.S.

22 *[Relocated from 11.1.3, with amendments]*

23 **1.1.35 1.1.39** "WATCHER" HAS THE SAME MEANING AS IN SECTION 1-1-104(51), C.R.S.  
 24 ~~MEANS AN ELIGIBLE ELECTOR, OTHER THAN A CANDIDATE ON THE BALLOT,~~  
 25 ~~SELECTED BY A POLITICAL PARTY CHAIRPERSON ON BEHALF OF THE POLITICAL~~  
 26 ~~PARTY, BY A PARTY CANDIDATE AT A PRIMARY OR RECALL ELECTION, BY AN~~  
 27 ~~UNAFFILIATED CANDIDATE AT A GENERAL, CONGRESSIONAL VACANCY,~~  
 28 ~~NONPARTISAN, OR RECALL ELECTION, OR BY A PERSON DESIGNATED BY EITHER THE~~  
 29 ~~OPPONENTS OR PROPONENTS IN THE CASE OF REGISTERED ISSUE COMMITTEE~~  
 30 ~~SUPPORTING OR OPPOSING A BALLOT ISSUE OR BALLOT QUESTION. IF SELECTED BY A~~  
 31 ~~POLITICAL PARTY CHAIRPERSON, A PARTY CANDIDATE, OR AN UNAFFILIATED~~  
 32 ~~CANDIDATE, THE WATCHER MUST BE AFFILIATED WITH THAT POLITICAL PARTY OR~~  
 33 ~~UNAFFILIATED AS SHOWN ON THE REGISTRATION BOOKS OF THE COUNTY CLERK~~  
 34 ~~AND RECORDER.~~

35 (A) A WATCHER MAY BE APPOINTED FOR A RECALL ELECTION IN THE SAME

1 MANNER AS IN A PRIMARY ELECTION.

2 (B) FOR THE PURPOSE OF APPOINTING A WATCHER, THE PROPONENT OR  
3 OPPONENT OF A BALLOT ~~ISSUE OR BALLOT QUESTION MEASURE~~ MEANS A  
4 REGISTERED ISSUE COMMITTEE SUPPORTING OR OPPOSING THE BALLOT  
5 ~~ISSUE OR BALLOT QUESTION MEASURE.~~

6 (C) A DESIGNATED WATCHER NEED NOT BE A RESIDENT OF THE COUNTY HE OR  
7 SHE IS DESIGNATED IN AS LONG AS HE OR SHE IS AN ELIGIBLE ELECTOR IN  
8 THE STATE OF COLORADO. ~~[SECTION 1-1-104(51), C.R.S.]~~

9 *[Relocated from 8.9.1 and 8.1.2, with amendments]*

10 ~~1.1.36-1.1.40~~ "WRITE-IN VOTE" MEANS A VOTE WHERE THE VOTER PHYSICALLY WRITES  
11 IN THE NAME OF A ~~LEGALLY~~ QUALIFIED WRITE-IN CANDIDATE IN THE SPACE  
12 RESERVED ON THE BALLOT FOR WRITE-IN VOTES ~~AND PROPERLY MARKS THE~~  
13 ~~TARGET AREA ACCORDING TO VOTER INSTRUCTIONS.~~

**Comment [S20]:** Because the court determined that a write in without proper marking of the target area is a lawful vote, I would leave out the caveat about "properly marks..."

14 ~~1.1.37-1.1.41~~ "ZERO TAPE" MEANS A PRINTOUT OF THE INTERNAL DATA REGISTERS IN  
15 ELECTRONIC VOTE-TABULATING EQUIPMENT ~~ANTICIPATING INDICATING-~~ A ~~VALUE OF ZERO~~ ZERO  
16 ~~VALUE BEFORE VOTING BEGINS ON THAT MACHINE AND USED TO VERIFY THAT THE~~  
17 ~~DEVICE IS PROPERLY INITIALIZED PRIOR TO TABULATION.~~

**Comment [S21]:** To define the "zero tape" at all is a mistake. It MUST be a standard election totals report that reads zero only if everything is correct. This original definition presumes the zeroes on the report. Please.

17 *[Relocated from 11.1.6, with amendments]*

18 **Rule 2. ~~Rules Concerning~~ Voter Registration**

19 ~~2.20.2.2.1~~ Effect of voter registration status designation

20 ~~a. 2.1.1~~ A COUNTY CLERK AND RECORDER MUST LIST THE NAME OF SEND A MAIL  
21 BALLOT TO EVERY active status or active record voters' ELECTOR names  
22 will appear on LISTED IN SCORE. the poll book POLLBOOK, they will be  
23 sent a ballot in AND SEND HIM OR HER a mail ballot election, and they will  
24 be sent election NOTICES. notice mailings.

25 ~~b. 2.1.2~~ A COUNTY CLERK AND RECORDER MUST ENSURE THAT THE NAME OF EVERY  
26 cancelled status or cancelled record voters' records will remain ELECTOR  
27 APPEARS in the statewide voter registration database however, SCORE  
28 BUT their names will not appear on the poll book POLLBOOK. They THE  
29 COUNTY CLERK AND RECORDER will MAY not be sent SEND a MAIL ballot in  
30 a mail ballot election, and they will not be sent OR election notice mailings  
31 NOTICES TO AN ELECTOR WHOSE RECORD IS LISTED AS CANCELLED IN  
32 SCORE ELECTORS.

33 ~~e. 2.1.3~~ Inactive — failed to vote status voters STATUS ELECTORS are eligible voters  
34 their ELECTORS WHOSE names will appear on the poll book POLLBOOK and  
35 they will be sent election notice mailings BUT THE THE COUNTY CLERK  
36 AND RECORDER MAY NOT SEND A MAIL BALLOT TO AN ELECTOR WHOSE  
37 RECORD IS LISTED AS INACTIVE IN SCORE UNTIL THE ELECTOR UPDATES HIS

1 ~~OR HER REGISTRATION INFORMATION ELECTORS. Inactive — failed to vote~~  
2 ~~voters will be sent a ballot in a mail ballot election where specifically~~  
3 ~~required by sections 1-7.5-107 and 1-7.5-108.5(b), C.R.S.~~

4 ~~d. Inactive — returned mail status or inactive — undeliverable status voters are~~  
5 ~~eligible voters and their names will appear on the poll book. However,~~  
6 ~~they will not be sent ballots in a mail ballot election and they will not be~~  
7 ~~sent election notice mailings.~~

8 ~~e. Inactive — undeliverable ballot status voters are eligible voters and their~~  
9 ~~names will appear on the poll book. However, they will not be sent a~~  
10 ~~ballot in a mail ballot election and they will not be sent election notice~~  
11 ~~mailings.~~

12 ~~2.8~~ ~~2.2.2.1~~ Submission of voter registration forms

13 ~~2.2.1.2.1.1~~ ~~A~~ AN APPLICANT MAY SUBMIT A properly executed voter registration form  
14 ~~may be submitted~~ to the county clerk ~~and recorder~~ in person, by mail, by fax, by  
15 ~~online voter registration, or as a scanned~~ AN EMAIL attachment. ~~to an email.~~

16 ~~2.8.1~~ ~~2.2.2.2.1.2~~ All ~~voter registrations~~ APPLICATIONS submitted by mail, fax, or as a  
17 ~~PDF~~ AN EMAIL attachment ~~to an email shall be treated as~~ ARE mail registrations.  
18 [Section 1-2-501, C.R.S., ~~Election Rule 30.3~~]

19 ~~2.8.2~~ ~~2.2.3.2.1.3~~ If any portion of a MAIL APPLICATION ~~voter registration submitted~~  
20 ~~by “mail”~~ is illegible, the county clerk ~~and recorder shall~~ MUST notify the  
21 applicant of the additional information required in accordance with section 1-2-  
22 509, C.R.S.

23 ~~2.8.3~~ ~~2.2.4.2.1.4~~ For the purpose of submitting ~~voter registration~~ applications by  
24 fax, email, or online voter registration, close of business ~~shall be~~ IS 11:59pm MT.

25 ~~2.2.5.2.1.5~~ UNDER SECTION ~~1-5-509-1-2-508~~, C.R.S., THE EFFECTIVE DATE OF A VOTER  
26 REGISTRATION APPLICATION RECEIVED BY THE ~~SECRETARY~~ SECRETARY OF STATE  
27 STATE IS THE EARLIER OF THE DATE THE APPLICATION IS RECEIVED OR THE DATE OF  
28 THE LEGIBLE POSTMARK.

29 ~~2.2.6.2.1.6~~ IF A COUNTY CLERK ~~AND RECORDER~~ RECEIVES A PAPER VOTER  
30 REGISTRATION APPLICATION OTHER THAN IN-PERSON BETWEEN 21 AND 7 DAYS  
31 BEFORE ELECTION DAY, THE COUNTY CLERK MUST SEND THE APPLICANT  
32 NOTIFICATION BY REGULAR MAIL, OR EMAIL IF PROVIDED, WITHIN ONE BUSINESS  
33 DAY ~~AFTER RECEIVING THE APPLICATION STATING~~ THAT THE ~~APPLICANT IS~~  
34 ~~REGISTERED TO VOTE~~ APPLICATION IS RECEIVED BUT THE APPLICANT WILL NOT  
35 RECEIVE A BALLOT BY MAIL. THE NOTICE MUST STATE THAT, IF THE APPLICANT  
36 WISHES TO VOTE IN THE UPCOMING ELECTION, THE APPLICANT MUST ~~EITHER~~  
37 REGISTER.

1 (A) ~~ONLINE VIA~~ THROUGH THE ONLINE VOTER REGISTRATION SYSTEM ON OR  
2 BEFORE THE EIGHTH DAY BEFORE ELECTION DAY, OR

3 (B) ~~IN~~ IN-PERSON AT THE COUNTY CLERK'S AND RECORDER'S OFFICE OR AT A  
4 VOTER SERVICE AND POLLING CENTER THROUGH ELECTION DAY,  
5 ~~WHICHEVER IS APPLICABLE.~~

6 *[Current Rule 2.8 is amended and moved to new Rule 2.1. Amendments are shown above.*  
7 *Portions of current Rule 2.14 are included in new Rule 2.1.5.]*

8 ~~2.3.2.2~~ FOR THE PURPOSES OF PRECINCT CAUCUS LISTS AND REGISTRATION LISTS FOR MUNICIPAL  
9 OR SPECIAL DISTRICT ELECTIONS, THE ELECTOR'S LENGTH OF RESIDENCY REQUIREMENT IS  
10 BASED UPON THE DATE PROVIDED BY THE ELECTOR ON HIS OR HER APPLICATION.

11 ~~2.3.12.2.1~~ THE COUNTY CLERK AND RECORDER MUST ENTER THE DATE PROVIDED BY  
12 THE ELECTOR IN THE REGISTRATION RECORD MAINTAINED IN THE STATEWIDE  
13 VOTER REGISTRATION SYSTEM SCORE. [SECTIONS 1-3-101, AND 31-10-201, AND  
14 32-1-103(5), C.R.S.]

15 ~~2.3.22.2.2~~ IF THE ELECTOR SUBMITS AN APPLICATION AND DOES NOT INCLUDE THE  
16 DATE HE OR SHE MOVED, THE COUNTY CLERK MUST ENTER THE DATE THE  
17 APPLICATION IS RECEIVED OR POSTMARKED, WHICHEVER IS EARLIER, AS THE DATE  
18 MOVED. ~~BUT IF~~ IF THE ELECTOR SUBMITS THE APPLICATION DURING THE 22 DAYS  
19 BEFORE AN ELECTION AND DOES NOT PROVIDE THE DATE HE OR SHE MOVED, THE  
20 COUNTY CLERK MUST ENTER THE DATE MOVED AS THE 22ND DAY BEFORE THE  
21 ELECTION BASED UPON THE AFFIDAVIT.

22 ~~2.4.2.3~~ IDENTIFICATION REQUIRED FROM AN APPLICANT FOR VOTER REGISTRATION WHEN AN  
23 ELECTOR REGISTERS TO VOTE, THE ELECTOR MUST PROVIDE A VERIFIABLE DRIVER'S  
24 LICENSE OR STATE IDENTIFICATION CARD NUMBER, OR LAST FOUR DIGITS OF HIS OR HER  
25 SOCIAL SECURITY NUMBER. IF THE ELECTOR STATES THAT HE OR SHE DOES NOT HAVE A  
26 DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER, THE COUNTY CLERK MUST REGISTER THE  
27 ELECTOR AND MARK THE REGISTRATION RECORD "ID REQUIRED".

28 ~~2.4.1~~ AN APPLICANT FOR VOTER REGISTRATION MUST COMPLETE THE IDENTIFICATION  
29 NUMBER PORTION OF THE APPLICATION FOR VOTER REGISTRATION. ~~BUT AN~~  
30 APPLICANT REGISTERING TO VOTE IN PERSON IS NOT REQUIRED TO SHOW OR  
31 PRESENT A COLORADO DRIVER'S LICENSE OR ID IF HE OR SHE PROVIDES A  
32 VERIFIABLE DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER THAT VERIFIES IN  
33 SCORE.

34 (A) ~~IF THE APPLICANT CANNOT PROVIDE A VERIFIABLE DRIVER'S LICENSE OR~~  
35 ~~SOCIAL SECURITY NUMBER THAT VERIFIES IN SCORE, THE APPLICANT MUST~~  
36 ~~SHOW IDENTIFICATION UNDER SECTION 1-1-104(19.5), C.R.S., WHEN~~  
37 ~~REGISTERING TO VOTE, PROVIDE IDENTIFICATION WHEN VOTING IN PERSON,~~  
38 ~~OR PROVIDE A COPY OF IDENTIFICATION WHEN RETURNING THE MAIL~~  
39 ~~BALLOT.~~

1 ~~2.4.22.3.1~~ AS USED IN SECTION 1-1-104(19.5), C.R.S., GOVERNMENT DOCUMENT  
2 MEANS ~~ANY A~~ DOCUMENT ISSUED BY A ~~LOCAL, CITY, COUNTY,~~ STATE OR FEDERAL  
3 GOVERNMENT, ~~INCLUDING.~~

4 (A) A GOVERNMENT DOCUMENT INCLUDES:

5 ~~(B-1)~~ A CERTIFICATE OF DEGREE OF INDIAN OR ALASKAN NATIVE  
6 BLOOD;

7 ~~(C-2)~~ A LETTER FROM THE DIRECTOR OR ADMINISTRATOR OF A GROUP  
8 RESIDENTIAL FACILITY THAT INDICATES THAT THE ELECTOR IS A  
9 RESIDENT OF THE FACILITY AND THAT HE OR SHE RESIDES AT THE  
10 STREET ADDRESS LISTED IN ~~THE POLLBOOK SCORE;~~ OR

11 ~~(D-3)~~ A DIVISION OF YOUTH CORRECTIONS IDENTIFICATION CARD ISSUED  
12 BY DEPARTMENT OF HUMAN SERVICES.

13 (B) A GOVERNMENT DOCUMENT DOES NOT INCLUDE ANY DOCUMENT PRODUCED  
14 BY THE SCORE SYSTEM OR USING AN ADDRESS LABEL PRODUCED BY  
15 SCORE.

16 [SECTIONS 1-1-104(18.5), (19.5)(C), AND (19.5)(D), C.R.S.]

17 ~~2.4.32.3.3~~ AS USED IN SECTION 1-1-104(19.5)(A)(VII), C.R.S., CURRENT MEANS THAT  
18 THE DATE OF THE DOCUMENT IS WITHIN 60 DAYS OF THE DATE SUBMITTED FOR  
19 IDENTIFICATION PURPOSES UNLESS THE DOCUMENT STATES A LONGER BILLING  
20 CYCLE.

21 ~~2.4.4~~ A SUSPENDED DRIVER'S LICENSE IS CONSIDERED CURRENT AND VALID. A REVOKED  
22 OR EXPIRED LICENSE IS NOT CONSIDERED CURRENT AND VALID AND IS NOT  
23 ACCEPTABLE.

24 *[Portions of current Rules 30.1.6(g), 30.1.7, 30.2.2, and 30.8 are included in new Rule 2.3.]*

25 ~~2.7.2.5-2.4~~ Treatment of applications where the ~~ELECTOR FAILS TO PROVIDE~~ required information  
26 ~~was not provided~~

27 ~~2.7.1 2.5.12.4.1~~ If an applicant fails to check the box ~~(es)~~ answering the question  
28 ~~(s)~~, "Are you a citizen of the United States?" ~~or "Will you be 18 years of age on~~  
29 ~~or before election day?"~~, the COUNTY CLERK ~~AND RECORDER~~ MUST ACCEPT AND  
30 PROCESS THE ~~form shall be accepted for registration~~ APPLICATION AS COMPLETE so  
31 long as it is otherwise complete and the affirmation at the bottom of the form is  
32 signed.

33 ~~2.7.2 2.5.22.4.2~~ If an applicant ~~for voter registration~~ fails to complete the required  
34 identification portion of the form in accordance with section 1-2-204(2)(f.5) and  
35 (3)(c), C.R.S., ~~and rule 2.6.3,~~ the COUNTY CLERK MUST TREAT THE application  
36 ~~shall be treated as~~ INCOMPLETE. ~~"incomplete"; however,~~ BUT if the applicant

1 submits a photocopy of his/her HIS OR HER driver's license or identification card,  
2 then the county CLERK may MUST enter the ID number from the card into the  
3 applicant's record and ~~consider~~ PROCESS the application AS COMPLETE  
4 "complete".

5 ~~2.7.3 2.5.32.4.3~~ If an applicant for voter registration fails to provide a date of birth  
6 the COUNTY CLERK MUST TREAT THE application ~~shall be treated~~ as INCOMPLETE  
7 "incomplete"; however, BUT if the applicant submits a photocopy of his/her HIS  
8 OR HER driver's license or other approved form of ID which THAT includes the  
9 date of birth, then the county CLERK may MUST enter that information into the  
10 applicant's record and ~~consider~~ PROCESS the application AS COMPLETE  
11 "complete".

12 *[Current Rule 2.7 is amended and moved to new Rule 2.4. Amendments are shown above.]*

13 ~~2.10 2.6.2.5~~ Changes to an Elector's Voter Registration Record

14 ~~2.10.1 2.6.12.5.1~~ If an elector submits a change to his or her voter registration record  
15 that does not contain all of AND FAILS TO INCLUDE the information required by  
16 sections 1-2-216 or 1-2-219, C.R.S., the county clerk and recorder may MUST not  
17 make the requested change, unless the county clerk and recorder can confidently  
18 identify the voter. otherwise the THE county clerk and recorder shall MUST notify  
19 the voter what OF THE additional information THAT is required to process the  
20 request.

21 ~~2.10.2 2.6.22.5.2~~ If an elector submits a change to his or her voter registration record  
22 and writes or selects a name of an organization that is not a qualified political  
23 party or qualified political organization, or writes "none", the elector's affiliation  
24 shall MUST be recorded as "Unaffiliated".

25 ~~2.10.3 2.6.32.5.3~~ If an elector submits a change to his or her voter registration record  
26 and leaves the affiliation section blank, THE COUNTY CLERK MUST MAKE no change  
27 will be made to the voter's affiliation in the registration record.

28 ~~2.6.42.5.4~~ WHEN THE COUNTY CLERK AND RECORDER PROVIDES A LIST OF ACTIVE  
29 ELIGIBLE ELECTORS TO A MUNICIPAL MUNICIPALITY OR SPECIAL DISTRICT FOR AN  
30 ELECTION NOT COORDINATED WITH THE COUNTY, THE COUNTY CLERK AND  
31 RECORDER MUST REQUEST THE DESIGNATED ELECTION OFFICIAL OF THE  
32 MUNICIPALITY OR SPECIAL DISTRICT PROVIDE THE VOTE HISTORY INFORMATION  
33 FOLLOWING THE ELECTION. WITHIN TEN DAYS AS SOON AS FEASIBLE AFTER  
34 RECEIVING THE INFORMATION, THE COUNTY CLERK MUST ACTIVATE VOTER  
35 RECORDS AND REMOVE THE ID REQUIRED FLAGS IN SCORE FROM THE RECORD OF  
36 EACH PERSON WHO VOTED, AS PROVIDED IN SECTION 1-2-605(4)(B), C.R.S.

37 *[Current Rule 2.10 is amended and moved to new Rule 2.5. Amendments are shown above.]*

38 ~~2.11 2.72.6~~ Changes to an elector's voter registration status.

1 ~~2.11.1~~ 2.7.12.6.1 An elector may update his or her inactive registration status to  
2 active status by submitting:

- 3 (a) A signed written request, by mail, fax, or PDF attachment to an email;
- 4 (b) An online voter registration application; or
- 5 (c) An in-person request ~~with identification~~.

6 [Section 1-2-605(4)(a), C.R.S.]

7 ~~2.11.2~~ 2.7.22.6.2 If an elector is unable to sign, another person must witness the  
8 elector's mark. An elector may use a signature stamp because of age, disability, or  
9 other need. The stamp is treated as a signature and does not require a witness.

10 *[Current Rule 2.11 is amended and moved to new Rule 2.6. Amendments are shown above.]*

11 ~~2.21~~ 2.82.7 Minimum matching criteria

12 ~~2.21.1~~ 2.8.12.7.1 A record may ~~THE EXCEPT AS PROVIDED IN SECTION 1-2-302.5,~~  
13 ~~C.R.S., THE COUNTY CLERK AND RECORDER~~ MUST not be transferred, consolidated,  
14 ~~or cancelled~~ TRANSFER, CONSOLIDATE, OR CANCEL A VOTER REGISTRATION  
15 RECORD unless the minimum matching criteria as set forth in sections 1-2-603 and  
16 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county  
17 CLERK MUST ~~may~~ send a letter to the voter requesting confirmation of the missing  
18 or non-matching information in order to transfer, consolidate, or cancel the  
19 record.

20 ~~2.21.2~~ 2.8.22.7.2 For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this  
21 Rule a match of the name shall mean MEANS a match of the full name, except  
22 that the following shall be ARE sufficient to establish a match:

- 23 (a) Common variations and nicknames in the first or middle name, ~~i.e.~~ E.G.,  
24 Michael and Mike;
- 25 (b) Explainable and documented change of name, including last name, ~~i.e.~~  
26 E.G., maiden name and married name; and
- 27 (c) Explainable and documented variations in suffix, except that the absence  
28 of a suffix in one of the records shall IS not be considered a variation.  
29 Examples of suffix variations that must be explained include junior in one  
30 record and III in another.

31 ~~2.21.3~~ 2.8.32.7.3 For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this  
32 Rule a match of the prior address shall mean MEANS a match of the residential  
33 street address.

1 ~~2.21.4~~ ~~2.8.42.7.4~~ The county clerk ~~and recorder~~ may use the DMV Motor Voter  
2 database to verify prior name or residence address history for the purpose of  
3 meeting the minimum matching criteria. The COUNTY CLERK MUST SCAN AND  
4 RETAIN THE information ~~gathered must be scanned and retained~~ in the elector's  
5 record ~~in order~~ to document how the criteria ~~was~~ WERE met.

6 *[Current Rule 2.21 is amended and moved to new Rule 2.7. Amendments are shown above.]*

7 ~~2.9.2.8~~ Registration of ~~Homeless Voters~~ ELECTORS WHO HAVE NO FIXED PERMANENT  
8 HOME

9 ~~2.9.12.8.1~~ For the purpose of voter registration residence ~~a homeless voter may~~ AN  
10 ELECTOR WHO HAS NO FIXED PERMANENT HOME MUST identify a specific location  
11 within a precinct that the ~~voter~~ APPLICANT considers his OR HER home base.

12 (A) A HOME BASE IS A LOCATION THE APPLICANT ~~to which the voter~~ returns TO  
13 regularly and ~~manifests an intent~~ INTENDS to remain, and a place ~~from~~  
14 ~~which~~ WHERE he or she can receive messages and be contacted.

15 (B) A home base may include a homeless shelter, a homeless provider, a park,  
16 a campground, a vacant lot, a business address, or any other physical  
17 location.

18 (C) FOR AN ELECTOR WHOSE HOME IS IN FORECLOSURE, THE ELECTOR MAY  
19 REGISTER TO VOTE OR REMAIN REGISTERED TO VOTE, AT THE FORECLOSED  
20 ADDRESS UNTIL THE ELECTOR ESTABLISHES A NEW PERMANENT RESIDENCE.

21 ~~2.9.22.8.2~~ If the home base does not include a mailing address, THE APPLICANT ~~then~~  
22 ~~the homeless voter~~ must provide a mailing address ~~pursuant to~~ IN ACCORDANCE  
23 WITH section 1-2-204(2)(f), C.R.S.

24 ~~2.9.32.8.3~~ A post office box or general delivery at a post office ~~shall not be deemed~~  
25 IS NOT a home base.

26 *[Current Rule 2.8 is amended as are shown above.]*

27 ~~2.10.2.9~~ A COUNTY CLERK ~~AND RECORDER~~ MAY CANCEL A REGISTRATION RECORD BASED  
28 UPON INFORMATION FROM A LOCAL LAW ENFORCEMENT ~~ONLY~~ AGENCY ONLY IF:

29 ~~2.10.1.2.9.1~~ THE INFORMATION STATES THAT THE INDIVIDUAL IS CURRENTLY SERVING A  
30 SENTENCE OF INCARCERATION OR PAROLE FOR A FELONY CONVICTION; AND

31 ~~2.10.2.2.9.2~~ MINIMUM MATCHING CRITERIA OUTLINED IN RULE ~~2.6.2.5~~ ARE MET.

32 ~~2.16~~ ~~2.11.2.10~~ An elector who has received notice that his or her application for registration may  
33 not be processed or whose registration was cancelled because his or her name was  
34 matched with a record bearing the same name, date of birth, and social security number  
35 in the databases provided by Colorado Department of Corrections or Colorado

1 Department of Public Health and Environment, and who believes that the match was  
2 erroneous, may request that his or her application be processed or registration be  
3 reinstated if he or she:

4 a. ~~2.11.1-2.10.1~~ Appears in person at the office of the county clerk ~~and recorder~~ and  
5 presents identification; or

6 b. ~~2.11.2-2.10.2~~ ~~Returns to the office of the county clerk and recorder a signed,~~  
7 ~~notarized, and dated~~ SUBMITS a statement TO THE COUNTY CLERK affirming that ~~he~~  
8 ~~or she~~ THE APPLICANT believes the match was in error. THE APPLICANT MUST  
9 INCLUDE HIS OR HER ~~This statement must contain the elector's~~ printed name,  
10 ~~residential~~ address OF PERMANENT RESIDENCE, and date of birth ON THE SIGNED, AND-DATED, AND  
NOTARIZED  
11 STATEMENT.

**Comment [S22]:** The phrase "residential address" is used only twice within these rules changes where permanent address is the best term.

12 *[Current Rule 2.16 is amended and moved to new Rule 2.10. Amendments are shown above.]*

13 ~~2.17-2.12-2.11~~ 20-DAY APPLICANTS UNDER SECTION 1-2-509(3), C.R.S.

14 ~~2.12.1-2.11.1~~ When a county clerk ~~and recorder~~ deems an applicant "not registered"  
15 upon receipt of an undeliverable new voter notification in accordance with section  
16 1-2-509(3), C.R.S., the ~~applicant shall be mailed~~ COUNTY CLERK MUST MAIL a  
17 confirmation card ~~by forwardable mail~~. The confirmation card MUST MEET THE  
18 REQUIREMENTS OF SECTION 1-1-104(2.8), C.R.S. ~~shall have a postage prepaid~~  
19 ~~returnable portion that is preaddressed to the sending county clerk and recorder.~~

20 ~~2.17.1-2.12.2-2.11.2~~ If the county clerk and recorder receives a-APPLICANT RETURNS THE  
21 signed confirmation card within 90 days ~~from an applicant who was deemed "not~~  
22 ~~registered" in accordance with section 1-2-509(3), C.R.S., the applicant shall be~~  
23 ~~deemed registered as of the~~-THE COUNTY CLERK MUST REGISTER THE APPLICANT  
24 USING THE date of the original application.

25 ~~2.17.2~~ During the ~~28~~ days prior to an election, if an applicant who has been deemed "not  
26 registered" in accordance with section 1-2-509(3), C.R.S., completes a certificate  
27 of registration and presents identification in person at the office of the county  
28 clerk and recorder, the applicant shall be deemed registered as of the date of the  
29 original application.

30 ~~2.12.3-2.11.3~~ DURING THE 22 DAYS BEFORE AN ELECTION, THE COUNTY CLERK ~~AND~~  
31 ~~RECORDER~~ MUST DEFER PROCESSING UNDELIVERABLE ~~NEW VOTER~~-20-DAY  
32 NOTIFICATIONS. AFTER THE ELECTION IS CLOSED, THE CLERK MUST DEEM AN  
33 APPLICANT "NOT REGISTERED" UNDER SECTION 1-2-509(3), C.R.S., ONLY IF THE  
34 APPLICANT DID NOT VOTE IN THE ELECTION.

35 *[Current Rule 2.17 is amended and moved to new Rule 2.11. Amendments are shown above.]*

36 ~~2.4-2.13-2.12~~ Confidentiality of Agency in Voter Registration.—VOTER REGISTRATION  
37 CONFIDENTIALITY

1 ~~2.13.1~~2.12.1 INFORMATION ABOUT THE NAME AND LOCATION OF AN AGENCY FOR AN  
2 APPLICATION COMPLETED AT A VOTER REGISTRATION AGENCY OR DRIVER'S  
3 LICENSE OFFICE IS CONFIDENTIAL. [42 USC §§ 1973GG-3(c)(2)(D)(III)]

4 *[Portions of current Rule 2.4 are included in new Rule 2.12.1.]*

5 ~~2.13.2~~2.12.2 AN ELECTOR MAY REQUEST HIS OR HER VOTER REGISTRATION ADDRESS BE  
6 CONFIDENTIAL UNDER SECTION 24-72-204(3.5), C.R.S., IN PERSON.

7 (A) THE ELECTOR MUST USE THE APPLICATION PROVIDED BY THE SECRETARY  
8 OF STATE AND INCLUDE HIS OR HER NAME, ADDRESS, AND BIRTH DATE ON  
9 THE APPLICATION.

10 (B) THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT CHARGE AN ADDITIONAL  
11 PROCESSING FEE IF THE ELECTOR CHANGES HIS OR HER ADDRESS.

12 *[Portions of current Rule 2.5 are included in new Rule 2.12.2.]*

13 ~~2.13.3~~2.12.3 REGISTRATION OF ADDRESS CONFIDENTIALITY PROGRAM (ACP) ELECTORS

14 (A) WHEN AN ACP PARTICIPANT REGISTERS TO VOTE BY MAIL, THE ELECTOR  
15 MUST PROVIDE A COPY OF HIS/HER ACP AUTHORIZATION CARD.

16 (B) THE COUNTY CLERK ~~AND RECORDER~~ MUST:

17 (1) USE THE ACTUAL RESIDENCE ADDRESS OF THE ACP ELECTOR FOR  
18 PRECINCT DESIGNATION.

19 (2) USE THE SUBSTITUTE ADDRESS, AS DEFINED IN SECTION 24-30-  
20 2103(14), C.R.S., FOR ALL CORRESPONDENCE AND MAILINGS PLACED  
21 IN THE UNITED STATES MAIL.

22 (3) KEEP THE PARTICIPANT'S ADDRESS, COUNTY, AND VOTING PRECINCT  
23 AND SPLIT NUMBER CONFIDENTIAL FROM THE PUBLIC.

24 (C) A STATE OR LOCAL GOVERNMENT AGENCY MAY REQUEST ACCESS TO AN  
25 ACP PARTICIPANT'S VOTER REGISTRATION RECORD USING THE PROCESS IN  
26 SECTION 24-30-2110, C.R.S.

27 (D) EXCEPT AS SPECIFICALLY PROVIDED BY PART 21 OF ARTICLE 30 OF TITLE  
28 24, C.R.S., A PROGRAM PARTICIPANT'S ACTUAL ADDRESS AND TELEPHONE  
29 NUMBER IS NOT A PUBLIC RECORD UNDER PART 2 OF ARTICLE 72 OF TITLE  
30 24, C.R.S.

31 *[Portions of current Rule 2.12 are included in new Rule 2.12.3.]*

32 ~~2.14~~2.14.2.13 List Maintenance Pursuant to UNDER section 8 of the National Voter Registration  
33 Act of 1993

1 ~~2.18.1~~ ~~2.14.1~~ ~~2.13.1~~ When THE UNITED STATES POSTAL SERVICE RETURNS a voter  
2 ~~information card~~ A NEW VOTER NOTIFICATION or confirmation card is returned TO  
3 THE COUNTY CLERK as undeliverable, or PROVIDES THE CLERK WITH a postcard  
4 notice of mail forwarding ~~is provided by the United States Postal Service to the~~  
5 ~~county clerk and recorder~~, the county clerk ~~and recorder shall~~ MUST mark the  
6 voter's record "Inactive – returned mail" and ~~shall~~ mail a confirmation card.  
7 Where a confirmation card sent under this rule is returned as undeliverable, the  
8 county is not required to mail another card.

9 ~~2.18.2~~ ~~2.14.2~~ ~~2.13.2~~ National Change of Address (NCOA). ~~Counties may utilize the~~  
10 NCOA to send mailings to electors who may have moved to request that the  
11 electors update their voter registration records. ~~However, no county may update~~  
12 ~~the registration address of any registration record or change the status of an~~  
13 ~~elector to "inactive" based solely upon the information provided by NCOA.~~ THE  
14 SECRETARY OF STATE WILL PROVIDE MONTHLY NATIONAL CHANGE OF ADDRESS  
15 (NCOA) DATA UNDER SECTION 1-2-302.5, C.R.S., TO THE COUNTY CLERK BY THE  
16 FIFTH OF EACH MONTH.

17 (A) THE COUNTY MUST PROCESS THE DATA TO UPDATE REGISTRATION RECORDS  
18 AND SEND NOTIFICATIONS IN ACCORDANCE WITH SECTION 1-2-302.5,  
19 C.R.S., BY THE END OF EACH MONTH.

20 (1) THE COUNTY MAY NOT AUTOMATICALLY UPDATE A VOTER  
21 REGISTRATION RECORD DURING THE 60 DAYS BEFORE ANY ELECTION  
22 CONDUCTED BY THE COUNTY CLERK ~~AND RECORDER~~ UNDER TITLE 1,  
23 C.R.S.

24 (2) IF THE NCOA DATA INDICATES THAT AN ELECTOR HAS MOVED OUT  
25 OF THE COUNTY OR STATE, THE RECORD IS MARKED INACTIVE, AND  
26 THE COUNTY HAS SENT A CONFIRMATION CARD UNDER SECTION 1-2-  
27 605, C.R.S., THE COUNTY IS NOT REQUIRED TO MAIL ANOTHER  
28 CONFIRMATION CARD.

29 (B) WHEN THE COUNTY UPDATES A VOTER REGISTRATION RECORD USING  
30 NCOA DATA, THE COUNTY MUST USE THE NCOA TRANSACTION SOURCE.

31 ~~2.18.3~~ ~~2.14.3~~ ~~2.13.3~~ In accordance with section 1-2-605(7), C.R.S., no later than 90 days  
32 following a General Election, the county clerk ~~and recorder~~ in each county shall  
33 MUST cancel ~~only~~ the registrations of electors who have met the following  
34 requirements:

35 ~~a-~~(A) Whose records have been marked "Inactive – returned mail", "~~inactive~~  
36 INACTIVE – undeliverable", ~~or~~ "Inactive – undeliverable ballot", OR  
37 INACTIVE – NCOA";

38 ~~b-~~(B) Who have been mailed a confirmation card; and

39 ~~e-~~(C) Who have since failed to vote in two consecutive General elections.

1 ~~2.14.4~~ 2.13.4 AN ELECTOR WHOSE REGISTRATION RECORD WAS CANCELLED DURING THE  
2 PREVIOUS SIX YEARS UNDER SECTION 1-2-605(7), C.R.S., AND ~~RULE 2.12.2~~ RULE  
3 2.11.2, MAY REQUEST REINSTATEMENT OF THE RECORD. THE ELECTOR MUST  
4 ~~PROVIDE PROOF~~ AFFIRM THAT HE OR SHE HAS CONTINUOUSLY RESIDED AT THE  
5 ADDRESS SHOWN ON THE REGISTRATION RECORD SINCE THE RECORD WAS  
6 CANCELLED.

7 ~~2.22~~ ~~2.14.5~~ 2.13.5 ~~Effective January 1, 2012, no~~ No county may consolidate or cancel  
8 duplicate records in accordance with section 1-2-604, C.R.S., within the period  
9 beginning 90 days ~~prior to~~ BEFORE a Primary or General Election.

10 *[Current Rule 2.22 is amended and moved to new Rule 2.13. Amendments are shown above.]*

11 ~~2.15~~ 2.14 VOTER REGISTRATION AT A VOTER SERVICE AND POLLING CENTER

12 ~~2.15.1~~ 2.14.1 A PERSON REGISTERING VOTERS OR UPDATING VOTER REGISTRATION  
13 INFORMATION IN A VOTER SERVICE AND POLLING CENTER MUST:

14 (A) BE A PERMANENT OR TEMPORARY COUNTY EMPLOYEE, ~~OR~~ STATE  
15 EMPLOYEE, OR TEMPORARY STAFF HIRED BY ~~OF~~ THE COUNTY CLERK AND  
16 RECORDER'S OFFICE;

17 (B) SUCCESSFULLY PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN  
18 RULE 6.4. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION  
19 OFFENSE OR AN OFFENSE WITH AN ELEMENT OF FRAUD IS PROHIBITED FROM  
20 HANDLING VOTER REGISTRATION APPLICATIONS OR CONDUCTING VOTER  
21 REGISTRATION AND LIST MAINTENANCE ACTIVITIES; AND

22 (C) SUCCESSFULLY COMPLETE A TRAINING COURSE PROVIDED BY THE  
23 SECRETARY OF STATE.

24 ~~2.15.2~~ 2.14.2 THE PERSON REGISTERING VOTERS OR UPDATING VOTER REGISTRATION  
25 INFORMATION IN A VOTER SERVICE AND POLLING CENTER MUST VERBALLY  
26 CONFIRM EACH ELECTOR'S NAME AND ~~RESIDENTIAL ADDRESS~~ OF PERMANENT RESIDENCE.

27 ~~2.16~~ 2.15 VOTER REGISTRATION RECORDS AND DATA

28 ~~2.13~~ ~~2.16.1~~ 2.15.1 ~~Preservation of Voter Registration Records.~~ Notwithstanding the  
29 retention timelines specified in section 1-2-227, C.R.S., THE COUNTY CLERK AND  
30 RECORDER MAY DESTROY paper voter registration records ~~may be destroyed~~ as  
31 soon as they have been digitally recorded in the statewide voter registration  
32 database known as "SCORE". ~~Such records shall be retained.~~ THE STATEWIDE  
33 VOTER REGISTRATION SCORE SYSTEM MUST RETAIN DIGITAL IMAGES OF VOTER  
34 REGISTRATION APPLICATIONS in perpetuity in digital format by the voter  
35 registration database in accordance with Title 1, C.R.S. and this rule.

36 *[Current Rule 2.13 is amended and moved to new Rule 2.15.1. Amendments are shown above.]*

**Comment [S23]:** A concern here is that election judges are not included and there is no bipartisan check and balance built in to this process. Furthermore, citizen oversight of this process is unclear. Since same day registration and voting is now possible, instant oversight to protect against errors potentially of a partisan nature in registration is especially needed. This rule does not provide an assurance of oversight nor does the watcher rule protect oversight of the registration interaction. Are election judges even considered "temporary staff"? This is unclear.

**Comment [S24]:** Is "residential address" the same as the legal residence? The phrase is used only twice in this document for no apparent reason. Permanent residence is the phrase that us normally used.

1 ~~2.2-2.16.2-2.15.2~~ After a receipt of request, the fee for providing the information  
2 shall be determined. The fee must be paid prior to the request being filled.  
3 UNDER SECTION 24-21-104(3), C.R.S., THE SECRETARY OF STATE MUST CHARGE A  
4 FEE FOR VOTER INFORMATION REPORTS AND RELATED SERVICES. A REQUEST FOR  
5 ELECTIONS DATA MUST BE SUBMITTED USING THE ELECTIONS DATA REQUEST  
6 FORM. THE SECRETARY OF STATE WILL PROVIDE THE REQUESTED DATA AFTER  
7 PAYMENT OF THE FEE AS OUTLINED IN THE FEE SCHEDULE ON THE SECRETARY'S  
8 WEBSITE.

9 *[Current Rule 2.2 is amended and moved to new Rule 2.15.2. Amendments are shown above.*  
10 *Portions of current Rule 49.3.1 are included in Rule 2.15.2]*

11 ~~49.3.2-2.16.3-2.15.3~~ The county clerk ~~and recorder~~ of each county may charge fees for  
12 county voter information reports and related services, such as the printing of  
13 labels provided by the centralized statewide registration system. ~~However,~~ BUT in  
14 accordance with federal requirements governing the use of federal funds, fees  
15 shall ~~MUST~~ not exceed county direct and indirect costs for providing such reports  
16 and services.

17 *[Current Rule 49.3.2 is amended and moved to new Rule 2.15.3. Amendments are shown above.]*

18 ~~49.2-2.16.4-2.15.4~~ Custodianship of Voter Registration Information

19 ~~49.2-1~~(A) The Secretary of State shall ~~be~~ IS the official custodian of the  
20 information contained in the centralized statewide registration system and  
21 the computerized statewide voter registration list created and maintained  
22 pursuant to UNDER section 1-2-301, C.R.S.

23 ~~49.2-2~~(B) ~~The EACH~~ county clerk ~~and recorder~~ for each county shall ~~be~~ IS the  
24 official custodian of the voter registration information only for electors  
25 within ~~that~~ HIS OR HER county.

26 *[Current Rule 49.2 is amended and moved to new Rule 2.15.4. Amendments are shown above.]*

27 ~~49.1-2.17-2.16~~ SCORE username and password administration

28 ~~49.1.1-2.17.1-2.16.1~~ The state user administrator shall ~~assign~~ ASSIGNS county USER  
29 administrator privileges to the individual designated in each county by the county  
30 clerk ~~and recorder~~. ~~49.1.1.1~~The county clerk ~~and recorder~~ shall ~~MUST~~ submit ~~the~~  
31 A request for county USER administrator privilege to the state user administrator in  
32 writing. The request shall ~~MUST~~ specifically state the full name of the county  
33 employee that is being assigned as a county USER administrator.

34 ~~49.1.2-2.17.2-2.16.2~~ Each county may ~~have~~ IS LIMITED TO ~~ONE TWO~~ COUNTY USER  
35 administrators. ~~privileges assigned to no more than one (1) individual, except that~~  
36 ~~any~~ BUT A county clerk ~~and recorder~~ may apply to the Secretary of State for an  
37 additional county USER administrator.

1           ~~49.1.2.1~~(A) ~~Such~~THE application ~~shall~~MUST be submitted by the county clerk  
2           ~~and recorder~~ in writing to the state user administrator and ~~shall~~MUST state  
3           the name of the county employee for which county ~~USER~~ administrator  
4           privilege is being sought. The application ~~shall~~MUST also state the specific  
5           reasons the county clerk ~~and recorder~~ is requesting the additional ~~USER~~  
6           administrator.

7           ~~49.1.2.2~~(B) The state user administrator ~~shall~~WILL notify the county clerk ~~and~~  
8           ~~recorder~~ in writing whether the request is approved within five ~~(5)~~  
9           business days ~~from receipt of~~AFTER RECEIVING the application.

10          ~~49.1.3~~ ~~2.17.3~~ ~~2.16.3~~ The county ~~USER~~ administrator is responsible for security  
11          administration and ~~shall~~MUST assign all access privileges, as well as usernames  
12          and passwords for county employees and temporary election workers.

13          ~~49.1.3.1~~(A) For county employees, the county ~~USER~~ administrator ~~shall~~MUST  
14          assign a unique username in accordance with the naming conventions  
15          provided by the Secretary of State.

16          ~~49.1.3.2~~(B) Passwords ~~shall~~MUST be assigned by the county ~~USER~~  
17          administrator upon initial authorization and ~~shall~~MUST be changed by  
18          users and maintained confidentially.

19          ~~49.1.4~~ ~~2.17.4~~ ~~2.16.4~~ If a county employee or temporary election worker is no longer  
20          employed by the county, the county ~~USER~~ administrator ~~shall~~MUST IMMEDIATELY  
21          inactivate the username ~~within a reasonable timeframe, not to exceed one (1)~~  
22          ~~business week~~.

23          *[Current Rule 49.1 is amended and moved to new Rule 2.16. Amendments are shown above.]*

## 24          2.17 SCORE NETWORK SECURITY REQUIREMENTS

25          2.17.1 THE COUNTY CLERK MUST USE ONLY COUNTY-CONTROLLED NETWORKS WITH  
26          PROPER NETWORK SECURITY CONTROLS IN PLACE TO ACCESS SCORE. THE COUNTY  
27          MAY NEVER USE AN OPEN OR SHARED PUBLIC-USE NETWORK TO ACCESS SCORE.

28          (A) ALL WIRELESS NETWORKS MUST MEET THE FOLLOWING MINIMUM  
29          REQUIREMENTS:

30                  (1) WPA2 OR ABOVE SECURITY MUST BE ENABLED.

31                  (2) SHARED WIRELESS PASSWORDS OR SECRETS MUST BE CHANGED  
32                  EVERY THREE MONTHS, AT A MINIMUM.

33                  (3) WIRELESS KEYS MUST BE A MINIMUM OF 14 CHARACTERS IN LENGTH  
34                  AND MUST INCLUDE AT LEAST ONE NUMBER AND MIXED CASE  
35                  LETTERS.

1 (B) ALL NETWORKS MUST EMPLOY PROPER SECURITY CONTROLS TO ENSURE  
2 MALICIOUS USERS CANNOT CONNECT TO THE NETWORK, INTERCEPT SCORE  
3 COMMUNICATIONS, OR OTHERWISE ATTACK THE SCORE SYSTEM. THESE  
4 CONTROLS MUST INCLUDE, AT A MINIMUM, NETWORK FIREWALLS AND  
5 SECURELY CONFIGURED NETWORK EQUIPMENT TO PREVENT COMMON  
6 ATTACK MECHANISMS.

7 2.17.2 ALL ELECTION OFFICIALS WHO ACCESS THE SCORE SYSTEM MUST SIGN A SCORE  
8 ACCEPTABLE USE POLICY (AUP) BEFORE THE COUNTY PROVIDES A SCORE  
9 USERNAME.

10 (A) THE COUNTY CLERK, COUNTY SCORE USER-ADMINISTRATOR, AND COUNTY  
11 ELECTIONS IT MANAGER, IF APPLICABLE, MUST SUBMIT THEIR SIGNED AUP  
12 TO THE SECRETARY OF STATE.

13 (B) THE COUNTY CLERK MUST RETAIN THE AUP FOR EACH INDIVIDUAL WHO IS  
14 ASSIGNED A SCORE USERNAME.

15 (1) THE SECRETARY OF STATE WILL AUDIT THE COUNTY AUP RECORDS  
16 FOR EACH COUNTY SELECTED FOR ANNUAL INSPECTION OF ITS  
17 VOTING SYSTEM MAINTENANCE RECORDS UNDER RULE 20.8.5

18 (2) THE SECRETARY WILL SUSPEND ACCESS TO SCORE FOR ANY  
19 INDIVIDUAL WHOSE AUP IS NOT ON FILE WITH THE COUNTY CLERK.

20 **Rule 3. Rules Concerning Qualified Political Organizations**

21 ~~3.2.3.1 The required proof of organization, which may be filed at any time after organization,~~  
22 ~~shall include, but shall not be limited to:~~ A QUALIFIED POLITICAL ORGANIZATION, AS  
23 DEFINED IN RULE ~~1.1.1.1~~, MUST FILE PROOF OF ORGANIZATION WITH THE SECRETARY OF  
24 STATE. THE PROOF MUST INCLUDE, BUT IS NOT LIMITED TO:

25 ~~a. 3.1.1 By laws of the Colorado political organization which shall~~ THE ORGANIZATION'S  
26 BYLAWS, WHICH MUST include the method for selecting officers, ~~selecting~~  
27 delegates to county, state, and national conventions, and ~~selecting~~ candidates  
28 planning to petition onto the state's general election ballot; AND ~~using the name of~~  
29 ~~the Colorado political organization;~~

30 ~~b. 3.1.2~~ The names, addresses, and telephone numbers of the ~~elected~~  
31 ORGANIZATION'S Colorado chairperson, vice chairperson, and secretary, together  
32 with the names, addresses, and telephone numbers of all other members elected or  
33 appointed to other offices or committees authorized by the ~~by laws~~ BYLAWS.

34 ~~3.3.3.2 A qualified political organizations shall~~ ORGANIZATION MUST meet AT LEAST once a EACH  
35 CALENDAR year.

36 ~~3.3.1.3.2.1~~ DURING the meeting in the odd-numbered year, THE ORGANIZATION MUST  
37 ELECT ~~shall be held for the purpose of electing~~ a chairperson, vice-chairperson,

1 secretary, and other officers or committees ~~as shall be provided for in the by laws~~  
2 ~~on file with the Secretary of State~~ REQUIRED BY THE ORGANIZATION'S BYLAWS.

3 (a) ~~For new political organizations~~ IF THE POLITICAL ORGANIZATION IS A NEW  
4 ORGANIZATION, THE ORGANIZATION MUST HOLD this meeting ~~must take~~  
5 ~~place prior to~~ BEFORE placing a candidate on the ballot. ~~Therefore, this~~  
6 ~~meeting may occur~~ IN THIS INSTANCE, THE ORGANIZATION MAY HOLD THIS  
7 MEETING in an even-numbered year AND MAY SELECT CANDIDATES AS  
8 DESCRIBED IN RULE 3.3.3.

9 ~~3.3.2.3.2~~ The ORGANIZATION'S chairperson and ~~the secretary shall~~ MUST file WITH  
10 THE SECRETARY OF STATE a full and complete list, under oath, of the persons  
11 elected or appointed ~~pursuant to Rule 3.2~~ UNDER THIS RULE 3.2, together with any  
12 amendments to the ~~by laws~~ BYLAWS adopted at the meeting.

13 ~~3.3.3.2.3~~ DURING the meeting in the even-numbered year, THE ORGANIZATION MUST  
14 SELECT ~~shall be held for the purpose of selecting~~ candidates who ~~wish to use the~~  
15 ~~name of the political organization on petitions for~~ WILL ATTEMPT TO PETITION ON  
16 TO THE BALLOT FOR THE next general election.

17 (a) ~~A political organization which has not yet been qualified may select its~~  
18 ~~candidate at the same meeting where the officers of the organization are~~  
19 ~~named.~~

20 ~~3.4.3.3~~ TO REMAIN IN GOOD STANDING, a qualified political organization ~~shall~~ MUST place a  
21 candidate ~~or candidates~~ on the general election ballot every two years. A WRITE-IN  
22 CANDIDATE ALONE IS NOT SUFFICIENT TO MEET THIS REQUIREMENT.

23 ~~3.4.1.3.3.1~~ ORGANIZATION candidates ~~wishing to represent a qualified political~~  
24 ~~organization on the general election ballot shall be placed in nomination by~~  
25 ~~nominating petition pursuant to~~ MUST BE NOMINATED IN ACCORDANCE WITH  
26 section 1-4-802, C.R.S.

27 ~~3.4.2.3.2~~ Each petition ~~shall~~ MUST contain the name of one candidate and ~~shall have~~  
28 ~~attached~~ an affidavit signed under oath by the chairperson and secretary of the  
29 qualified political organization. The affidavit form ~~shall~~ MUST be approved by the  
30 Secretary of State. ~~and will include the date of the meetings required in Rule 3.3.~~

31 ~~3.4.3.3.3~~ ~~For a candidate~~ To qualify for the ballot, ~~the~~ A candidate must have been  
32 affiliated with the qualified political organization for one year or, if the ~~political~~  
33 organization has not ~~previously~~ been qualified FOR ONE YEAR, the candidate must  
34 have been registered as unaffiliated for one year.

35 ~~3.4.4~~ ~~Having the name of a candidate from the qualified political organization appear~~  
36 ~~on the ballot by the use of the write in candidacy process shall not be considered~~  
37 ~~as, nor meeting the requirements of, placing a qualified candidate on the general~~  
38 ~~election ballot.~~

1 ~~3.5-3.4~~ A political organization shall be qualified as soon as it THE SECRETARY OF STATE WILL  
2 QUALIFY A POLITICAL ORGANIZATION IF THE ORGANIZATION:

3 ~~(a)-3.4.1~~ Files proof of organization with the Secretary of State;

4 ~~(b)-3.4.2~~ Meets ~~to name~~ AND NAMES a candidate to the general election ballot; and

5 ~~(c)-3.4.3~~ Certifies a candidate to the general election ballot.

6 ~~3.6-3.5~~ Once a political organization becomes a qualified political organization, eligible electors  
7 shall be able to MAY register as affiliated AFFILIATE with the political organization.

8 ~~3.6.1~~ When an individual appears at any office or location for the purpose of voter  
9 registration, the questions asked and the information recorded shall be amended  
10 to reflect "political organization" affiliation.

11 ~~3.6.2~~ The opportunity to declare or change a political affiliation shall be provided  
12 exactly as the law provides for political parties in sections 1-2-204(2)(j) and 1-  
13 2-219, C.R.S.

14 ~~3.6.3~~ At any time a declaration or change in affiliation is requested, the same  
15 procedure shall be used for declaring a political party or political organization  
16 affiliation.

17 ~~3.6.4~~ In recording the information on the voter registration page, or affidavit, the  
18 affiliation with a political organization shall be listed by the name entry of the  
19 organization.

20 ~~3.6.5~~ In converting information on the voter registration page to lists, submissions for  
21 data entry, the Secretary of State's master voter registration list, etc., standard  
22 abbreviations shall be used and will be furnished to the county clerk and  
23 recorders by the Secretary of State.

24 ~~3.7-3.6~~ THE SECRETARY OF STATE WILL REVOKE THE QUALIFIED STATUS OF A political  
25 ~~organizations~~ ORGANIZATION IF THE ORGANIZATION DOES NOT FULLY COMPLY WITH RULES  
26 3.3 AND 3.4. shall lose their status as qualified political organizations by failing to do any  
27 one of the following:

28 ~~(a)~~ Meet in odd numbered years and file their list of officers with the Secretary of State,  
29 unless excused under Rule 3.3.1(a);

30 ~~(b)~~ Meet in even numbered years and select a candidate or candidates who wish to  
31 appear on the ballot at the next general election;

32 ~~(c)~~ Place a candidate on a general election ballot through a nominating petition, meeting  
33 the requirements of Rule 3.4.

34 ~~3.8-3.7~~ IF the Secretary of State REVOKES THE QUALIFIED STATUS OF A POLITICAL ORGANIZATION,

1 THE SECRETARY will notify the county clerks and recorders by June 1 of each odd-  
2 numbered year of the loss of qualified status of a political organization. Upon receiving  
3 notification RECEIPT, the county clerk and recorders shall MUST mark on every affected  
4 voter registration record RECORDS AS “unaffiliated”, WHERE APPLICABLE.

5 ~~3.9-3.8~~ EXCEPT FOR THE PRECINCT CAUCUS LIST FURNISHED TO MAJOR POLITICAL PARTIES, A  
6 QUALIFIED POLITICAL ORGANIZATION MAY OBTAIN print-outs, lists, AND tapes, etc. of voter  
7 registration records shall be furnished to qualified political organizations at the same rate  
8 or cost as charged to political parties. The only exception to this provision shall be the  
9 list furnished to the major political parties prior to the statutory precinct caucus day.

10 ~~3.10-3.9~~ On all summary reports of voter registration by political party, the A VOTER  
11 REGISTRATION SUMMARY report shall list those registered with MUST INCLUDE major  
12 political parties, minor political parties, qualified political organizations, or as AND  
13 unaffiliated CATEGORIES.

14 ~~3.11~~ Electors, whose voter registration record shows affiliation with a qualified political  
15 organization and who appear to vote at a primary election, shall complete a Declaration  
16 of Party Affiliation, thus losing affiliation with the qualified political organization.

#### 17 Rule 4. COORDINATED ELECTIONS

18 ~~6.1-4.1~~ Participation in coordinated elections.

19 ~~6.1.1-4.1.1~~ For elections where the electors do not need to be registered electors,  
20 political subdivisions may conduct their own elections and must coordinate with  
21 the coordinated election official any ballot issue notice required by Article X,  
22 Section 20 of the Colorado Constitution.

23 ~~6.1.2-4.1.2~~ The affected A COORDINATING political subdivision shall MUST enter into  
24 AN intergovernmental agreements AGREEMENT WITH THE COUNTY CLERK AND  
25 RECORDER which THAT delineate DELINEATES which tasks shall be ARE the  
26 responsibility of the designated election official of the political subdivision and  
27 which shall be ARE the responsibility of the eordinated election official  
28 COUNTY CLERK AND RECORDER.

29 ~~6.2-4.2~~ Procedures for Coordinated Elections Involving Jurisdictions Shared by Multiple  
30 Counties

31 ~~6.2.1-4.2.1~~ For each jurisdiction that is shared by multiple counties, a controlling  
32 county shall MUST be designated for the purpose of assigning and coordinating  
33 the ballot letter/number for the shared races, issues, and questions in  
34 coordinated elections.

35 ~~6.2.2-4.2.2~~ The controlling county shall be IS the county where the administrative  
36 office of the political subdivision is maintained at the time that the controlling  
37 county is designated.

1 (a) If the administrative office is not maintained within the boundaries of the  
2 political subdivision, the controlling county ~~shall~~ MUST be the county where  
3 the largest number of active registered electors within the jurisdiction reside  
4 at the time that the controlling county is designated.

5 (b) Once designated, the controlling county will not change unless approved by  
6 the Secretary of State upon request of any of the affected counties.

7 ~~6.2.3~~ — Repealed.

8 ~~6.2.4~~ 4.2.3 The controlling county ~~shall~~ MUST coordinate with each county that shares  
9 the jurisdiction to assign the ballot number/letter in accordance with ~~Rule 6.5~~  
10 ~~4.5~~ no later than the date of ballot certification. All counties within the shared  
11 jurisdiction ~~shall~~ MUST ensure that the shared races, issues, and questions are  
12 printed on the ballot as certified by the Secretary of State or designated election  
13 official, and in the order assigned by the controlling county

14 ~~6.2.5~~ 4.2.4 If any controlling county fails to fulfill its responsibilities in accordance  
15 with this Rule, any of the other counties in the shared jurisdiction may make a  
16 written request to the Secretary of State to temporarily assume the duties of the  
17 controlling county. The Secretary of State ~~shall have the authority to~~ MAY act on  
18 behalf of the controlling county or to temporarily designate another county to  
19 act as the controlling county ~~in order to IMPLEMENT assure implementation of~~  
20 this Rule.

21 ~~6.3.4.3~~ Form of election for November coordinated elections.

22 ~~6.3.1~~ 4.3.1 The county clerk ~~and recorder~~ is the election official for coordinated  
23 elections ~~which are held in November of each year AND IS RESPONSIBLE FOR~~  
24 MAILING THE ARTICLE X, SECTION 20 BALLOT ISSUE NOTICE.

25 ~~(a) The county clerk and recorder shall be responsible for mailing the Article X,~~  
26 ~~Section 20 Ballot Issue notice.~~

27 ~~(b) The county clerk and recorder shall not be required to conduct more than~~  
28 ~~one form of election unless he or she so chooses.~~

29 ~~6.3.2~~ — School districts that have the opportunity to participate in a coordinated election  
30 may not elect to hold separate mail ballot elections but must participate in the  
31 form of election chosen by the county clerk and recorder.

32 ~~21.1~~ 4.3.2 Placing measures on the ballot for coordinated odd-year elections.

33 ~~21.1.1~~ (A) For A statewide ~~elections~~ ELECTION, the Secretary of State MUST  
34 DETERMINE ~~shall be responsible for determining~~ whether ~~the~~ A proposed  
35 initiative is eligible to appear on an odd-year election ballot and WHETHER IT  
36 concerns state matters arising under Section 20 of Article X of the State  
37 Constitution.

1           ~~21.1.2~~(B) For ~~election concerning county or other political subdivision~~ ALL  
2           OTHER ELECTIONS, ~~if the election is held as a coordinated election each~~ THE  
3           political subdivision CONDUCTING THE ELECTION MUST ~~shall~~ determine  
4           whether the proposed initiative or referred measure is a local government  
5           matter arising under Section 20 of Article X of the State Constitution.

6    *[Current Rule 21.1 is amended and moved to new Rule 4.3.2. Amendments between the current*  
7    *and new rule language are shown above.]*

8    ~~6.4.4.4~~ Form of coordinated elections held other than in November.

9           ~~6.4.1.4.4.1~~ For all other elections where political subdivisions hold an election on the  
10           same day, the electors or boundaries overlap and ballot issues as defined in  
11           ~~Section~~ SECTION 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping  
12           jurisdictions, the governing bodies or the designated election officials of ~~such~~  
13           THE overlapping jurisdictions must name a coordinated election official who is  
14           responsible for assuring that the Article X, Section 20 notice is given.

15          ~~6.4.2.4.4.2~~ The political subdivisions may contract with the appropriate county clerk  
16          ~~and recorder~~ to be the coordinated election official.

17    ~~6.5.4.5~~ Determination of ballot issues and texts.

18          ~~6.5.1.4.5.1~~ Each political subdivision ~~shall~~ MUST prepare the list of candidates and the  
19          ballot title and text for ballot issues and ballot questions, as required by law.

20           (a) The coordinated election official ~~shall~~ MUST assure that PRINT the ballot title  
21           is on each ballot as required by law.

22           (b) Political subdivisions may only require the coordinated election official to  
23           print the entire text of a ballot issue or ballot question on the ballot if ~~they~~  
24           ~~pay~~ THE POLITICAL SUBDIVISION pays for any additional cost associated with  
25           printing and if sufficient space is on the voting equipment to print the entire  
26           text given the other issues, questions, and candidates on the ballot. The  
27           coordinated election official ~~shall~~ MUST tell the political subdivision how  
28           much space is available for text for each position on the ballot. If the  
29           required ballot title and text is too long for the voting equipment, the  
30           coordinated election official may choose to conduct the election with a  
31           different form of ballot.

32           (c) For counties where ballot election material must be printed in languages  
33           other than English, the political subdivisions are responsible for assuring  
34           proper translation of all election materials related to that political  
35           subdivision and must pay their pro-rata share of increased printing costs  
36           unless otherwise provided by the intergovernmental agreement.

37           (d) For counties where election material is not required to be printed in  
38           languages other than English, the political subdivisions are not required to

1 provide translation of all election materials nor pay a pro-rata share of the  
2 printing costs unless they so agree.

3 ~~6.5.2-4.5.2~~ Each political subdivision ~~shall~~-MUST determine the order of the ballot  
4 issues for their political subdivision in accordance with the requirements of  
5 Colorado Constitution Article X, Section 20 and Title 1.

6 (a) Referred measures ~~shall~~-MUST be designated by a letter or by a number and a  
7 letter; initiatives ~~shall~~-MUST be designated by a number.

8 (b) For each grouping of ballot issues and ballot questions by a political  
9 subdivision, all referred measures ~~shall~~-MUST precede all initiatives.

10 (c) For each grouping of ballot issues and ballot questions, the order ~~shall be~~-IS  
11 as follows:

12 (1)- Referred measures to increase taxes;

13 (2)- Referred measures to retain excess revenues;

14 (3)- Referred measures to increase debt;

15 (4)- Other referred measures;

16 (5)- Initiatives to increase taxes;

17 (6)- Initiatives to retain excess revenues;

18 (7)- Initiatives to increase debt;

19 (8)- Other citizen petitions.

20 (d) For statewide measures, initiatives ~~shall~~-MUST be numbered in the order in  
21 which the statements of sufficiency are issued. The numbers one through  
22 five ~~shall~~-MUST be reserved for initiatives to increase taxes; the numbers six  
23 through ten ~~shall~~-MUST be reserved for initiatives to retain excess revenues;  
24 the numbers eleven through fifteen ~~shall~~-MUST be reserved for initiatives to  
25 increase debt; all other citizen petitions ~~shall~~-MUST be numbered  
26 consecutively beginning with sixteen.

27 (e) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or  
28 referred, every proposed change to the Colorado Constitution ~~shall~~-MUST be  
29 called an "amendment" and every proposed change to the Colorado Revised  
30 Statutes ~~shall~~-MUST be called a "proposition"

31 (f) Ballot issues from the various political subdivisions ~~shall~~-MUST be ordered  
32 on the ballot as provided in section 1-5-407(5), C.R.S:

1 (1)- Each category of referred and initiated state amendments and  
2 propositions ~~shall~~-MUST be numbered and listed on the ballot in the  
3 following series:

A-Z	State Referred Constitutional Amendments
01-99	State Initiated Constitutional Amendments
AA-ZZ	State Referred Statutory Propositions
101-199	State Initiated Statutory Propositions

4  
5 If a referred or initiated measure contains both a proposed  
6 constitutional and statutory change, the measure ~~shall~~-MUST be  
7 ordered on the ballot as a constitutional amendment.

8 (2)- Each category of initiated local ballot issues and questions ~~shall~~-MUST  
9 be numbered in the following series:

200-299	County Issues
300-399	Municipal Issues
400-499	School District Issues
500-599	Ballot Issues and Questions for other political subdivisions greater than a county.
600-699	Ballot Issues and Questions for other political subdivisions which are wholly within a county.

10  
11 (3)- Each category of local referred ballot issues and questions ~~shall~~-MUST  
12 be designated by a letter or a number and a letter in the following  
13 series:

1A-1Z	County Issues
2A-2Z	Municipal Issues
3A-3Z	School District Issues
4A-4Z	Ballot Issues and Questions for other political subdivisions greater than a county.
5A-5Z	Ballot Issues and Questions for other political subdivisions which are wholly within a county.

14  
15 (4)-Ballot questions and issues are numbered or lettered in the order in  
16 which the measures are certified to the ballot by the designated election  
17 official after the protest period has ended, or if a protest was filed after  
18 the protest has been completed.

19 (5)-For other than state issues, if a county has multiple cities ~~and~~-or

1 multiple discrete school districts and other political subdivisions, the  
2 designated election official may either further subdivide the series and  
3 assign each political subdivision a specific series of numbers, or when  
4 the ballot is certified the designated election official may assign the final  
5 numbers ~~OR~~ letters, making sure that all measures for each political  
6 subdivision are grouped together.

7 (6). For other than state issues and questions, if the same ballot issue or  
8 question will be on the ballot in more than one county, the county clerks  
9 ~~shall~~ MUST confer with one another and ~~shall~~ MUST give the same ballot  
10 number or letter to the ballot issue or questions.

11 (7). Each ballot question or issue ~~shall~~ MUST contain the name of the political  
12 subdivision at the beginning of the ballot questions or issue. If the  
13 designated election official chooses, the name of the political  
14 subdivision may appear before the grouping of questions, such as State  
15 Ballot Questions, Arapahoe County Ballot Questions, City of Aurora  
16 Ballot Questions, etc.

#### 17 4.6 CANDIDATE AUDIO RECORDINGS

18 ~~10.4.4.6.1~~ Candidates whose names are listed on a ballot A CANDIDATE FOR  
19 STATEWIDE OFFICE, THE GENERAL ASSEMBLY, CONGRESSIONAL OFFICE, REGENT,  
20 OR DISTRICT ATTORNEY must provide an audio recording of the pronunciation of  
21 their HIS OR HER name to the Secretary of State. ~~prior to the election for offices~~  
22 ~~that are voted on by the electors of the entire state, or of a congressional district,~~  
23 ~~or for the offices of members of the general assembly or district attorney or a~~  
24 ~~district office of state concern.~~ THE CANDIDATE MUST RECORD HIS OR HER NAME  
25 EXACTLY AS IT APPEARS ON THE CANDIDATE ACCEPTANCE FORM, STATEMENT OF  
26 INTENT, OR DECLARATION OF INTENT TO RUN FOR RETENTION IN A JUDICIAL  
27 OFFICE, AS APPLICABLE, AND THE CANDIDATE MUST PROVIDE THE RECORDING TO  
28 THE SECRETARY OF STATE NO LATER THAN THE DEADLINE TO FILE THE  
29 CANDIDATE ACCEPTANCE FORM, STATEMENT OF INTENT, OR DECLARATION OF  
30 INTENT TO RUN FOR RETENTION IN A JUDICIAL OFFICE, AS APPLICABLE.

31 *[Rules 10.4.1 through 10.4.4 are repealed and consolidated into Rule 4.6.1]*

32 ~~10.5-4.6.2~~ A CANDIDATE FOR A county, municipal, school district, ~~and~~ or special  
33 district ~~OFFICE candidates whose names are listed on a ballot for~~ IN an election  
34 coordinated by the county clerk ~~and recorder~~ must provide an audio recording  
35 of the pronunciation of their HIS OR HER name to the county clerk ~~and recorder~~.  
36 ~~prior to the election for offices that are voted on by the electors of the county,~~  
37 ~~municipality, school district, or special district.~~ THE CANDIDATE MUST RECORD  
38 HIS OR HER NAME EXACTLY AS IT APPEARS ON THE STATEMENT OF INTENT, AND  
39 MUST PROVIDE THE RECORDING TO THE COUNTY CLERK ~~AND RECORDER~~ NO LATER  
40 THAN THE DEADLINE TO FILE THE STATEMENT OF INTENT.

1 *[Rules 10.5.1 through 10.5.2 are repealed and consolidated into Rule 4.6.2]*

2 4.7 CONGRESSIONAL TERM LIMITS DECLARATION

3 ~~24.1~~4.7.1 The Secretary of State ~~shall~~ MUST make THE CONGRESSIONAL TERM  
4 LIMITS DECLARATION available to every candidate for United States House of  
5 Representatives or the United States Senate, ~~the Congressional Term Limits~~  
6 ~~Declaration~~ provided in Article XVIII, Section 12a of the Colorado  
7 Constitution. The Secretary of State will offer the Congressional Term Limits  
8 Declaration to ~~every such~~ THESE candidate CANDIDATES when the candidate files  
9 ~~his or her~~ A candidate affidavit with the Secretary of State. Any failure of the  
10 Secretary of State to offer the Congressional Term Limits Declaration to a  
11 candidate ~~shall~~ WILL have no effect on ~~such~~ THE candidate's candidacy.

12 ~~24.2~~4.7.2 THE SECRETARY OF STATE MUST ACCEPT Part A of the Term Limits  
13 Declaration ~~shall be accepted by the Secretary of State~~ if Part B of the Term  
14 Limits Declaration ~~has not been~~ WAS NOT duly executed and submitted. (Art.  
15 XVIII, sec. 12a(7) OF THE COLORADO CONSTITUTION)

16 ~~24.3~~4.7.3 In the case of a candidate who has qualified as a candidate for a term that  
17 would exceed the number of terms set forth in Term Limits Declaration One,  
18 the Secretary of State ~~shall~~ MAY not place the words, "Signed declaration to  
19 limit service to [3 terms] [2 terms]" after the candidate's name, even if the  
20 candidate has executed and submitted Parts A and B of Term Limits Declaration  
21 One.

22 *[Current Rule 24 is amended and moved to new Rule 4.7. Amendments are shown*  
23 *above.]*

24 4.8 BALLOT FORMAT AND PRINTING

25 ~~10.1~~4.8.1 The text of all ballot issues that are subject to Article X, Section 20 shall  
26 be printed in all capital letters. ~~The names of all candidates and all other ballot~~  
27 ~~issues and questions shall be printed in upper and lower case.~~ THE COUNTY  
28 CLERK ~~AND RECORDER~~ MUST PRINT THE CANDIDATE NAMES AND THE TEXT OF  
29 BALLOT ISSUES AND BALLOT QUESTIONS IN UPPER AND LOWER CASE, EXCEPT  
30 THAT THE CLERK ~~AND RECORDER~~ MUST PRINT THE TEXT OF BALLOT ISSUES  
31 SUBJECT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION IN ALL  
32 UPPERCASE TEXT.

33 ~~10.3~~4.8.2 If there is no candidate on the ballot for any particular AN office, the ballot  
34 ~~shall read~~ MUST STATE, "~~No~~ THERE ARE NO candidates for this office."

35 *[Current Rules 10.1 and 10.3 are amended and moved to new Rules 4.8.1 and 4.8.2.*  
36 *Amendments are shown above.]*

37 ~~10.6~~4.8.3 Printing primary election ballots.

1 ~~10.6.1~~(A) If a major political party, as defined in section 1-1-104(22.5),  
2 C.R.S., nominates more than one candidate for any office, the county clerk  
3 ~~and recorder~~ must conduct the primary election for all major political  
4 parties.

5 ~~(a)~~(1) The county clerk must include on the ballot all offices to which  
6 candidates may be nominated in the primary election.

7 ~~(b)~~(II) If there are no candidates for any particular office, the county clerk  
8 must print on the ballot “There are no candidates for this office”.

9 [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.3]

10 ~~10.6.2~~(B) If a minor political party, as defined in section 1-1-104(23), C.R.S.,  
11 ~~has~~ NOMINATES more than one candidate for any office, the county clerk  
12 ~~and recorder~~ may conduct the primary election for that party only.

13 ~~(a)~~(1) The county clerk must include on the ballot only the offices for  
14 which there is more than one candidate designated.

15 ~~(b)~~(2) If there is only one minor party candidate designated for any  
16 office, the candidate will be certified to the general election ballot.

17 [Sections 1-4-101, 1-4-104.5(3), and 1-4-1304, C.R.S.]

18 *[Current Rule 10.6 is amended and moved to new Rule 4.8.3. Amendments are shown*  
19 *above.]*

~~10.8.4.8.4~~ Use of unique numbers on ballots.

20 ~~10.8.1~~(A) Except for ballots sent to military or overseas electors by electronic  
21 transmission under Rule 16.2, ~~no~~ A county may NOT print a ballot for use  
22 in a state or federal election that has a unique number, or a barcode  
23 containing a unique number, that is specific to a single ballot.

24 ~~(a)~~(1) A county that uses rotating numbers must print at least ten ballots  
25 of each ballot style for each number.

26 ~~(b)~~(2) Nothing in this rule prohibits a county from printing a unique  
27 number or barcode on the removable stub.

28 ~~10.8.2~~(B) After AN election ~~judges have dissociated~~ ~~JUDGE OFFICIAL~~  
29 DISSOCIATES a voted ballot from its envelope and REMOVES the stub, ~~is~~  
30 ~~removed~~, the county may write or print unique numbers on the voted  
31 ballot for auditing and accounting purposes, including duplication of  
32 damaged ballots and risk limiting audits.

1 ~~10.8.3~~(C) For ballots printed before the adoption of this rule that are in a  
2 county's possession, the county must redact unique numbers, or barcodes  
3 containing unique numbers, before providing ballots in response to a  
4 request for inspection under the Colorado Open Records Act (Section 24-  
5 72-205.5(4)(b)(II), C.R.S.).

6 *[Current Rule 10.8 is amended and moved to new Rule 4.8.4. Amendments are shown*  
7 *above.]*

8 ~~10.2~~4.8.5 If a ballot has been printed in error, the designated election official shall  
9 consult, as soon as the error is discovered, with the Secretary of State and  
10 follow the direction of the Secretary of State on the appropriate method of  
11 correction. IF THE DESIGNATED ELECTION OFFICIAL DISCOVERS A BALLOT  
12 LAYOUT, PRINTING, OR PROGRAMMING ERROR, HE OR SHE MUST IMMEDIATELY  
13 REPORT THE ISSUE TO ~~SEEK AND FOLLOW~~ THE SECRETARY OF STATE'S OFFICE  
14 ~~ADVISE ON HOW AND WORK IN CONJUNCTION TO CORRECT THE ERROR.~~

15 *[Current Rule 10.2 is amended and moved to new Rule 4.8.5. Amendments are shown*  
16 *above.]*

17 ~~6.6~~4.9 Colorado Constitution Article X, Section 20 notice requirements.

18 ~~6.6.1~~4.9.1 The state and local governments, excluding enterprises, have sole  
19 responsibility for drafting and distribution of the notice required by Article X,  
20 Section 20. ~~Any or all of the~~ THESE responsibilities may be delegated to the  
21 coordinated election official in the intergovernmental agreement.

22 ~~6.6.2~~4.9.2 ~~The notice shall MUST be mailed to "All Registered Voters" at the mailing~~  
23 ~~addresses of active registered electors in the county, as indicated on the voting~~  
24 ~~record in SCORE. MAILING BALLOT ISSUE NOTICES.~~

25 (a) Nothing ~~shall preclude~~ PRECLUDES the coordinated or designated election  
26 official from sending notice of various elections to persons who are not  
27 eligible electors if the notice sent is part of the coordinated notice and if the  
28 sending arises from the official's efforts to mail the notice at "least cost".

29 (b) Nothing ~~shall preclude~~ PRECLUDES the coordinated or designated election  
30 official from sending notice to each household in the county or political  
31 subdivision whether or not registered electors reside at that household as  
32 long as notice is sent which ~~assures~~ ENSURES that all active registered  
33 electors are included on the mailing list.

34 (c) Nothing ~~shall preclude~~ PRECLUDES the coordinated or designated election  
35 official from sending notice to each registered elector in a particular political  
36 subdivision.

37 ~~(a)~~(D) The coordinated or designated election official may include the  
38 following statement with the ballot issue notice: "This notice is mailed to

1 each address with one or more active, registered electors. You may not be  
2 eligible to vote on all issues presented in this notice.”

3 *[Current Rule 6.5.3(a) is amended and moved to new Rule 4.9.2(d). Amendments*  
4 *are shown above.]*

5 ~~6.6.3 4.9.3~~ The coordinated election official must include information in the package  
6 sent with the notice that tells electors whether the election is a mail ballot  
7 election, a OR polling place election, a vote center election or a combination of  
8 election forms.

9 (a) ~~If the election is a polling place election or a vote center election, the THE~~  
10 ~~notice of the location of the polling place or vote center VOTER SERVICE AND~~  
11 ~~POLLING CENTERS OR POLLING LOCATIONS may be included in the~~  
12 ~~consolidated mailing.~~

13 (b) ~~If a separate mail ballot election is being held by a political subdivision in~~  
14 ~~the county at the same time as a polling place election or a vote center~~  
15 ~~election, the notice shall include that information. Section 1 5 205, C.R.S.~~

16 (b) ~~The coordinated or designated election official may include the following~~  
17 ~~statement on the ballot issue notice: “The following is a summary of~~  
18 ~~comments filed in favor of, or opposed to, the ballot issue.”~~

19 *[Current Rule 6.5.3(b) is amended and moved to new Rule 4.9.3(b). Amendments*  
20 *are shown above.]*

21 ~~6.6.4 4.9.3~~ If state statute allows the ballot issue notice and the ballot to be mailed at  
22 the same time, the ballot for the mail ballot election may be included with the  
23 notice.

24 ~~6.6.5 4.9.4~~ The political subdivisions must provide all completed Article X, Section  
25 20 notices in camera ready format or as otherwise specified.

26 ~~6.6.6 4.9.5~~ The coordinated election official ~~shall~~ IS NOT be responsible for failure to  
27 meet the Article X, Section 20 constraints if the POLITICAL SUBDIVISION FAILS  
28 TO SUBMIT THE notice and summaries ~~are not submitted by the political~~  
29 ~~subdivision~~ within the deadline and in the form required by the coordinated  
30 election official.

31 (a) The summaries of comments for and against ballot issues ~~shall~~ MUST not  
32 include language of a generally recognized profane, indecent, immoral,  
33 offensive, scandalous or libelous character. No names of persons or private  
34 groups ~~shall~~ MAY be included in any summary.

35 (b) For purposes of counting words and to verify the five hundred constitutional  
36 limit for each “pro” and each “con” summary, a hyphenated word, unless it  
37 is divided by a continuation hyphen at the end of a line, counts as two or

1 more words. A number counts as one word, regardless of dollar signs,  
2 commas or periods within the number.

3 ~~6.7.4.9.6 Written~~ NO PERSON MAY WITHDRAW WRITTEN comments concerning ballot  
4 issues submitted to the designated election official ~~for the political subdivision~~  
5 ~~shall not be withdrawn after the end of the business day on the last Friday~~  
6 immediately preceding the forty-fifth day before the election.

7 *[Current Rules 6, 10, and 21 are amended and moved to new Rule 4. Amendments are*  
8 *shown above.]*

9 **Rule 5. ~~Rules Concerning Non-Partisan~~ NONPARTISAN Elections not Coordinated by the**  
10 **County Clerk**

11 ~~12.3.1~~ 5.1 ~~Call and notice~~ ELECTION NOTICE

12 (a) 5.1.1 THE DESIGNATED ELECTION OFFICIAL MUST SEND ~~Notice~~ NOTICE of the  
13 election ~~is to be sent to the clerk and recorder~~ of the county in which the election  
14 ~~is to~~ WILL be held. The notice ~~is to~~ MUST include the date by which the list of  
15 registered electors ~~is to~~ MUST be submitted to the political subdivision.

16 (b) 5.1.2 For multi-county political subdivisions, the notice sent to each clerk ~~and~~  
17 ~~recorder~~ shall MUST also include the names of all other counties in which the  
18 election will be held.

19 *[Current Rule 12.3.1 is amended and moved to new Rule 5.1. Amendments are shown*  
20 *above.]*

21 5.2 MAIL BALLOT ELECTIONS

22 5.2.1 IF A POLITICAL SUBDIVISION COORDINATES WITH THE COUNTY CLERK ~~AND~~  
23 ~~RECORDER~~, THE DESIGNATED ELECTION OFFICIAL IS NOT REQUIRED TO SUBMIT A  
24 SEPARATE MAIL BALLOT PLAN FOR THE ELECTION.

25 *[Portions of current Rule 12.1.2 are included in new Rule 5.2.1.]*

26 ~~12.4.1~~ 5.2.2 ~~Coordinated and non-partisan elections. (a) — Written plan. The~~ IF A LOCAL  
27 GOVERNING BOARD DETERMINES AN ELECTION WILL BE CONDUCTED BY MAIL BALLOT,  
28 THE designated election official must submit a mail ballot plan to the Secretary of State  
29 no later than 55 days before ~~any nonpartisan~~ THE election, ~~and 90 days before any~~  
30 ~~election that is coordinated with or conducted by the county clerk and recorder.~~ The  
31 designated election official must use the approved mail ballot plan template. ~~that~~  
32 ~~includes the following:~~

33 (A) THE DESIGNATED ELECTION OFFICIAL MUST INCLUDE AN ACTUAL SAMPLE OF  
34 THE SECRECY SLEEVE OR SECRECY ENVELOPE THAT THE DESIGNATED  
35 ELECTION OFFICIAL PLANS TO USE IN THE ELECTION.

36 (B) A HOME RULE MUNICIPALITY MUST CHECK THE APPROPRIATE BOX ON THE

1 PLAN INDICATING WHETHER THERE ARE LOCALLY ADOPTED ELECTION  
2 PROCEDURES DIFFERENT FROM THOSE SET FORTH IN TITLE 1, C.R.S. THE  
3 SECRETARY OF STATE WILL NOT REVIEW THE MAIL BALLOT PLAN OF ANY  
4 HOME RULE MUNICIPALITY THAT FAILS TO INCLUDE THIS INFORMATION.

5 *[Current Rule 12.4.1(a) is amended and moved to new Rule 5.2.2. Amendments between*  
6 *the current and new rule language are shown above.]*

7 5.2.3 BALLOTS AND BALLOT PACKETS

8 (A) IN ANY ELECTION WHERE A MULTIPLE PAGE PRINTED BALLOT IS USED, A  
9 VOTER MUST ~~VOTE AND~~ RETURN ALL PAGES OF THE BALLOT AT THE SAME  
10 TIME. ANY VOTER WHO ~~HAS RETURNED~~ RETURNS AT LEAST ONE PAGE OF A  
11 MULTIPLE PAGE PRINTED BALLOT ~~WILL BE CONSIDERED TO HAVE HAS~~  
12 VOTED.

13 ~~12.5.2-~~(B) For non-partisan elections where multiple ballots will be included  
14 in the same packet or will be sent in separate packets, the ballots and  
15 return envelopes ~~shall~~ MUST include distinctive markings or colors to  
16 identify political subdivisions when the colors or distinctive markings will  
17 aid in the distribution and tabulation of the ballots.

18 ~~12.5.3-~~(C) The designated election official for each political subdivision for  
19 whom one or more county clerks ~~and recorders~~ are conducting the election  
20 ~~shall assure that~~ MUST PROVIDE a complete list of eligible electors in their  
21 political subdivision ~~is sent to each appropriate county clerk and recorder,~~  
22 unless otherwise provided in the intergovernmental agreement. The  
23 political subdivision ~~shall~~ MUST list each elector only once to ~~assure~~  
24 ENSURE that each elector receives one and only one ballot unless otherwise  
25 authorized.

26 *[Current Rules 12.5.2 and 12.5.3 are amended and moved to new Rule 5.2.3.*  
27 *Amendments between the current and new rule language are shown above.]*

28 ~~13.1-~~(D) All election materials prepared by the designated election official,  
29 including the Article X, Section 20 notice, may be included in the ~~mail in~~  
30 MAIL ballot packet.

31 *[Current Rule 13.1 is moved to new Rule 5.2.3.]*

~~12.7.5.2.4~~ Receipt of Ballots

32 ~~12.7.1-~~(A) ~~One or more~~ THE DESIGNATED ELECTION OFFICIAL MUST APPOINT  
33 SUFFICIENT ELECTION OFFICIALS ~~judges~~ TO PROCESS **RETURNED ENVELOPES AND** BALLOTS ~~shall be~~  
34 ~~appointed for the site to which ballots are to be mailed to receive the ballots~~  
35 ~~as mailed.~~

36 ~~12.7.2-~~(B) Each day when ballots come in, ~~\_\_\_\_\_ shall~~ AN ELECTION

**Comment [S25]:** Ballot return largely involves handling envelopes, and only eventually ballots without the envelopes.

1 OFFICIAL MUST count the ~~ballots~~ **SEALED ENVELOPES**, batch them and record the number of  
2 ~~ballots~~ **ENVELOPES** received.

**Comment [S26]:** Taken literally this would have required a single official to separate the ballots from the envelopes each day upon arrival, but this separation should be done very carefully with bipartisan election judges in attendance, not by a single "official" recording the arrival of the envelope. Were the ballots to be counted literally by a single person, a privacy problem would manifest. Ideally bipartisan teams should be used for this daily count of envelopes.

3 ~~12.7.3 (C) The ballots shall be date stamped when received.~~ AN ELECTION  
4 ~~JUDGE-OFFICIAL~~ MUST DATE-STAMP THE ~~BALLOTS-ENVELOPES~~ UPON RECEIPT.  
5 If any ballot is received after the time set for the closing of the elections, the  
6 ~~ballot shall~~ ENVELOPE MUST be date-stamped but the ~~ballot shall~~ MUST not be  
7 counted.

**Comment [S27]:** A log of these undeliverable ballot packets that return to sender should be made for each return, presumably maximum daily.

8 ~~12.7.4 (D) Records shall also be kept of~~ ELECTION ~~JUDGES-OFFICIALS~~ MUST  
9 RECORD the number of ballot packets returned as undeliverable **UPON RECEIPT**.

10 ~~12.7.5 (E) Ballot packets shall then be placed~~ THE DESIGNATED ELECTION  
11 OFFICIAL MUST SEAL AND STORE **ENVELOPES AND** BALLOTS in a safe, secure place until the  
12 counting of the ballots.

**Comment [S28]:** The ballots are probably contained within envelopes while this storage is taking place.

13 *[Current Rule 12.7 is amended and moved to new Rule 5.2.4. Amendments between the*  
14 *current and new rule language are shown above.]*

15 **5.2.4.5.2.5** RECALL ELECTIONS. THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A  
16 WRITTEN PLAN TO THE SECRETARY OF STATE WITHIN FIVE DAYS AFTER THE  
17 DESIGNATED ELECTION OFFICIAL SETS THE DATE OF THE ELECTION. THE SECRETARY  
18 OF STATE WILL APPROVE OR DISAPPROVE THE PLAN WITHIN FIVE DAYS FROM THE  
19 DATE IT IS RECEIVED. [SECTION 1-12-111.5, C.R.S.]

20 *[Portions of current Rule 12.4(b) are included in new Rule 5.2.4]*

21 ~~5.1.5.3 For elections conducted on days~~ IF A DESIGNATED ELECTION OFFICIAL CONDUCTS AN  
22 ELECTION ON A DAY other than described in section 1-7-116(1), C.R.S., ~~nothing shall~~  
23 ~~preclude the designated election official from mailing~~ THE DESIGNATED ELECTION  
24 OFFICIAL MAY MAIL the notice required by Article X, Section 20 of the Colorado  
25 Constitution to ~~persons~~ PEOPLE who are not eligible electors if ~~such~~ THE mailing is done  
26 at the "least cost" **possible**.

**Comment [S29]:** This is a mysterious paragraph. The election isn't held on a "day." The "day" isn't correctly described in 1-7-116(1). The DEO "may" mail the notice but only if at the "least cost". This paragraph is overburdened with uncertainty. I do not know how to correct it.

27 ~~5.2.5.4 If there are no appropriate polling place locations~~ THE DESIGNATED ELECTION OFFICIAL  
28 FOR THE POLITICAL SUBDIVISION IS UNABLE TO ESTABLISH A ~~VOTER SERVICE AND POLLING~~  
29 ~~CENTER LOCATION~~ within the political subdivision, ~~conducting the election, a polling~~  
30 ~~place may be designated~~ THE DESIGNATED ELECTION OFFICIAL MAY DESIGNATE A ~~VOTER~~  
31 ~~SERVICE AND POLLING CENTER LOCATION~~ outside of the political subdivision ~~in a~~ IF THE  
32 location that is **WITHIN 10 MILES OF THE SUBDIVISION, convenient for the eligible electors.** of such political  
subdivision.

**Comment [S30]:** This paragraph is vague, but can be easily corrected with a specification for distance.

33 ~~5.3.5.5 For elections not conducted in November and not coordinated with the county clerk and~~  
34 ~~recorder,~~ the ballot issue or question ~~shall~~ MUST be identified by the name of the  
35 jurisdiction submitting the ballot issue or ballot question followed by a number in the  
36 case of initiatives or by a letter in the case of referred measures.

37 ~~5.4.5.6 Elections authorized under~~ BY Part 1, Article 45 of Title 37, C.R.S., (~~Water Conservancy~~  
38 ~~Act~~), ~~shall~~ MUST be conducted in accordance with Articles 1 through 13 of Title 1,

1 C.R.S., where applicable, unless otherwise ordered by the district court having  
2 jurisdiction over the water conservancy district, ~~pursuant to~~ UNDER section 37-45-103 (3),  
3 C.R.S. (“Court”).

4 ~~5.4.1~~5.6.1 The form and verification of any petition requesting an election conducted  
5 by a water conservancy district ~~pursuant to~~ UNDER sections 37-45-114 (2) and  
6 37-45-136(3.5), C.R.S., (“Petition”), ~~shall~~ MUST conform with ~~the requirements~~  
7 ~~of sections 1-40-113 and 1-40-116, C.R.S., and the sections cited therein,~~ and  
8 Rule ~~17~~ 15 ~~of these rules;~~ except that PETITIONERS NEED NOT SEEK PETITION  
9 FORMAT APPROVAL FROM ~~no prior approval of the form of such election petition~~  
10 ~~needs to be provided by the Secretary of State. the petition shall be filed with~~  
11 ~~the Court and the verification process shall be directed by the water~~  
12 ~~conservancy district named in the petition rather than the Secretary of State, and~~  
13 ~~the “warning” language appearing on the petition shall be applicable to the~~  
14 ~~election requested to be conducted.~~ PETITIONERS MUST FILE THE PETITION WITH  
15 THE ~~COURT~~ COURT AND ~~THE~~ WATER CONSERVANCY DISTRICT MUST VERIFY THE  
16 SIGNATURES ON THE PETITION.

17 ~~5.4.2~~5.6.2 The procedures for issuing the statement of sufficiency or insufficiency of  
18 the petition ~~shall~~ MUST conform ~~to the requirements of~~ WITH section 1-40-117,  
19 C.R.S., and Rule ~~18~~ 15 ~~of these rules;~~ except that ~~such~~ THE statement ~~shall~~ MUST  
20 be issued by the water conservancy district named in the petition, unless  
21 otherwise ordered by the ~~Court~~ COURT.

22 ~~5.4.3~~5.6.3 The procedures for cure of a petition deemed insufficient ~~shall~~ MUST  
23 conform ~~to the requirements of~~ WITH section 1-40-117, C.R.S., and Rule ~~19~~ 15  
24 ~~of these rules;~~ except any addendum to the petition ~~shall~~ MUST be filed with  
25 both the ~~Court~~ COURT and the water conservancy district named in the petition,  
26 unless otherwise ordered by the ~~Court~~ COURT.

27 ~~5.4.4~~5.6.4 The procedures for protesting the determination that a petition is  
28 insufficient ~~shall~~ MUST conform ~~to the requirements of~~ WITH section 1-40-118,  
29 C.R.S., and Rule ~~20~~ 15 ~~hereof,~~ unless otherwise ordered by the ~~Court~~ COURT.

30 ~~5.4.5~~5.6.5 THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT any election ~~pursuant~~  
31 ~~to~~ UNDER section 37-45-114(2), C.R.S., ~~shall be conducted no more than one~~  
32 ~~hundred (100) days nor less than sixty (60) AFTER THE SIXTIETH BUT BEFORE THE~~  
33 ~~ONE HUNDRETH DAY AFTER~~ ~~days from~~ the date of the ~~Court~~ COURT order,  
34 regardless of the actual expiration date of the term of the office, unless the Court  
35 order establishes an alternate date or the water conservancy district has notified  
36 the ~~Court~~ COURT that ~~such~~ THE election ~~is to be conducted as a coordinated~~  
37 ~~election pursuant to~~ MUST BE COORDINATED AND CONDUCTED IN ACCORDANCE  
38 WITH section 1-7-116, C.R.S.

39 ~~5.4.6~~5.6.6 The form and procedures for filing candidate nomination forms and call  
40 for CANDIDATE nominations ~~of persons desiring to be a candidate~~ for the office  
41 to be voted upon at the ~~Court~~ COURT-ordered election described in ~~THIS~~ Rule

1 ~~5.4.5~~, shall be in conformance with the form and procedures required for special  
2 districts MUST BE CONDUCTED under Article 1, Title 32, C.R.S., unless otherwise  
3 ordered by the ~~Court~~ COURT.

4 ~~5.5.5.7~~ Non-Partisan Elections: Polling ~~Place~~ LOCATION Procedures.

5 ~~5.5.1~~ 5.7.1 For polling place elections being conducted in accordance with Article 1,  
6 Title 32, C.R.S., upon execution of the self-affirming oath or affirmation  
7 pursuant to UNDER section 32-1-806(2), C.R.S., the ~~A AN~~ eligible elector  
8 desiring to vote shall MUST show his or her identification as defined in section  
9 1-1-104(19.5), C.R.S., to one of the election judges. See section 1-7-110(1),  
10 C.R.S.

11 ~~5.5.2~~ If the eligible elector has executed the self affirming oath or affirmation and  
12 provided his or her identification, such eligible elector may be allowed to vote,  
13 if such vote is not challenged. See sections 1-7-110(2) and 32-1-806(4), C.R.S.

14 ~~5.5.3~~ 5.7.2 The election supplies provided to the supply judge of each polling place  
15 shall include an adequate number of provisional ballot envelopes that include  
16 the affidavit set forth in Rule 26.8. THE DESIGNATED ELECTION OFFICIAL MUST  
17 ENSURE THAT EACH POLLING PLACE LOCATION HAS AN ADEQUATE NUMBER OF  
18 PROVISIONAL BALLOT ENVELOPES.

19 ~~5.5.4~~ The signature and date on the provisional ballot affidavit envelope shall remain  
20 on the outside of the envelope.

21 ~~5.5.6~~ The provisional ballot affidavit envelope shall be numbered to correspond to the  
22 number of the provisional elector's name in the poll book, and the word  
23 "provisional" shall be marked on the ballot.

24 ~~5.5.7~~ 5.7.3 Verification of Information in Provisional Ballot Affidavit. The designated  
25 election official shall verify the information contained in the provisional ballot  
26 affidavit pursuant to Rule 26. If the information contained in the affidavit  
27 provides adequate criteria such that the designated election official, using the  
28 Rule 26 search, can ascertain the registration of the elector, the provisional  
29 ballot shall count. If the information cannot be verified, the ballot shall be  
30 rejected. See MUST FOLLOW THE PROVISIONAL BALLOT PROCEDURES CONTAINED  
31 IN ARTICLES 1 THROUGH 13 OF TITLE 1 sections 1-8.5-105 and 1-8.5-106, C.R.S.,  
32 and Rule 2617.

33 ~~5.5.8~~ The verification and counting of all provisional ballots shall be completed prior  
34 to the certification of the official abstract of votes cast in the election by the  
35 canvass board, pursuant to Section 1-10-203(1), C.R.S.

36 ~~5.5.9~~ Canvassing Board's Count of Provisional Ballots. If, after the expiration of  
37 twelve days following an election, the election judges cannot complete the  
38 count of the provisional ballots cast, the canvassing board appointed pursuant to  
39 Section 1-10-201(1.5), C.R.S., shall complete the count of such provisional

**Comment [S31]:** There is no reason for the provisional ballot to be specially printed. It is the envelope that must be specially marked by the provisional voter and an adequate supply provided.

1 ballots.

2 5.5.10 ~~If 25 or more provisional ballots have been cast and counted, the results shall be~~  
3 ~~reported as one total. If less than 25 provisional ballots have been cast and~~  
4 ~~counted, the results shall be included in the results of the mail-in ballots counted~~  
5 ~~in the election.~~

6 5.5.11 ~~The provisional ballot shall not be counted if the elector failed to complete the~~  
7 ~~affidavit on the envelope or the elector was not registered by the deadline in the~~  
8 ~~State of Colorado.~~

9 5.5.12 ~~A copy of the provisional ballot affidavit shall be provided to the county clerk~~  
10 ~~and recorder of the county of the elector's residence, and shall constitute a voter~~  
11 ~~registration for future elections. See section 1-8.5-108, C.R.S.~~

12 5.8 THE COUNTY CLERK ~~AND RECORDER~~ FOR A COUNTY THAT CONTAINS ANY PORTION OF A  
13 POLITICAL SUBDIVISION WITHIN ITS BORDERS MUST PROVIDE ELECTION ~~DAY~~ REGISTRATION  
14 FOR THE POLITICAL SUBDIVISION.

**Comment [S32]:** Not only election day, but every day prior to election day (starting when?)

15 5.8.1 THE COUNTY CLERK ~~AND RECORDER~~ MUST PROVIDE VOTER REGISTRATION  
16 THROUGH THE 22-DAY ~~ELECTION PERIOD BEFORE THE ELECTION~~ DURING NORMAL  
17 BUSINESS HOURS, MONDAY THROUGH FRIDAY, AND 7:00 AM TO 7:00 PM ON  
18 ELECTION DAY.

19 5.8.2 THE COUNTY CLERK ~~AND RECORDER~~ MUST PROVIDE DAILY REGISTRATION UPDATES  
20 ~~22 DAYS PRIOR AND THROUGH THE DAY BEFORE~~ ELECTION DAY, TO THE DESIGNATED ELECTION  
21 OFFICIAL BY SECURE TRANSMISSION AS OUTLINED IN RULE ~~43-20~~ ~~AND PROVIDE A~~  
22 ~~CERTIFICATE OF REGISTRATION TO THE APPLICANT ON ELECTION DAY~~

**Comment [S33]:** The deleted phrase duplicates the following paragraph.

23 5.8.3 ~~ON ELECTION DAY,~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST PROVIDE A  
24 ~~SAME DAY~~ CERTIFICATE OF REGISTRATION TO ANY ELECTOR WHO REGISTERS TO VOTE OR  
25 UPDATES HIS OR HER REGISTRATION ~~UP TO AND INCLUDING ELECTION DAY~~.

**Comment [S34]:** Not just election day.

26 **Rule 6. Rules Concerning Election Judges**

27 ~~28.1~~-6.1 For purposes of training election judges, an “election cycle” ~~shall mean~~ MEANS all  
28 elections held during a calendar year beginning ~~with~~ January 1 and ending December 31.

29 ~~28.2~~-6.2 In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S.,  
30 each person appointed to serve as a student election judge ~~shall~~ MUST take a self-  
31 affirming oath or affirmation before ~~beginning their duties~~ SERVING as a student election  
32 judge, in substantially the following form:

33 “I, \_\_\_\_\_ do solemnly swear (or affirm) that I am a citizen of the United  
34 States and state of Colorado; that I am at least 16 years of age and a High School Junior  
35 or Senior; that I will perform the duties of an election judge according to law and to the  
36 best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in  
37 conducting the same; that I will not try to determine how any elector voted, nor will I

1 disclose how any elector voted if in the discharge of my duties as a student election judge  
2 such knowledge shall come to me, unless called upon to disclose the same before some  
3 court of justice; that I have never been convicted of election fraud, any other election  
4 offense, or fraud and that, if any ballots are counted before the polls close on the date of  
5 the election, I will not disclose the result of the votes until after the polls have closed and  
6 the results are formally announced by the designated election official.”

7 6.3 A SUPERVISOR JUDGE IN A VOTER SERVICE AND POLLING CENTER MUST:

8 ~~a-~~ 6.3.1 SUCCESSFULLY PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN  
9 RULE ~~28.56.4~~. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION OFFENSE  
10 OR FRAUD IS PROHIBITED FROM ~~HANDLE~~—HANDLING VOTER REGISTRATION  
11 APPLICATIONS OR ~~CONDUCT~~—CONDUCTING VOTER REGISTRATION AND LIST  
12 MAINTENANCE ACTIVITIES.

13 ~~b-~~ 6.3.2 SUCCESSFULLY COMPLETE A TRAINING COURSE PROVIDED BY THE  
14 SECRETARY OF STATE.

15 6.4 THE COUNTY CLERK ~~AND RECORDER~~ MUST ARRANGE FOR A CRIMINAL BACKGROUND CHECK  
16 ON A SUPERVISOR JUDGE AND ANY A PERSON REGISTERING VOTERS IN A VOTER SERVICE  
17 AND POLLING CENTER. THE CRIMINAL BACKGROUND CHECK MUST BE CONDUCTED BY OR  
18 THROUGH THE COLORADO BUREAU OF INVESTIGATION IN THE DEPARTMENT OF PUBLIC  
19 SAFETY OR BY THE COUNTY SHERIFF’S DEPARTMENT FOR THE COUNTY IN WHICH THE  
20 COUNTY CLERKS ~~AND RECORDER’S~~ OFFICE IS LOCATED.

21 *[Current Rule 28 is amended and moved to new Rule 6. Amendments are shown above.]*

22 **RULE 7. ELECTIONS CONDUCTED BY THE COUNTY CLERK AND RECORDER**

23 7.1 MAIL BALLOT PLANS

24 ~~(a)-7.1.1~~ ~~Written plan. The~~ FOR EVERY ELECTION CONDUCTED BY THE county clerk ~~and~~  
25 ~~recorder~~, THE CLERK must submit a mail ballot plan to the Secretary of State BY  
26 EMAIL no later than 90 days before the election. ~~The county clerk must use the~~  
27 ~~approved mail ballot plan template, that includes the following:~~

28 (A) FOR RECALL ELECTIONS, THE COUNTY CLERK MUST SUBMIT A MAIL BALLOT  
29 PLAN TO THE SECRETARY OF STATE BY EMAIL WITHIN FIVE DAYS AFTER THE  
30 APPROPRIATE OFFICIAL SETS THE ELECTION. WITHIN FIVE DAYS AFTER  
31 RECEIVING THE RECALL ELECTION PLAN, THE SECRETARY OF STATE WILL  
32 APPROVE OR DISAPPROVE.

33 (B) THE COUNTY CLERK MUST SUBMIT WITH THE MAIL BALLOT PLAN THE  
34 SECRECY SLEEVE OR ENVELOPE THAT THE CLERK INTENDS TO USE IN THE  
35 ELECTION.

36 *[Current Rule 12.4.2(a) is amended and moved to new Rule 7.1. Amendments are shown*  
37 *above.]*

1 ~~12.4.3~~ 7.1.2 Approval of mail ballot plans and submission of amendments

2 (a) If the Secretary of State requests modifications to a plan prior to approval,  
3 the ~~designated election official shall~~ COUNTY CLERK ~~AND RECORDER~~ MUST  
4 submit the modified plan within ten days from the request. The ~~secretary~~  
5 ~~SECRETARY~~ of ~~state~~ STATE will approve or disapprove the modified plan  
6 within 15 days from the date it is received.

7 (b) A ~~designated election official shall~~ COUNTY CLERK ~~AND RECORDER~~ may  
8 amend a timely submitted mail ballot plan by submitting a written statement  
9 outlining the ~~amendment(s) to the plan~~ AMENDMENT. The amendment must  
10 state the specific section of the plan amended and the ~~reason(s)~~ REASON for  
11 the amendment. The ~~secretary~~ SECRETARY of ~~state~~ STATE will approve or  
12 disapprove the amendment within 15 days from the date it is received. If the  
13 amendment is received within 30 days before the election, the Secretary of  
14 State will approve or disapprove the amendment within two business days.

15 *[Current Rule 12.4.3 is amended and moved to new Rule 7.1.2. Amendments are shown*  
16 *above.]*

17 ~~12.3.3~~ 7.1.3 For elections coordinated by the ~~THE~~ county clerk ~~and recorder~~, MUST  
18 SUBMIT a security plan ~~shall be submitted in accordance with~~ UNDER Rule ~~43-20~~  
19 in addition to the mail ballot plan submitted in accordance with this Rule.

20 *[Current Rule 12.3.3 is amended and moved to new Rule 7.1.3. Amendments are shown*  
21 *above.]*

22 ~~12.5~~ 7.2 ~~Ballots~~ BALLOTS AND BALLOT PACKETS

23 ~~12.5.1~~ 7.2.1 In any election where a multiple page printed ballot is used, a voter must  
24 ~~vote and return~~ all pages of the ballot at the same time. Any voter who has  
25 returned at least one page of a multiple page printed ballot will be considered to  
26 have voted.

27 *[Current Rule 12.5.1 is amended and moved to new Rule 7.2.1]*

28 ~~12.5.5~~ 7.2.2 In accordance with section 1-7-116(1), C.R.S., for all ~~Coordinated~~  
29 ~~COORDINATED~~ elections, the outgoing envelope as well as the instructions or  
30 other notice ~~shall~~ MUST include a notice advising electors that they may receive  
31 a ballot from another political subdivision conducting a mail ballot election.

32 ~~12.5.6~~ 7.2.3 If the ballot is returned to the election official as undeliverable, the ~~official~~  
33 ~~shall not be~~ COUNTY CLERK ~~AND RECORDER~~ IS NOT required to re-mail the ballot  
34 packet.

35 *[Current Rules 12.5.5 and 12.5.6 are amended and moved to new Rules 7.2.2 and 7.2.3]*

36 7.2.4 IN ACCORDANCE WITH SECTION 1-7.5-107(3), C.R.S., THE COUNTY CLERK ~~\_\_\_\_\_~~

Comment [S35]: No requirement to vote.

1 ~~RECORDER~~ MUST MAIL BALLOTS NO LATER THAN 18 DAYS BEFORE ~~THE~~ ELECTION  
2 DAY.

3 (A) THE COUNTY CLERK MUST PROCESS ALL NEW REGISTRATION APPLICATIONS  
4 AND UPDATES RECEIVED BY THE 22-DAY DEADLINE TO MAIL APPLICANTS A  
5 BALLOT ~~PACKET~~ IN ACCORDANCE WITH SECTION 1-7.5-107(3), C.R.S.

6 (B) THE COUNTY CLERK MUST PROCESS NEW ONLINE AND IN-PERSON  
7 REGISTRATION APPLICATIONS AND MAIL REGISTRATION UPDATES RECEIVED  
8 BY THE EIGHTH DAY BEFORE ~~THE~~ ELECTION DAY AND MAIL A BALLOT ~~PACKET~~ WITHIN ONE  
9 BUSINESS DAY AFTER RECEIPT 24 HOURS AFTER THE APPLICATION IS  
10 SUBMITTED.

11 (C) IN COORDINATED ELECTIONS, THE COUNTY CLERK MUST MAIL BALLOTS TO  
12 ALL ACTIVE ELIGIBLE ELECTORS OF EACH POLITICAL SUBDIVISION. FOR  
13 SPECIAL DISTRICT ELECTIONS, THE DESIGNATED ELECTION OFFICIAL OF EACH  
14 DISTRICT MUST CERTIFY TO THE COUNTY CLERK THE LIST OF ELECTORS  
15 ELIGIBLE TO VOTE UNDER SECTION 32-1-806, C.R.S.

16 10.7.7.2.5 Voiding ballots due to timely changes in address or affiliation.

17 ~~10.7.1~~(A) If an elector ~~submits a~~ timely CHANGES HIS OR HER address or  
18 affiliation ~~change~~ after the county mails ballots or sends the voter file to the  
19 vendor, the county must void the first ballot and generate a second ballot.

20 ~~(a)~~(1) If the county processes the change to the elector's record after it  
21 sends the voter file to the vendor but before the vendor prints ballots,  
22 the county must provide the vendor a voided ballot file to prevent the  
23 vendor from printing and preparing voided ballots for mailing.

24 ~~(b)~~(2) If the county processes the change to the elector's record after the  
25 vendor has printed ballots but before the vendor mails ballots, the  
26 county must work with the vendor to make every reasonable effort to  
27 remove voided ballots before they enter the mail stream.

28 ~~10.7.3~~(B) If the county mails its own ballots, the county clerk must remove  
29 all voided ballots before mailing.

30 ~~10.7.4~~(C) If the county processes the change to the elector's record after it  
31 mails ballots, the county must count the first ballot returned by the elector IN  
32 ACCORDANCE WITH SECTION 1-7.5-107(6), C.R.S., except as follows:

33 ~~(a)~~(1) ~~In the case of an affiliation change~~ If THE ELECTOR CHANGED HIS OR  
34 HER AFFILIATION, the county must count the ballot issued for the  
35 ELECTOR'S new party affiliation.

36 ~~(b)~~ ~~In the case of an address change that results in a change of precinct,~~  
37 ~~the county must count the ballot issued for the elector's new address.~~

**Comment [S36]:** Ballot packet is the more correct description.

**Comment [S37R36]:**

**Comment [S38]:** Election day instead of "the election"

**Comment [S39]:** Ballot packet is the more correct description.

**Comment [S40]:** Because of non synchronized registration requirements, this will be difficult and the timing of this certification problematic (and the timing remains unspecified).

1 *[Current Rule 10.7 is amended and moved to new Rule 7.2.5. Amendments are shown*  
2 *above.]*

3 7.3 ABSENTEE VOTING

**Comment [S41]:** Its still here? Or is everyone who uses a PO box for all USPS actually using this provision?

4 7.3.1 AN ELECTOR MAY REQUEST THAT THE COUNTY CLERK MAIL HIS OR HER BALLOT  
5 TO AN ADDRESS OTHER THAN THE ELECTOR'S ADDRESS OF RECORD OR MAILING ADDRESS BY  
6 SUBMITTING AN APPLICATION IN ACCORDANCE WITH SECTION 1-7.5-116, C.R.S.

**Comment [S42]:** Best to check if "address of record" is meaningful. According to CRS 1-2-204, address of record is different from the mailing address, and hence is probably the permanent residence. So I included mailing address as an alternate to the absentee voting address.

7 7.3.2 THE COUNTY CLERK MUST MAIL THE BALLOT TO THE ADDRESS PROVIDED UNTIL  
8 THE ELECTOR INDICATES OTHERWISE. ELECTOR INDICATES OTHERWISE.

**Comment [S43]:** Does this require a submission of a form to end the use of a temporary absentee address?

9 7.4 EMERGENCY BALLOT TRANSMISSION

10 ~~42.1~~ 7.4.1 The county clerk ~~and recorder~~ may deliver a REPLACEMENT ballot ON  
11 ELECTION DAY to an elector's authorized representative or to the elector by  
12 electronic transmission IN THE CASE OF ~~an administrative or~~ medical emergency  
13 UNDER SECTION 1-7.5-115, C.R.S.

14 (A) THE APPLICANT MUST SUBMIT AN APPLICATION FOR EMERGENCY BALLOT  
15 BEFORE THE COUNTY CLERK MAY SEND THE BALLOT.

16 (B) If THE COUNTY CLERK DELIVERS a ~~mail-in~~ ballot ~~is delivered~~ to an elector  
17 by ~~facsimile~~ ELECTRONIC transmission, the elector may return the ballot  
18 by ~~facsimile~~ ELECTRONIC transmission.

19 *[Portions of current Rules 42.1 and 42.3 are included in new Rule 7.4.2.]*

20 ~~42.4~~ 7.4.2 ~~Mail-in ballots~~ BALLOTS sent by ~~facsimile~~ ELECTRONIC transmission shall  
21 MUST include all races, ballot issues, and questions ~~on~~ FOR which the elector  
22 may IS ELIGIBLE TO vote. ~~Counties are encouraged to work with their vendors to~~  
23 ~~develop a~~ THE ballot that is clearly MUST BE legible to the elector to increase the  
24 readability of the ballot and to avoid possible misinterpretations of the elector's  
25 intended choice because of poor transmission of the document.

26 *[Current Rule 42.4 is amended and moved to new Rule 7.4.3. Amendments are shown*  
27 *above.]*

28 7.4.3 THE ELECTRONIC TRANSMISSION MUST INCLUDE:

29 (A) THE COUNTY CLERK'S CONTACT INFORMATION INCLUDING MAILING  
30 ADDRESS, EMAIL ADDRESS, PHONE, AND FAX NUMBER;

31 (B) A NOTICE THAT THE BALLOT MAY NOT BE DUPLICATED FOR ANY OTHER  
32 ELECTOR;

33 (C) INSTRUCTIONS FOR COMPLETING AND RETURNING THE BALLOT;

1 (D) A NOTICE REGARDING THE BALLOT RETURN DEADLINE;

2 (E) INFORMATION REGARDING HOW THE ELECTOR MAY VERIFY THAT HIS OR  
3 HER BALLOT HAS BEEN RECEIVED BY THE COUNTY CLERK; AND

4 (F) ANY OTHER INFORMATION DEEMED NECESSARY BY THE SECRETARY OF  
5 STATE OR THE COUNTY CLERK.

6 7.4.3(G) THE BALLOT PACKET, WHICH SENT BY ELECTRONIC TRANSMISSION  
7 MUST BE IN TEXT FORMAT ON 8 1/2" X 11" WHITE PAPER AND MUST INCLUDE:

8 (A-1) AN ELECTRONIC TRANSMISSION COVERSHEET TO PROTECT VOTER  
9 PRIVACY;

10 (B-2) THE BLANK BALLOT;

11 (C-3) THE ELECTRONIC TRANSMISSION BALLOT INSTRUCTIONS; AND

12 (D-4) THE SELF-AFFIRMATION REQUIRED BY SECTION 1-7.5-107(3)(B.5),  
13 C.R.S.

14 ~~7.4.4 THE ELECTRONIC TRANSMISSION MUST INCLUDE:~~

15 (A) ~~THE COUNTY CLERK AND RECORDER'S CONTACT INFORMATION INCLUDING~~  
16 ~~MAILING ADDRESS, EMAIL ADDRESS, PHONE, AND FAX NUMBER;~~

17 (B) ~~A NOTICE THAT THE BALLOT MAY NOT BE DUPLICATED FOR ANY OTHER~~  
18 ~~ELECTOR;~~

19 (C) ~~INSTRUCTIONS FOR COMPLETING AND RETURNING THE BALLOT;~~

20 (D) ~~A NOTICE REGARDING THE BALLOT RETURN DEADLINE;~~

21 (E) ~~INFORMATION REGARDING HOW THE ELECTOR MAY VERIFY THAT HIS OR~~  
22 ~~HER BALLOT HAS BEEN RECEIVED BY THE COUNTY CLERK AND RECORDER;~~  
23 ~~AND~~

24 (F) ~~ANY OTHER INFORMATION DEEMED NECESSARY BY THE SECRETARY OF~~  
25 ~~STATE OR THE COUNTY CLERK AND RECORDER.~~

26 ~~7.4.5-7.4.4~~ ANY BALLOT TRANSMITTED TO AN ELECTOR BY ELECTRONIC TRANSMISSION  
27 MUST CONTAIN A UNIQUE IDENTIFICATION NUMBER FOR TRACKING AND AUDITING  
28 PURPOSES.

29 ~~7.4.6-7.4.5~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST MAINTAIN A LOG OF EACH  
30 BALLOT SENT BY ELECTRONIC TRANSMISSION. THE COUNTY CLERK MUST RETAIN  
31 THE LOG AS PART OF THE OFFICIAL ELECTION RECORD ALONG WITH ANY OTHER  
32 ELECTRONIC TRANSMISSION RECORDS. THE LOG MUST INCLUDE:

- 1 (A) THE NAME OF THE VOTER;
- 2 (B) THE FAX NUMBER OR EMAIL ADDRESS TO WHICH THE BALLOT WAS
- 3 TRANSMITTED (AS APPLICABLE);
- 4 (C) THE UNIQUE IDENTIFICATION NUMBER OF THE BALLOT;
- 5 (D) THE DATE THE BALLOT PACKET WAS TRANSMITTED; AND
- 6 (E) THE INITIALS OF THE EMPLOYEE TRANSMITTING THE BALLOT.

7 *[Portions of current Rule 42.7.2 are included in new Rule 7.4.5.]*

8 ~~42.8 7.4.7.4.6~~ The designated election official shall fax the blank ballot with the  
 9 instructions to the fax number provided by the elector. If THE COUNTY CLERK  
 10 TRANSMITS A BALLOT PACKET TO AN ELECTOR BY FAX AND the transmission is  
 11 unsuccessful, the designated election official shall COUNTY CLERK MUST attempt  
 12 to fax THE BALLOT at least two more times and make reasonable effort, if possible,  
 13 to ensure the transmission was successful.

14 *[Current Rule 42.8 is amended and moved to new Rule 7.4.6. Amendments are shown*  
 15 *above.]*

16 ~~42.9 7.4.8 7.4.7~~ Upon receipt of the ballot, THE COUNTY CLERK MUST VERIFY THE  
 17 SIGNATURE ON THE AFFIDAVIT UNDER RULE ~~7.6 7.7~~ when the information from the  
 18 signed AFTER the affidavit has been verified, a bipartisan team of RESOLUTION BOARD judges  
 shall MUST duplicate the ballot. Duplicating judges shall MUST not reveal VOTER INTENT CONTAINED  
 ON THE how the elector has cast his or her ballot.

**Comment [S44]:** See rules for resolution/duplication e.g. 18.3.2. The process of duplication requires the resolution function as well, therefore the resolution board.

21 *[Current Rule 42.8 is amended and moved to new Rule 7.4.9. Amendments are shown*  
 22 *above.]*

23 7.5 RECEIPT AND PROCESSING OF BALLOTS

24 ~~12.10.4 7.5.1~~ Monitoring drop-off locations. All drop-off locations must be monitored by  
 25 an election judge ELECTION OFFICIAL or video security surveillance recording  
 26 system, as defined in Rule 20.

- 27 (a) Freestanding drop-off locations must be monitored at all times.
- 28 (b) If the drop-off location utilizes a drop-slot into a building, the ballots must
- 29 be collected in a locked container, and both the drop-slot and container
- 30 must be monitored at all times.

31 *[Current Rule 12.10.4 is amended and moved to new Rule 7.5.1. Amendments are shown*  
 32 *above.]*

33 ~~42.7.2 7.5.2~~ Each day when ENVELOPES ballots come in, a judge shall MUST count the  
 ballots ENVELOPES, batch

**Comment [S45]:** Envelopes come in, not ballots

1 them and record the number of **ENVELOPES** ballots received.

**Comment [S46]:** Envelopes not ballots.

2 ~~12.7.3-7.5.3~~ The ballots shall be date stamped when received. AN ELECTION JUDGE  
3 OFFICIAL MUST DATE-STAMP AND RECEIVE THE **BALLOTS** RETURNED BALLOT  
4 ENVELOPES INTO ~~THE STATEWIDE VOTER REGISTRATION SYSTEM SCORE~~  
5 IMMEDIATELY UPON RECEIPT. If any ballot is received after the time set for ~~the~~  
6 ~~closing-BALLOT RETURN~~ of the ~~VOTING METHOD~~-elections, the **ballot ENVELOPE** shall ~~MUST~~ be  
7 date-stamped but ~~the ballot~~  
~~shall~~ **THE BALLOT MUST** not **BE** be counted.

**Comment [S47]:** UOCAVA originated ballots have a different deadline.

8 ~~(A)-7.5.4~~ THE COUNTY CLERK MUST **USE BIPARTISAN TEAMS TO** COLLECT BALLOTS FROM  
9 ALL DROP-OFF LOCATIONS  
10 AND RECEIVE THEM INTO **SCORE**; ~~INCLUDING FREE STANDING BALLOT BOXES;~~  
~~HOURLY DURING REGULAR BUSINESS HOURS (INCLUDE OR MORE AS NEEDED?).~~

**Comment [S48]:** Bipartisan teams are a security requirement to maintain chain of custody.

11 ~~(1-A)~~ AT LEAST ONCE EVERY 72 HOURS AFTER BALLOTS ARE MAILED UNTIL THE  
12 DATE THAT VOTER SERVICE AND POLLING CENTERS MUST OPEN;

13 ~~(2-B)~~ AT LEAST ONCE EVERY 24 HOURS DURING THE DAYS THAT VOTER SERVICE  
14 AND POLLING CENTERS MUST BE OPEN; AND

15 ~~(3-C)~~ AT LEAST TWICE ON ELECTION DAY, AT APPROXIMATELY 1PM AND 7PM.

16 ~~(B-D)~~ THE COUNTY CLERK MAY MEET THE REQUIREMENTS OF THIS RULE BY:

17 (1) COLLECTING AND TRANSPORTING THE BALLOTS TO THE CENTRAL  
18 COUNTING LOCATION FOR RECEIPT INTO **SCORE**;

19 (2) COLLECTING AND TRANSPORTING THE BALLOTS TO THE NEAREST  
20 VOTER SERVICE AND POLLING CENTER FOR RECEIPT INTO  
21 **SCORE**; OR

22 (3) RECEIVING THE BALLOTS INTO **SCORE** AT THE BALLOT DROP-OFF  
23 LOCATION.

24 ~~12.7.4-7.5.4-7.5.5~~ ~~Records shall also be kept of~~ ELECTION ~~JUDGES~~ OFFICIALS MUST  
25 RECORD the number of ballot packets returned as undeliverable ~~UPON RECEIPT~~.

26 ~~12.7.5-7.5.5-7.5.6~~ ~~Ballot packets shall then be placed~~ THE DESIGNATED ELECTION  
27 OFFICIAL MUST SEAL AND STORE BALLOTS AND RETURN ENVELOPES in a safe,  
28 secure place until the counting of the ballots.

29 *[Current Rule 12.7 is amended and moved to new Rule 7.5.2 through 7.5.6. Amendments*  
30 *are shown above.]*

31 ~~13.2-7.5.6-7.5.7~~ The county clerk ~~and recorder shall~~ MUST keep a list, to the extent  
32 possible, of the names and mailing addresses of all individuals who deliver  
33 more than ~~ten (10)-10~~ voted ~~mail-in~~ ballots to the ~~designated or coordinated~~  
34 ~~election official's~~ COUNTY CLERK'S OFFICE, DROP-OFF LOCATION, OR VOTER  
35 SERVICE AND POLLING CENTER ~~or the designated drop site for mail-in ballots.~~

1 13.3 ~~7.5.7-7.5.8~~ The county clerk ~~and recorder~~ shall MUST notify each individual on  
2 the list required by ~~13.2 7.5.6-7.5.7~~ by letter that they have violated section ~~1-8-~~  
3 ~~113-1-7.5-107(4)(B)~~, C.R.S., by delivering more than ten ~~(10) mail-in~~ ballots to  
4 the ~~designated election official~~ COUNTY CLERK.

5 *[Current Rules 13.2 and 13.3 are amended and moved to new Rules 7.5.7 and 7.5.8.*  
6 *Amendments are shown above.]*

7 ~~10.9 7.5.8-7.5.9~~ **Tracking PROVIDING FOR PRIVACY WITHIN** ballot batches. ~~The~~  
~~county clerk must dissociate any batch number that could trace a ballot back to the specific voter~~  
~~who cast it from the counted ballots no later than the final certification of the abstract of votes cast.~~  
NO BATCH OF BALLOTS COLLECTED IN PREPARATION FOR COUNTING AFTER SEPARATION OF VOTER IDENTITY MAY MATCH  
THE SELECTION OF ANY BATCH OF RECEIVED ENVELOPES OR REMOVED STUBS OR RECORDED LIST OF VOTERS, NOR CONTAIN  
BALLOTS OF UNIQUE BALLOT STYLE.

11 *[Current Rule 10.9 is amended and moved to new Rule 7.5.9. Amendments are shown*  
12 *above.]*

13 7.6 MISSING SIGNATURE

14 ~~29.1~~ ~~Missing Signature on Mail Ballot, Provisional Ballot or Mail-in Ballot Envelope~~

15 ~~29.1.1~~ 7.6.1 If a mail, ~~mail-in~~, or provisional ballot return envelope lacks a signature,  
16 the election ~~judge~~ OFFICIAL must contact the elector in writing no later than two  
17 calendar days after election day. The designated election official must use the  
18 letter and form prescribed by the Secretary of State and keep a copy as part of the  
19 official election record. Nothing in this rule prohibits the designated election  
20 official from calling the elector. But a phone call may not substitute for written  
21 contact. If the designated election official calls any elector he or she must call all  
22 electors whose affidavits are unsigned.

23 [Sections 1-7.5-107.3, 1-8-114.5, and 1-8.5-105(3)(a), C.R.S.]

24 ~~29.1.2~~ 7.6.2 The letter shall MUST inform the eligible elector that ~~he/she~~ THE ELECTOR  
25 must come to the office of the ~~county clerk and recorder~~ DESIGNATED ELECTION  
26 OFFICIAL to sign the mail ~~ballot, OR~~ provisional ballot, ~~or mail-in ballot~~ envelope  
27 no later than eight calendar days after election day. The letter shall MUST inform  
28 military, overseas, and other electors who are absent from the state that they may  
29 sign the affidavit and return the form by mail, fax, or email, and that the county  
30 must receive the form no later than eight calendar days after the election.

31 ~~29.1.3~~ 7.6.3 The letter and missing signature affidavit form does not violate section 1-  
32 13-801, C.R.S.

33 ~~29.1.4~~ 7.6.4 The letter or missing signature affidavit form must include the following  
34 language:

35 “Any person who knowingly violates any of the provisions of the election code  
36 relative to the casting of ballots or who aids or abets fraud in connection with any  
37 vote cast, or to be cast, or attempted to be cast ~~\_\_\_\_\_~~ be punished by a fine of

**Comment [S49]:** The original proposal is the wrong way to solve the problem- leaving the ballots in identifiable batches but attempting to conceal the batch identity before it becomes publicly accessible. The correct way is to render ballots anonymous to everyone including officials by following the above proposed rule.

1 not more than five thousand dollars or by imprisonment in the county jail for not  
2 more than eighteen months, or by both such fine and imprisonment. Section 1-13-  
3 803, C.R.S.”

4 7.7 SIGNATURE VERIFICATION PROCEDURES

5 ~~29.2-7.7.1 In accordance with section 1-8-114.5, C.R.S., for mail in ballots and section~~  
6 ~~7.5-107.3, C.R.S., for mail ballots, the election judges shall~~ **BIPARTISAN** ~~AN THE~~ ELECTION  
7 **JUDGES** ~~JUDGE OFFICIALS~~ **MUST** compare the signature on the self-affirmation on each  
8 respective return envelope with the signature stored in the statewide voter  
9 registration system SCORE. ~~Signatures shall require further~~ THE ELECTION **JUDGE**  
10 **OFFICIALS** **MUST** research THE SIGNATURE FURTHER if ~~any of the following~~  
11 ~~discrepancies are discovered~~ THERE IS:

12 ~~Code 1—~~ (A) An obvious change in the slant of the signature.

13 ~~Code 2—~~ (B) A printed signature on one document and a cursive signature on the  
14 other document.

15 ~~Code 3—~~ (C) ~~Differences~~ A DIFFERENCE in the size or scale of the ~~signature~~  
16 SIGNATURES.

17 ~~Code 4—~~ (D) ~~Differences~~ A DIFFERENCE in the individual characteristics of the  
18 signatures, such as how the “t’s” are crossed, “i’s” are dotted, loops are made on  
19 “y’s” or “j’s”.

20 ~~Code 5—~~ (E) ~~Differences~~ A DIFFERENCE in the voter’s signature style, such as how  
21 the letters are connected at the top and bottom.

22 ~~Code 6—~~ (F) EVIDENCE THAT ballots or envelopes from the same household have  
23 been switched.

24 ~~Code 7—~~ (G) ~~‘Other,’~~ ANY OTHER NOTICEABLE DISCREPANCY ~~including~~ SUCH AS  
25 misspelled names. ~~& description of discrepancy~~

26 ~~29.3-7.7.2 If~~ IN CONDUCTING further research ~~is necessary,~~ the election **judge**  
27 **OFFICIALS** ~~shall~~ **MUST** check ~~the county clerk’s or election official’s file~~ SCORE  
28 for at least two additional documents signed by the voter, if available. THE **JUDGE**  
29 **OFFICIALS** MAY COMPARE additional information written by the voter on the return  
30 envelope, such as the voter’s address and date of signing. ~~may be compared for~~  
31 ~~similarities.~~ Any similarities noted when comparing ~~this~~ other information may  
32 be used as part of the signature verification decision process.

33 ~~29.3-1~~ (A) If it appears to the judges verifying the self-affirmation on the  
34 return envelopes that members of the same household ~~who have applied for~~  
35 ~~mail in ballots or have been sent mail ballots~~ have inadvertently switched  
36 envelopes or ballots, the ballot or ballots ~~shall~~ **MUST** be counted and no letter  
37 of advisement to the elector is necessary.

**Comment [S50]:** The replacement of “election judges with election officials is an extremely troubling change that ought to be loudly objected to including by the same election officials mentioned. Judges are named that for a reason. They are intended to represent a public interest that is separated from special official interests.

Here is the one of many places in the rules where the replacement really makes a difference. This should be “election judges of opposing parties”. The change to “officials” is another step in a slippery slope from a truly citizen run election to an election run by employees of the officials who derive their authority from the very election they have increasing control over. This is not wise and borders on the potentially corrupt.

**Comment [S51]:** Obviously my previous comments apply to many replacements of judges by officials- as well as the lack of specificity about balanced partisanship.

1       ~~29.4-7.7.3~~ Whenever IF THE ELECTION ~~JUDGE-OFFICIALS DISPUTE~~ ~~DISPUTES~~ THE a  
2 signature is disputed, the election judge shall ~~HE OR SHE-THEY~~ MUST document the  
3 discrepancy by completing AND THE RESEARCH STEPS TAKEN in a log. ~~The log~~  
4 ~~shall provide a record of the research steps taken to resolve the issue.~~ The ~~JUDGE~~  
5 ~~OFFICIALS~~ MUST IDENTIFY THE ELECTOR IN THE log ~~will identify the voter~~ using a  
6 unique tracking number. ~~This~~ THE tracking number shall MAY not contain the  
7 voter's ELECTOR'S social security number; Colorado issued driver's license  
8 number, or the identification number issued by the Department of Revenue. THE  
9 LOG MAY NOT CONTAIN THE ELECTOR'S SIGNATURE. THE ~~JUDGE-OFFICIALS~~ MUST  
10 NOTE THE FINAL RESOLUTION AND BALLOT DISPOSITION ON THE RESEARCH LOG.

11 ~~29.5~~ The log shall be approved by the Secretary of State pursuant to section 1-1-109, C.R.S.

12 ~~29.6~~ There shall be no document containing the voter's signature attached to the research log.

13 ~~29.7~~ If both sets of election judges agree that the signatures do not match, the county clerk and  
14 recorder shall within two days after the election, send a letter to the eligible elector at the  
15 address indicated in the registration records and the address where the mail in ballot or  
16 mail ballot was mailed explaining the discrepancy in signatures and a form for the  
17 eligible elector to confirm that the elector returned a ballot to the county clerk and  
18 recorder. (Sections 1-7.5-107.3(2)(a) and 1-8-114.5(2)(a), C.R.S.) ~~The voted ballot itself~~  
19 ~~should not under any circumstances be returned with this letter.~~

20 ~~29.8-7.7.4~~ The election official must use the letter and the signature verification form  
21 approved by the Secretary of State. (SECTIONS 1-7.5-107.3(2)(A) AND 1-8-  
22 114.5(2)(A), C.R.S.) THE LETTER AND SIGNATURE VERIFICATION FORM DOES NOT  
23 VIOLATE SECTION 1-13-801 C.R.S.

24 ~~29.9~~ The letter and signature verification form does not violate section 1-13-801 C.R.S.

25 ~~29.10~~ The final signature verification resolution and ballot disposition shall be noted on the  
26 research log.

27 ~~29.11-7.7.5~~ Any ALL uncounted ballot BALLOTS shall MUST remain sealed in the return  
28 envelope and ~~AFTER CERTIFICATION, RECOUNT OR INVESTIGATION,~~ stored under seal with all other  
29 uncounted ballots ~~as part of the~~ IN ACCORDANCE WITH section 1-7-802, C.R.S.,  
30 ~~election record pursuant to IN ACCORDANCE WITH section 1-7-802, C.R.S., and~~  
31 ~~may be removed only under the authority of a district attorney or by order of a~~  
~~court having jurisdiction.~~

32 7.7.6 USE OF BALLOT ENVELOPE SORTERS AND SIGNATURE CAPTURE DEVICES.

33 (A) IF THE COUNTY CLERK ~~AND RECORDER~~ USES A BALLOT SORTING AND  
34 SIGNATURE CAPTURE DEVICE, THE COUNTY MUST TEST THE DEVICE BEFORE  
35 USING IT IN AN ELECTION TO ENSURE THAT IT PROPERLY SORTS ENVELOPES,  
36 AND ACCURATELY AND CLEARLY CAPTURES THE SIGNATURE ON THE  
37 ENVELOPE FOR COMPARISON TO THE CORRECT VOTER RECORD.

**Comment [S52]:** I lost control of the format here and had to reproduce the original . the uncounted ballots should go to storage after the certification, any recount or investigation.

1 ~~29.12-7.7.7~~ Use of AUTOMATED Signature Verification Devices UNDER SECTION 1-7.5-  
2 107.3(5)(B), C.R.S.

3 (A) IF THE COUNTY CLERK ~~AND RECORDER~~ USES A SIGNATURE VERIFICATION  
4 DEVICE FOR AUTOMATED SIGNATURE VERIFICATION ON BALLOT ENVELOPES,  
5 THE COUNTY MUST TEST THE DEVICE BEFORE USING IT IN AN ELECTION.

6 (1) THE TESTING MUST VERIFY THE ACCURACY OF THE DEVICE AND ENSURE  
7 THAT THE DEVICE WILL NOT ACCEPT A SIGNATURE THAT A ~~REASONABLE~~  
8 ~~REASONABLY~~ TRAINED ELECTION ~~JUDGE OFFICIAL~~ WOULD REJECT.

9 (2) THE COUNTY MUST PULL AND TEST A MINIMUM OF 150 BALLOT  
10 ENVELOPES RECEIVED IN THE ELECTION AND CONDUCT AN AUDIT OF THE  
11 MACHINE-VERIFIED SIGNATURES.

12 (A) A TEAM OF BI-PARTISAN ELECTION ~~JUDGES OFFICIALS~~ MUST  
13 MANUALLY REVIEW THE SIGNATURES IDENTIFIED ON THE AUTOMATED  
14 SIGNATURE RECOGNITION REPORT FOLLOWING THE PROCEDURES IN  
15 SECTION 1-7.5-107.3, C.R.S., AND THIS RULE.

16 (B) THE ~~JUDGES~~ ELECTION OFFICIALS CONDUCTING THE AUDIT MUST SIGN  
17 AND DATE THE AUTOMATED SIGNATURE RECOGNITION REPORT AND  
18 THE REPORT MUST BE MAINTAINED WITH ALL OTHER ELECTION  
19 RECORDS UNDER SECTION 1-7-802, C.R.S.

20 (B) IN ADDITION TO THE INITIAL TEST, THE COUNTY MUST CONDUCT A REGULAR  
21 AUDIT OF THE DEVICE DURING ITS USE.

22 (1) THE COUNTY MUST PULL A RANDOM SAMPLING OF NO FEWER THAN ONE IN  
23 EVERY FIFTY MACHINE-VERIFIED SIGNATURES DAILY.

24 (2) A TEAM OF BI-PARTISAN ELECTION ~~JUDGES OFFICIALS~~ MUST MANUALLY  
25 REVIEW THE SIGNATURES IDENTIFIED ON THE AUTOMATED SIGNATURE  
26 RECOGNITION REPORT FOLLOWING THE PROCEDURES IN SECTION 1-7.5-  
27 107.3, C.R.S., AND THIS RULE.

28 (3) THE ~~JUDGES~~ ELECTION OFFICIALS CONDUCTING THE AUDIT MUST SIGN  
29 AND DATE THE AUTOMATED SIGNATURE RECOGNITION REPORT AND THE  
30 REPORT MUST BE MAINTAINED WITH ALL OTHER ELECTION RECORDS  
31 UNDER SECTION 1-7-802, C.R.S.

32 (4) IF THE DEVICE FAILS THE AUDIT, THE COUNTY MUST IMMEDIATELY CEASE  
33 USE OF AUTOMATED SIGNATURE VERIFICATION AND NOTIFY THE  
34 SECRETARY OF STATE. THE SECRETARY OF STATE AND THE COUNTY  
35 MUST WORK IN COORDINATION TO IDENTIFY THE ISSUE AND IMPLEMENT A  
36 SOLUTION.

37 (C) THE COUNTY MUST ENSURE THAT THE DEVICE IS OPERATED ON A DEDICATED

1 AND SECURE NETWORK.

2 (1) THE COUNTY MAY CONNECT THE DEVICE TO THE COUNTY NETWORK FOR  
3 MAINTENANCE AND SUPPORT EXCEPT DURING AN ELECTION.

4 (2) THE DEVICE MUST BE SECURED BY THE COUNTY FIREWALL.

5 (3) THE COUNTY MUST MAINTAIN A MAINTENANCE AND SUPPORT LOG THAT  
6 INCLUDES THE NAME OF THE PERSON PROVIDING MAINTENANCE OR  
7 SUPPORT, THE DATE AND TIME THE DEVICE WAS ACCESSED, THE SPECIFIC  
8 REASON FOR ACCESS.

9 *[Current Rule 29 is amended and moved to new Rules 7.6 and 7.7. Amendments*  
10 *are shown above.]*

11 **7.7.8** IF A COUNTY USES A SIGNATURE CAPTURE DEVICE TO COMPARE A BALLOT  
12 ENVELOPE SIGNATURE TO A SIGNATURE MAINTAINED IN SCORE, THE SYSTEM  
13 MAY DISPLAY ONLY ONE VOTER'S SIGNATURE AT A TIME.

**Comment [S53]:** Note this device may not be controlled by the security measures that apply to vote tabulation equipment- but it should be. No network access during an election.

14 **7.8** VOTER SERVICE AND POLLING CENTERS

15 **7.8.1** THE COUNTY CLERK ~~AND RECORDER~~ MUST DESIGNATE AND OPEN THE MINIMUM  
16 NUMBER OF VOTER SERVICE AND POLLING CENTERS AND THE LOCATIONS MUST BE  
17 OPEN DURING REASONABLE BUSINESS HOURS FOR THE MINIMUM NUMBER OF DAYS  
18 OUTLINED IN SECTION 1-5-102.9, C.R.S., FOR A GENERAL ELECTION AND 1-7.5-  
19 107(4.5), C.R.S., FOR ALL OTHER ELECTIONS.

20 (A) REASONABLE BUSINESS HOURS MEANS AT LEAST EIGHT HOURS PER DAY  
21 MONDAY THROUGH FRIDAY, AND AT LEAST FOUR HOURS ON SATURDAY.

22 (B) ALL VOTER SERVICE AND POLLING CENTERS MUST BE OPEN FROM 7:00AM  
23 THROUGH 7:00 PM ON ELECTION DAY.

24 (C) THE COUNTY CLERK MUST PROVIDE ALL SERVICES OUTLINED IN SECTION 1-2-  
25 509, C.R.S., AT EVERY DESIGNATED VOTER SERVICE AND POLLING CENTER.

26 ~~7.1-7.8.2~~ ~~Polling place~~ VOTER SERVICE AND POLLING CENTER materials shall include,  
27 ~~where applicable,~~ SUFFICIENT COMPUTER STATIONS FOR SCORE ACCESS, HAVA  
28 information, A voting demonstration display, A signature card table, ~~registration~~  
29 ~~records or lists,~~ poll books, ~~electronic or paper,~~ or ~~completed~~ signature cards,  
30 paper ballots, and voting booths or DRES, provisional voting area ~~or procedure,~~  
31 and a ballot box ~~if provided.~~

32 *[Current Rule 7.1 is amended and moved to new Rule 7.8.2. Amendments are shown*  
33 *above.]*

34 **7.8.3** VOTER CHECK-IN AT THE VOTER SERVICE AND POLLING CENTER

1 (A) EACH VOTER SERVICE AND POLLING CENTER MUST INCLUDE AND  
2 ADEQUATELY STAFF A DESIGNATED VOTER CHECK-IN TABLE OR AREA.

3 (B) THE CHECK-IN JUDGE MUST ASK EACH ELECTOR FOR AN ID PER CRS 1-1-  
4 104(19.4) AND ASK FOR CONFIRMATION OF PERMANENT ADDRESS TO VERIFY EACH THE ELECTOR'S  
REGISTRATION  
INFORMATION IN SCORE, -INCLUDING ADDRESS.

**Comment [S54]:** This is to qualify what "verify" means and to clarify the verbal interaction with the elector and the lookup in SCORE.

5 (C) IF AN ELECTOR HAS MOVED OR IS NOT REGISTERED, THE CHECK-IN JUDGE  
6 MUST DIRECT THE ELECTOR TO THE REGISTRATION AREA. IF THE ELECTOR IS  
7 REGISTERED AND HAS NO UPDATES, THE CHECK-IN JUDGE MUST DIRECT THE  
8 ELECTOR TO THE VOTING TABLE.

9 7.8.4 EXCEPT FOR VOTERS WITH DISABILITIES, THE MAXIMUM ALLOWABLE TIME IN A  
10 VOTING BOOTH IS 15 MINUTES IF THERE ARE VOTERS WAITING. THE SECRETARY  
11 OF STATE MAY ORDER ADDITIONAL TIME BASED ON THE LENGTH OF THE BALLOT.

12 [SECTION 1-7-115, C.R.S.]  
13 *[Portions of current Rule 7.6 are included in new Rule 7.8.3.]*

14 7.8.5 ANY ELIGIBLE ELECTOR MAY VOTE IN-PERSON AT A VOTER SERVICE AND POLLING  
15 CENTER. ~~THE ELECTION JUDGE OFFICIAL MUST VOID MARK THE ELECTOR'S MAIL~~  
16 ~~BALLOT "SURRENDERED" IN SCORE BEFORE ISSUING AN IN-PERSON BALLOT.~~  
CENTER IN THE COUNTY IN WHICH HE OR SHE IS ELIGIBLE TO VOTE. THE ELECTION OFFICIAL MUST FLAG THE  
ELECTOR AS BALLOT "SURRENDERED" IN SCORE BEFORE ISSUING A BALLOT IN PERSON.

**Comment [S55]:** Note that ballots are not marked by election officials, and ballots do not belong to voters. My proposed text is far more accurate and necessary to avoid seeing electors attempt to vote out of county. Also "in-person ballot" is not defined. It should not differ from a mail ballot other than the contents of the stub and the way the stub is handled. Details like this are key to a good election practice.

17 ~~47.2~~ 7.8.6 If a voter leaves the voting area without completing the voting process,  
18 two judges of different affiliation ~~shall~~ MUST, to the extent possible, cover the  
19 voter's choices, and cast the ballot as the voter left it.

20 *[Current Rule 47.2 is amended and moved to new Rule 7.8.6. Amendments are shown*  
21 *above.]*

22 7.8.7 ~~Any individual who~~ IF AN ELECTOR votes AFTER THE CLOSE OF POLLS BECAUSE  
23 ~~in an election for federal office as a result of~~ a federal or state court ISSUES AN  
24 order EXTENDING ~~or any other order that is in effect 10 days before that election~~  
25 ~~and which extends~~ the time established for closing the polls by state law, ~~may~~  
26 ~~only vote in that election by casting a~~ THE ELECTOR MUST VOTE BY provisional  
27 ballot pursuant to state law and the rules and regulations prescribed by the  
28 ~~Secretary of State~~. THE COUNTY CLERK MUST KEEP ALL SEALED PROVISIONAL BALLOT ENVELOPES  
29 CAST UNDER THIS RULE SEPARATE FROM SEALED PROVISIONAL BALLOT ENVELOPES NOT AFFECTED  
30 BY THE COURT ORDER.

**Comment [S56]:** Once the provisional ballots are removed from the envelopes, they must become anonymous and shortly thereafter counted. If this rule is intended to keep the already counted ballots that were once provisional separated because of extended voting, it should be made clear. At present that is not clear.

31 7.9 NO LATER THAN 90 DAYS BEFORE AN ELECTION, THE COUNTY CLERK ~~AND RECORDER~~ MUST  
32 DESIGNATE DROP-OFF LOCATIONS AND VOTER SERVICE AND POLLING CENTERS, AND  
33 COMPLETE AN ACCESSIBILITY SURVEY FOR ALL DROP-OFF AND ~~VOTER SERVICE AND~~  
34 ~~POLLING CENTER~~ VOTER SERVICE AND POLLING CENTER LOCATIONS ANNUALLY BEFORE  
35 DESIGNATING A LOCATION FOR USE.

36 7.9.1 FOR THE FIRST SURVEY OF A LOCATION, THE COUNTY CLERK MUST COMPLETE THE  
37 FULL ADA CHECKLIST FOR VOTER SERVICE AND POLLING ~~PLACES~~ CENTERS. THE  
38 COUNTY CLERK MUST COMPLETE THE ANNUAL VOTER SERVICE AND POLLING

1 PLACE-CENTER ACCESSIBILITY SURVEY FORM FOR EACH ELECTION AFTER THE  
2 INITIAL SURVEY IS COMPLETED. [SECTION 1-5-102, C.R.S.]

3 *[Portions of current Rules 7.7.1 and 7.7.2 are included in new Rule 7.9.1.]*

4 ~~7.7.3-7.9.2~~ **Barrier removal:** If, upon assessment, a location fails to meet the minimum  
5 accessibility requirements outlined in the ADA Checklist for Polling Places, the  
6 ~~designated election official~~ COUNTY CLERK must develop a barrier removal plan  
7 outlining the permanent and or temporary modifications that will be implemented  
8 THE COUNTY CLERK WILL IMPLEMENT to bring the site into compliance in order for  
9 the location to be designated an official polling place location. THE COUNTY  
10 CLERK MUST INDICATE ON THE SURVEY WHETHER THE MODIFICATIONS ARE  
11 TEMPORARY OR PERMANENT.

12 *[Current Rule 7.7.3 is amended and moved to new Rule 7.9.2. Amendments between the*  
13 *current and new rule language are shown above.]*

14 7.9.3 THE SECRETARY OF STATE MAY DENY AN APPLICATION FOR ACCESSIBILITY GRANT  
15 FUNDS IF A COUNTY CLERK FAILS TO ASSESS LOCATIONS AND TIMELY FILE  
16 COMPLETE ACCESSIBILITY SURVEYS, AND DEVELOP AND IMPLEMENT NECESSARY  
17 BARRIER REMOVAL PLANS IN ACCORDANCE WITH THIS RULE. THE SECRETARY WILL  
18 CONDUCT SITE VISITS TO ASSESS COMPLIANCE AND IDENTIFY ACCESSIBILITY  
19 BARRIERS. THE SECRETARY WILL SEEK INJUNCTIVE ACTION OR OTHER PENALTIES  
20 UNDER SECTION 1-1-107(2)(D), C.R.S., AS NECESSARY TO REMEDY VIOLATIONS OF  
21 THIS RULE.

22 *[Portions of current Rules 7.7.2(d) and 7.7.4 are included in new Rule 7.9.3.]*

23 7.10 VOTER SERVICE AND POLLING CENTER CONNECTIVITY

24 7.10.1 THE COUNTY MUST HAVE REALTIME ACCESS TO ~~THE STATEWIDE VOTER~~  
25 ~~REGISTRATION SYSTEM SCORE~~ AT EVERY VOTER SERVICE AND POLLING CENTER  
26 DESIGNATED BY THE COUNTY CLERK ~~AND RECORDER.~~

27 7.10.2 AT NO TIME MAY AN ELECTION ~~JUDGE OFFICIAL~~ OPEN BOTH THE SCORE VOTER  
28 REGISTRATION SCREEN AND THE VOTING MODULE ON A SINGLE WORKSTATION.

29 7.10.3 EVERY VOTER SERVICE AND POLLING CENTER DESIGNATED BY THE COUNTY CLERK  
30 ~~AND RECORDER~~ MUST MEET THE MINIMUM SECURITY PROCEDURES FOR  
31 TRANSMITTING VOTER REGISTRATION DATA AS OUTLINED IN SECTION 1-5-102.9,  
32 C.R.S., AND RULE ~~43-20~~.

33 7.11 ASSISTING VOTERS WITH DISABILITIES IN A VOTER SERVICE AND POLLING CENTER

34 ~~9.1-7.11.1~~ The ~~county clerk and recorder~~ DESIGNATED ELECTION OFFICIAL must post a  
35 sign at the ~~polling place or vote center~~ VOTER SERVICE AND POLLING CENTER that  
36 states:

**Comment [S57]:** I think readers of this paragraph deserve to know why this is a problem.

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.'
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 ~~in the pollbook or list of eligible electors (or on the signature card if preprinted signature cards are used in the place of a pollbook and list of eligible electors).~~

9-2-7.11.2 ~~When~~ IF a voter has spoiled two ballots and requests a third ballot, an election judge ~~shall~~ OFFICIAL MUST offer assistance in voting procedures and casting the ballot.

[Current Rule 9 is amended and moved to Rules 7.11. Amendments are shown above.]

**Rule 8. Rules Concerning Watchers**

~~248.2-8.1 Qualification of Watchers. Watchers shall MUST AFFIRM certify THAT they are qualified pursuant to 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 shall MUST take an THE oath as provided DESCRIBED in section 1-7-108(1), C.R.S. and shall, upon first entering the precinct place VOTER SERVICE AND POLLING CENTER or location, surrender THE CERTIFICATE OF APPOINTMENT to the election official or election judges SUPERVISOR JUDGE a certificate of appointment at each precinct polling place VOTER SERVICE AND POLLING CENTER or location where the watcher has been IS designated to act OBSERVEACT.~~

**Comment [S58]:** Watchers affirm not certify. Party officials certify watchers, not election officials.

**Comment [S59]:** Here we see that election judges and election official has a separate meaning, contradicting the attempt to combine many roles into "election official".

**Comment [S60]:** "Act" was the correct verb and formerly in the rule. Watchers have a larger role than simply "observing" – namely correcting discrepancies etc.

~~8.2-1-8.1.1 If a watcher leaves a precinct and the same watcher VOTER SERVICE AND POLLING CENTER LOCATION BUT returns later in the day to the same precinct LOCATION, another certificate of appointment is not necessary. and shall not be required. The original certificate of appointment will suffice.~~

1 ~~8.2.2~~ 8.1.2 If a watcher is replaced during the day, the watcher replacing the original  
2 watcher must have an original certificate of appointment for that precinct. A NEW  
3 WATCHER WHO IS REPLACING AN ORIGINAL WATCHER MUST PROVIDE AN ORIGINAL  
4 CERTIFICATE OF APPOINTMENT FOR THAT ~~VOTER SERVICE AND POLLING CENTER~~  
5 LOCATION.

6 ~~8.2.3~~ 8.1.3 ~~Certificate~~ A CERTIFICATE of appointment as a watcher is not transferable  
7 to another individual.

8 ~~8.3~~ 8.2 A political party attorneys are not allowed ATTORNEY MAY NOT BE in the polling place  
9 ~~VOTER SERVICE AND POLLING CENTER~~ LOCATION unless they are HE OR SHE IS A duly  
10 appointed as watchers WATCHER.

11 ~~8.4~~ Watchers are not allowed to have cell phones, cameras, recording devices, laptops or  
12 PDAs (Palm Pilot, Blackberry, etc.) in the polling place. A WATCHER MAY NOT HAVE A  
13 CELL PHONE, CAMERA, RECORDING DEVICE, COMPUTER, TABLET, OR OTHER PERSONAL  
14 ELECTRONIC EQUIPMENT IN THE VOTER SERVICE AND POLLING CENTER.

15 ~~8.5~~ 8.3 List of Eligible Electors. To assist Watchers in performing their tasks, the election  
16 official or election judge shall THE SUPERVISOR JUDGE MUST provide TO EACH WATCHER a  
17 list, log, check-in card, or other similar information of voters who have appeared in the  
18 precinct polling place APPEARING IN THE ~~VOTER SERVICE AND POLLING CENTER~~ LOCATION  
19 to vote. The WATCHER MAY NOT REMOVE THE information or documents shall not be  
20 removed from the polling place or voting location FROM THE ~~VOTER SERVICE AND~~  
21 ~~POLLING CENTER~~ LOCATION. Watchers A WATCHER may maintain a list of eligible  
22 electors who have voted by utilizing USING only that information provided by the election  
23 official or election SUPERVISOR judge except that they may bring with them into the  
24 polling place or location OR INFORMATION ON PAPER CARRIED a list of electors previously  
maintained by the watcher.  
25 [Section 1-7-108(3), C.R.S.]

**Comment [S61]:** Watchers deserve to be able to refer to at least paper documents brought with them to the polls.

26 *[Current Rule 8.1 is moved to Rule 1. Current Rules 8.2, 8.3, 8.4, and 8.5 are amended*  
27 *and moved to new Rules 8.1, 8.2, and 8.3. Amendments are shown above.]*

28 ~~8.6~~ 8.4 Watchers are subject to the provisions of section 1-5-503, C.R.S.

29 ~~8.6.2~~ 8.4.1 The designated election official must position the voting equipment,  
30 voting booths, and the ballot box so that they are in plain view of the election  
31 officials and watchers.

32 ~~8.6.3~~ 8.4.2 Watchers are permitted to A WATCHER MAY witness and verify the conduct  
33 of elections and recount activities. WATCHERS MUST BE PERMITTED ACCESS THAT  
34 WOULD ALLOW THEM TO ATTEST TO THE ACCURACY OF ELECTION-RELATED  
35 ACTIVITIES, INCLUDING RECALL ELECTIONS. THIS INCLUDES PERSONAL VISUAL  
36 ACCESS AT A REASONABLE PROXIMITY TO READ DOCUMENTS, WRITINGS OR  
37 ELECTRONIC SCREENS AND REASONABLE PROXIMITY TO HEAR ELECTION-RELATED  
38 DISCUSSIONS. Witness and verify means to personally observe actions of ALL PARTIES INCLUDING  
election judges OFFICIALS in each step of the conduct of an election.  
39

**Comment [S62]:** Watchers may observe other watchers, etc.

1 (a) ~~The conduct of election ELECTIONS includes polling place and early voting~~  
2 ~~ELECTION-RELATED ACTIVITIES INCLUDE ALL ACTIVITIES IN A VOTER~~  
3 ~~SERVICE AND POLLING CENTER LOCATION and ballot PLUS ENVELOPE CREATION, processing and~~  
4 ~~counting., AND ELECTION ESTING, AUDITING, CANVASSING, RECOUNTING, AND RESULTS REPORTING SUCH AS:~~

- 5 (1) ~~OBSERVING VOTER CHECK-IN AND REGISTRATION ACTIVITIES.~~
- 6 (2) ~~WITNESSING THE SIGNATURE VERIFICATION OF MAIL BALLOT~~  
7 ~~ENVELOPES AT CLOSE ENOUGH DISTANCE TO VERIFY OR CHALLENGE~~  
8 ~~THE SIGNATURE.~~
- 9 (3) ~~WITNESSING THE DUPLICATION OF BALLOTS TO VERIFY ACCURACY~~  
10 ~~OF VOTER INTENT.~~
- 11 (4) ~~OBSERVING THE TABULATION PROCESS OR DISPLAY SCREENS OF~~  
12 ~~VOTING EQUIPMENT AT ANY TIME THAT THE VOTER IS NOT IN THE~~  
13 ~~IMMEDIATE VOTING AREA FOR PURPOSES OF VOTING OR CASTING HIS~~  
14 ~~BALLOT.~~
- 15 (5) ~~WITNESSING HAND COUNT TABULATIONS AS THEY ARE BEING~~  
16 ~~CONDUCTED.~~
- 17 (6) ~~VISUAL ACCESS TO ALL DOCUMENTS AND MATERIALS DURING THE~~  
18 ~~LAT AND POST-ELECTION AUDIT.~~

19 (b) ~~Watchers must remain outside the immediate voting area WHILE AN~~  
20 ~~ELECTOR IS VOTING.~~

21 (c) ~~Watchers may be present at each stage of the conduct of the election,~~  
22 ~~including the SETUP AND BREAKDOWN OF POLLING LOCATIONS AND~~  
23 ~~receiving BALLOT RECEIPT and bundling PROCESSING of the ballots~~  
24 ~~received by the designated election official.~~

25 (d) ~~Watchers may be present during provisional ballot processing, SIGNATURE~~  
26 ~~VERIFICATION, AND UOCAVA BALLOT PROCESSING, but may not have~~  
27 ~~access to confidential voter information.~~

28 (e) ~~The number of watchers permitted in any room at one time is subject to~~  
29 ~~local safety codes.~~

30 ~~8.6.4.8.4.3 Watchers~~ A WATCHER may witness and verify activities described in  
31 ~~Article I~~ ARTICLE 1, Section 7, that are outside the immediate voting area,  
32 including ballot processing and counting. If ELECTION OFFICIALS ~~OR ELECTION~~  
33 ~~JUDGES~~ ARE CONDUCTING ELECTIONS ACTIVITIES IN SEPARATE ROOMS OR AREAS OF  
34 A BUILDING OR BUILDINGS, THE COUNTY CLERK ~~AND RECORDER~~ MUST ALLOW  
35 ADDITIONAL WATCHERS TO OBSERVE ~~ACTIVITIES~~ AND VERIFY EACH SEPARATE  
36 ACTIVITY IN EACH ROOM OR AREA IN THE BUILDING OR BUILDINGS. ~~SEPARATE~~  
~~CERTIFICATES SHALL NOT BE REQUIRED. E.G "CENTRAL COUNT" IS A SUFFICIENT DESCRIPTION OF A LOCATION.~~

**Comment [S63]:** This is one of many reasons why the definition of polling location is important. If polling location refers to places that voters cast ballots (VSPC plus drop off locations plus instances where teams pick up voted ballots) then this paragraph must separately include all locations where ballot return envelopes are being handled.

**Comment [S64]:** One obstacle to watching is complex and unstated rules for identifying locations for watching. With precinct counting it was simple and the law was written for this- but with 70% to 99% central count, the difficulty of identifying the polling location or counting facility is great and dependent on local authority.

1 ~~8.6.5~~ 8.4.4 Watchers appointed under ~~section 1-10.5-101(1)(a), C.R.S.,~~ THIS RULE 8  
2 may observe the canvass board while it performs its duties.

3 ~~8.6.6~~ 8.4.5 ~~Watchers~~ A WATCHER may track the names of electors who have cast  
4 ballots, challenge electors under section 1-9-203, C.R.S., and Rule ~~48-9~~, and  
5 submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule  
6 ~~31.8-7-13. What Watchers May Observe. Duly appointed Watchers~~ A WATCHER  
7 ~~may observe polling place voting, early voting ALL ACTIVITIES IN A VOTER~~  
8 ~~SERVICE AND POLLING CENTER LOCATION and the processing and counting of~~  
9 ~~precinct, provisional, mail, and mail-in ballots. For mail ballot elections, or mail-~~  
10 ~~in ballot processing, watchers~~ A WATCHER may be present at each stage of  
11 ~~election including the receiving and bundling of the ballots, received by the~~  
12 ~~designated election official. Watchers~~ A WATCHER may be present during  
13 ~~provisional ballot processing but may not have access to confidential voter~~ information.  
14 ~~A WATCHER MAY CHALLENGE INELIGIBLE PERSONS AND ASSIST IN THE CORRECTION OF DISCREPANCIES PER CRS 1-7-108.~~

15 *[Current Rule 8.6.1 is amended and moved to new Rule 1. Current Rule 8.6 is amended*  
16 *and moved to new Rule 8.4. Amendments are shown above.]*

17 ~~8.7.5~~ 8.5 ~~Watcher oath.~~ In addition to the oath required by section 1-7-108(1), C.R.S., a watcher  
18 must affirm that he or she will not:

19 ~~8.7.1~~ 8.5.1 Attempt to determine how any elector voted or review confidential voter  
20 information;

21 ~~8.7.2~~ 8.5.2 Disclose any confidential voter information that he or she may observe; or

22 ~~8.7.3~~ 8.5.3 Disclose any results before the polls are closed and the designated election  
23 official has ~~formally~~ announced ANY UNOFFICIAL results.

24 ~~8.8.6~~ 8.6 Limitations of Watchers. ~~Watchers~~ A WATCHER may not:

25 ~~8.8.1~~ 8.6.1 Interrupt or disrupt OR INTERFERE WITH the processing, verification and  
counting of any ballots  
26 or any other stage of the election.

27 ~~8.8.2~~ 8.6.2 Write down any ballot numbers or any other identifying information about  
28 the electors.

29 ~~8.8.3~~ 8.6.3 ~~Handle~~ TOUCH OR HANDLE the poll books POLLBOOKS, official signature  
30 cards, ballots, mail ballot envelopes, ~~mail in ballot envelopes~~, provisional ballot  
31 envelopes, voting or counting machines, or machine components.

32 ~~8.8.4~~ 8.6.4 ~~Interfere with the orderly conduct of any election process, including~~  
33 ~~issuance of ballots, receiving of ballots, and voting or counting of ballots.~~

34 ~~8.8.5~~ 8.6.5 ~~Interact with election officials or election judges as defined in section 1-1-~~  
35 ~~104(10) AND (47), C.R.S., except for the individual designated by the election~~  
36 ~~official~~ SUPERVISOR JUDGE.

**Comment [S65]:** Duplicated above

**Comment [S66]:** This is a key responsibility of watchers that is taken from statute and must appear in these rules. - the opportunities to challenge ineligible persons and assist in the correction of discrepancies. Both of these show that the watcher role is more than observation.

**Comment [S67]:** Since this is part of a gag order on watchers, it must be very clear when the gag is lifted if not 7PM on election day, then this is the next best. "formally announced" is utterly vague.

**Comment [S68]:** This is to eliminate the need for a paragraph 8.6.4 which is duplicative.

**Comment [S69]:** Duplicative and therefore overkill.

**Comment [S70]:** This severe limitation on interaction with election officials is obstructive of the watcher role, and it is a total gag order if the "Supervisor judge" has not designated anyone for this role. This rule had excluded election officials, but now election officials are inseparable from election judges. Obviously watchers need to be able to talk to election officials such as the clerk, official observers, and at times, election judges too.

1 8.6.6 USE A MOBILE PHONE TO MAKE OR RECEIVE A CALL IN ANY POLLING LOCATION OR  
2 OTHER PLACE ELECTION ACTIVITIES ARE CONDUCTED EXCEPT BY PERMISSION OF AN ELECTION OFFICIAL.

**Comment [S71]:** An absolute prevention of use of phone is unreasonable. By permission makes sense.

3 8.6.7 USE ANY ELECTRONIC DEVICE TO TAKE PICTURES, VIDEO, OR AUDIO RECORDING IN  
4 ANY POLLING LOCATION OR OTHER PLACE ELECTION ACTIVITIES ARE CONDUCTED EXCEPT BY PERMISSION OF AN ELECTION OFFICIAL.

**Comment [S72]:** Ditto

5 ~~8.9.1 8.8~~ ~~————— A major and OR minor political parties PARTY with candidates A~~  
6 ~~CANDIDATE on the ballot, OR A REGISTERED ISSUE COMMITTEE SUPPORTING OR OPPOSING A~~  
7 ~~BALLOT MEASURE OR QUESTION ON THE BALLOT may appoint one Watcher each to be~~  
8 ~~present OR MORE WATCHERS to observe polling place voting, early voting, and the~~  
9 ~~processing and counting of regular, provisional, mail and mail in ballots ELECTION~~  
10 ~~ACTIVITIES. See [sections 1-7-105 and 1-7-106, C.R.S. AND RULE 8.6.4.]~~

11 ~~8.10.8.7~~ ~~Official Observers Appointed by the Federal Government. THE~~  
12 ~~SECRETARY OF STATE MUST APPROVE Official Observers appointed by the federal~~  
13 ~~government. shall be approved by the Secretary of State and shall be OFFICIAL~~  
14 ~~OBSERVERS ARE subject to Colorado law and these rules as they apply to Watchers.;~~  
15 ~~however, they need not BUT AN OFFICIAL OBSERVER IS NOT REQUIRED TO be AN eligible~~  
16 ~~ELECTOR electors in the jurisdiction in which they act as Watchers. This Rule shall DOES~~  
17 ~~not apply to Official Observers appointed by the United States Department of Justice.~~  
18 ~~Official Observers appointed by the Secretary of State shall be ARE subject to the rules~~  
19 ~~and regulations as prescribed by the Secretary of State. Official Observers shall MUST~~  
20 ~~obtain A LETTER OF AUTHORITY from the Secretary of State, or his or her designee, duly~~  
21 ~~executed letters of authority. The Official Observers shall MUST surrender such THE letter~~  
22 ~~of authority to the COUNTY CLERK AND RECORDER designated election official in the~~  
23 ~~jurisdiction in which they act as Watchers.~~

24 *[Current Rule 8.10 is amended and moved to rule 8.7. Amendments are shown above.]*

25 ~~8.11.8.8~~ ~~Watchers, Official Observers and Media Observers at a Recount.~~  
26 ~~Watchers, Official Observers, and Media Observers may be present at DURING a recount.~~  
27 ~~Watchers, Official Observers, and Media Observers must be qualified and sworn IN for a~~  
28 ~~recount in the same manner as provided AS DESCRIBED in Rule 8.2 8.1 and are subject to~~  
29 ~~all other provisions related to the recount process. Any political party AND OR candidate~~  
30 ~~involved in the recount ~~OR~~ AND proponents ~~OR~~ AND opponents of an issue or question involved in the~~  
31 ~~recount may appoint one Watcher OR MORE WATCHERS to be present at any time during~~  
32 ~~the recount. The A candidate who is subject to a recount may appoint him or her self~~  
33 ~~HIMSELF OR HERSELF, or a member of the candidate's family by blood, or marriage, OR~~  
34 ~~CIVIL UNION, as a watcher at a recount. See sections [SECTIONS 1-7-105 and 1-7-106,~~  
35 ~~C.R.S. AND RULE 8.6.4.]~~

**Comment [S73]:** These three replacement of "or" to "and" are to be sure that both proponents and opponents are allowed to appoint watchers. Also the political party and the candidate

36 ~~8.12.8.9~~ ~~Media Observers. Media Observers with valid and current media~~  
37 ~~credentials may be present to witness early voting, election day voting and the processing~~  
38 ~~and counting of provisional, mail and mail in ballots ALL ELECTION ACTIVITIES. However,~~  
39 ~~at the discretion of the county clerk and recorder, Media Observers may be required A~~  
40 ~~COUNTY CLERK AND RECORDER MAY, IN HIS OR HER DISCRETION, REQUIRE A MEDIA~~  
41 ~~OBSERVER to appoint one member of the media as a pool reporter and one member as a~~

1 pool photographer to represent all media observers. ALL MEDIA OBSERVERS ARE SUBJECT  
2 TO ~~in accordance with~~ the Guidelines established by the Colorado Press Association in  
3 conjunction with the Colorado County Clerks' Association and the Secretary of State as  
4 ~~set forth herein~~ OUTLINED BELOW:

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

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

- 14 1. *If practical, please contact the election official's office prior to coming to*  
15 *observe the counting of ballots. If the election official knows you are*  
16 *coming, it will be easier to accommodate your request for a place to*  
17 *observe the count or to interview an election official.*
- 18 2. *At the discretion of the election official, a specific viewing area for*  
19 *members of the media and other observers may be available. To the*  
20 *extent practicable, the area will have been designated with sight lines to*  
21 *allow you to observe and take pictures or video of the counting process. If*  
22 *there are insufficient sight lines for you to take the photos or video you*  
23 *need, the election official may be able to make arrangements to*  
24 *accommodate your needs.*
- 25 3. *Please observe counting procedures without disrupting the count. Please*  
26 *take pictures or video without the use of supplemental lighting. Do not*  
27 *talk to people participating in counting ballots. There may be workers*  
28 *who ask you not to include their images in your pictures or video. We*  
29 *encourage you to honor those requests if you can reasonably do so.*
- 30 4. *The Secretary of State's election rules state that if observers leave the*  
31 *area during a recount, they may not reenter without the consent of the*  
32 *election official. If you have occasion to leave the area, you may be*  
33 *denied re-admittance.*
- 34 5. *Please do not use the information you see when observing vote counts to*  
35 *report on partial election results. Please do not report anything that*  
36 *could be used to identify the person who casts a particular ballot.*

37 *The Colorado State Association of County Clerks and Recorders,*  
38 *Colorado Broadcasters' Association and Colorado Press Association are*  
39 *all committed to working together to ensure the media has access to*  
40 *election counts and recounts, but that access is afforded in manners that*

1 do not disrupt the counts and do nothing to compromise the integrity of  
2 the process. Your cooperation in following these standards will help us to  
3 meet all these goals.

4 *[Current Rules 8.11 and 8.12 are amended and moved to new Rules 8.8 and 8.9.*  
5 *Amendments are shown above.]*

6 ~~8.13-8.10~~ ~~Watchers at Vote Centers.~~ To assist Watchers in performing their tasks ~~when a~~  
7 ~~vote center election is held~~ AT A VOTER SERVICE AND POLLING CENTER LOCATION, the  
8 ~~designated election official shall~~ COUNTY CLERK MUST provide a list of all voters who  
9 have VOTED OR RETURNED A BALLOT IN THE COUNTY ~~appeared in the vote centers to vote.~~  
10 ~~This list shall be made~~ THE COUNTY CLERK MUST MAKE THE LIST available **AT LEAST DAILY** at the  
11 ~~designated election official's main office.~~ THE COUNTY CLERK MAY ALSO PROVIDE THE  
12 LIST ELECTRONICALLY. ~~THE CLERK MAY MAKE THE~~ Such list may be made available to a  
13 requesting Watcher(s) in the form of data files, paper, or reports, and furnished to all  
14 interested parties via email, paper reports, or faxed copies as may be available to the  
15 designated election official.

**Comment [S74]:** There was no requirement as to the frequency of the availability of this important list.

16 ~~8.14-8.11~~ A ~~designated election official shall~~ THE COUNTY CLERK MUST certify the  
17 appointment of all eligible watchers duly designated by a political party, candidate or  
18 committee pursuant to UNDER sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.

19 ~~8.15-8.12~~ Removal of Watchers.

20 ~~8.15.1-8.12.1~~ A ~~designated election official~~ COUNTY CLERK OR DESIGNEE may remove a  
21 watcher upon finding that the watcher:

- 22 (a) Commits or encourages fraud in connection with his or her duties;  
23 (b) Violates any of the limitations outlined in Rule ~~8-8~~ 8.6;  
24 (c) Violates his or her oath; or  
25 (d) Is abusive or threatening toward election officials or voters.

26 ~~8.15.2-8.12.2~~ Upon removal of a watcher, the ~~designated election official~~ COUNTY  
27 CLERK must inform the political party, candidate, or committee who appointed the  
28 watcher.

29 ~~8.15.3-8.12.3~~ A removed watcher may be replaced by an alternate watcher duly  
30 designated in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S. Any  
31 ~~designated election official~~ COUNTY CLERK who removes a watcher must, to the  
32 best of the ~~official's~~ CLERK'S ability, expeditiously certify the appointment.

33 ~~8.16-8.13~~ Watchers may be designated to observe ~~more than one precinct or polling place~~  
34 ~~SOME OR ALL~~ VOTER SERVICE AND POLLING CENTER LOCATIONS. ~~but in no event shall more than one~~  
35 ~~watcher be designated for any single polling place.~~ See section 1-7-106, C.R.S.  
FOR EXAMPLE A WATCHER MAY BE DESIGNATED TO ACT AT "ALL ELECTION ACTIVITIES" OR "ALL POLLING  
LOCATIONS" OR "ALL CENTRAL BALLOT AND ENVELOPE PROCESSING"

**Comment [S75]:** Polling locations unlike precincts do not have numbers, thus they are not so easy to identify. This will add some complexity to election watching- therefore the phrase "all polling locations" or "all election activities" should be available for use. My examples should help in recognition of this new problem.

1 8.178.14 Watchers may be appointed to observe recall elections held pursuant to UNDER  
2 article 12, title I, C.R.S., and shall MUST be designated in accordance with sections 1-7-  
3 106 and 1-7-107, C.R.S. AND THIS RULE 8.

**Comment [S76]:** Rule 8 included for completeness.

4 *[Current Rules 8.13-8.17 are amended and moved to new Rules 8.10-8.14. Amendments*  
5 *are shown above.]*

## 6 **Rule 9. VOTING CHALLENGES**

7 ~~48.19.1~~ UNDER SECTION 1-9-201, C.R.S., AN ELECTION ~~JUDGE OFFICIAL~~, POLL WATCHER, OR  
8 ELIGIBLE ELECTOR OF THE PRECINCT MAY CHALLENGE AN ELECTOR'S RIGHT TO VOTE.  
9 Pursuant to section 1-9-203 (7), C.R.S., a A person WHOSE ELIGIBILITY IS CHALLENGED ON  
10 the grounds of residency shall MUST be offered a regular ballot by the AN election judge  
11 ~~OFFICIAL~~ when IF the person challenged satisfactorily answers the APPLICABLE challenge  
12 questions specified in section 1-9-203(3)(a)-(e), C.R.S. The following demonstrate when  
13 a person challenged satisfactory answered ANSWERS TO THE CHALLENGE QUESTIONS. the  
14 challenge questions and action to be taken by the election judge based on the elector's  
15 response: IF THE PERSON CHALLENGED PROVIDES UNSATISFACTORY ANSWERS OR REFUSES  
16 TO ANSWER THE CHALLENGE QUESTIONS, AN ELECTION ~~JUDGE OFFICIAL~~ MUST ADVISE THE  
PERSON OF THEIR LIKELY INELIGIBILITY, OFFER THE  
17 PERSON A PROVISIONAL BALLOT AND IF IT IS ACCEPTED, RECORD THE ANSWERS TO THE  
CHALLENGE QUESTIONS ON THE PROVISIONAL BALLOT ENVELOPE.

**Comment [S77]:** The interaction with potential electors is very well prescribed here but fails to require the official to explain the reason why they are being offered a provisional ballot- namely they have been deemed ineligible. It is almost insulting to allow a provisional ballot to be offered without explanation.

18 9.2 CITIZENSHIP  
19 A. ARE YOU A CITIZEN OF THE UNITED STATES?

**Comment [S78]:** If this information is not collected for the provisional ballot resolution at a later time, it will be impossible to track the reason for the use of the provisional ballot for these challenged electors.

20 SATISFACTORY ANSWER: YES.  
21 IF THE PERSON CHALLENGED ANSWERS YES TO THIS AND SATISFACTORILY TO THE OTHER TWO CHALLENGE  
QUESTION TYPES, AN ELECTION JUDGE OFFICIAL  
22 MUST OFFER THE PERSON A REGULAR BALLOT.

**Comment [S79]:** This represents an essential change that applies to each challenge question prototype where a response leads to offering a ballot. This seems to be a major oversight in the rules. I will not flag the other locations where this change needs to be made.

23 UNSATISFACTORY ANSWER: NO.  
24 IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION ~~JUDGE OFFICIAL~~  
25 MUST ADVISE THE PERSON OF THEIR LIKELY INELIGIBILITY AND OFFER THE PERSON A PROVISIONAL BALLOT.

**Comment [S80]:** Without the advice, a false impression of eligibility may be created.

26 9.3 RESIDENCY

27 ~~\_\_\_\_\_~~ A. ~~Have you~~ WILL YOU HAVE resided in this state and precinct COLORADO  
~~for~~ DURING the ~~\_\_\_\_\_~~ PAST thirty 22 days BEFORE ELECTION DAY immediately preceding this election?

29 Satisfactory response ANSWER: Yes, he/she THE ELECTOR has WILL HAVE resided in this state  
30 COLORADO and precinct for the entire thirty-22-day period immediately preceding  
31 this election DAY. (In other words, his/her HIS OR HER primary home or place of abode  
32 was IS AND WILL BE in this state COLORADO and precinct during the entire thirty-22-day period in  
33 accordance with sections 1-1-104(43) and 1-2-102, C.R.S.)

**Comment [S81]:** It is the working in 1-2-102 that leads to this strange language. The statute is worded from the perspective of election day, but the elector may register to vote and vote on any day prior to election day that a polling location is open as well.

**Comment [S82]:** Another replacement of "the election" with "election day".

34 IF THE PERSON CHALLENGED ANSWERS YES, Proceed CONTINUE to challenge  
35 question B.

**Comment [S83]:** A further extrapolation of the meaning of residency during the 22 days prior to "the election".

1 Unsatisfactory response-ANSWER: No, for some portion of the thirty-22-day period  
2 immediately preceding ~~this~~ election ~~DAY~~, he/she THE ELECTOR has not resided in this  
3 state COLORADO and precinct.

Comment [S84]: "election day" instead of "the election"

4 IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION JUDGE OFFICIAL  
5 MUST CONTINUE TO CHALLENGE QUESTION B-~~Offer the elector a provisional~~  
6 ~~ballot.~~

7 B. IF YOU ~~Have~~ HAVE you been absent from this state COLORADO during the PAST  
8 thirty 22 ~~days~~ immediately preceding this election, DID YOU ~~and during that time~~  
9 have you maintained maintain a home or domicile elsewhere?

Comment [S85]: I think past 22 days is incorrect as this refers to 22 days prior to the date of attempted registration, not 22 days before "the election" which is the phrase used in the law:

10 Satisfactory response #1 ANSWER: No, he/she THE ELECTOR EITHER has not been  
11 absent from this state at any time COLORADO during the thirty-22-day period  
12 immediately preceding this election- OR HAS BEEN ABSENT BUT HAS NOT  
13 MAINTAINED A HOME OR DOMICILE ELSEWHERE.

1-2-102(b) The person has resided in this state twenty-two days immediately prior to the election at which the person intends to vote."

14 IF THE PERSON CHALLENGED ANSWERS ~~NO~~, Offer THE ELECTION JUDGE  
15 OFFICIAL MUST OFFER the ~~elector~~ PERSON a regular ballot.

Note that the law is written as if the person was registering on election day. In law, "the election" typically refers to election day- a phrase that is also becoming inconsequential with many forms of early and late voting.

16 Satisfactory response #2: Yes, he/she has been absent from this state during the  
17 thirty day period immediately preceding this election, but has not maintained a  
18 home or domicile elsewhere.

Comment [S86]: See above.

19 Offer the elector a regular ballot.

20 UNSATISFACTORY Response requiring follow up questions-ANSWER: Yes, he/she  
21 THE ELECTOR has been absent from this state COLORADO during the thirty-22-day  
22 period immediately preceding this election, and has maintained a home or  
23 domicile elsewhere.

Comment [S87]: See above

24 IF THE PERSON CHALLENGED ANSWERS YES, THE ELECTION JUDGE OFFICIAL  
25 MUST ~~Proceed~~ CONTINUE to challenge question C.

26 C. HAVE YOU BEEN ABSENT ~~If so, when you left, was it~~ for a temporary purpose with  
27 the intent of returning, or did you intend to remain away OUTSIDE COLORADO?

28 Satisfactory response-ANSWER: Yes, when he/she THE ELECTOR left, it was for a  
29 temporary purpose with the intent of returning.

30 IF THE PERSON CHALLENGED ANSWERS YES, THE ELECTION JUDGE OFFICIAL  
31 MUST ~~Proceed~~ CONTINUE to challenge question D.

32 Unsatisfactory response-ANSWER: No, when he/she THE ELECTOR left, he/she HE  
33 OR SHE did not intend to return.

34 IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION JUDGE OFFICIAL  
35 MUST Offer OFFER the ~~elector~~ person a provisional ballot.

1 C. ~~Did you, while~~ While YOU WERE absent, DID YOU ~~look upon and regard~~ CONSIDER  
2 ~~this state as~~ COLORADO TO BE your home?

3 Satisfactory ~~response~~—ANSWER: Yes, while absent, ~~he/she~~—THE ELECTOR ~~looked~~  
4 ~~upon and regarded~~ CONSIDERED ~~this state as~~ COLORADO TO BE ~~his/her~~ HIS OR HER  
5 home.

6 *IF THE PERSON CHALLENGED ANSWERED YES, ~~Proceed~~ CONTINUE to challenge*  
7 *question E.*

8 Unsatisfactory ~~response~~—ANSWER: No, while absent, ~~he/she~~—THE ELECTOR did not  
9 ~~LOOK UPON AND REGARD~~ CONSIDER ~~this state as~~ COLORADO TO BE ~~his/her~~ HIS OR  
10 HER home.

11 *IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION ~~JUDGE OFFICIAL~~*  
12 *MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a provisional ballot.*

13 D. ~~Did you, w~~While YOU WERE absent, DID YOU vote in any other state or ~~any~~  
14 territory of the United States?

15 Satisfactory ~~response~~—ANSWER: No, while absent, ~~he/she~~—THE ELECTOR did not  
16 vote in any other state or ~~any~~ territory of the United States.

17 *THE ELECTION ~~JUDGE OFFICIAL~~ MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a*  
18 *regular ballot.*

19 Unsatisfactory ~~response~~—ANSWER: Yes, while absent, ~~he/she~~—THE ELECTOR ~~did vote~~  
20 VOTED in another state or territory of the United States.

21 *THE ELECTION ~~JUDGE OFFICIAL~~ MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a*  
22 *provisional ballot.*

23 9.4 AGE

24 A. WILL YOU BE 18 YEARS OF AGE OR OLDER ON ELECTION DAY?

25 SATISFACTORY ANSWER: YES.

26 *IF THE PERSON CHALLENGED ANSWERS ~~YES~~, AN ELECTION ~~JUDGE OFFICIAL~~*  
27 *MUST OFFER THE PERSON A REGULAR BALLOT.*

Comment [S88]: See above

28 UNSATISFACTORY ANSWER: NO.

29 *IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION ~~JUDGE OFFICIAL~~*  
30 *MUST ~~OFFER~~ THE PERSON A PROVISIONAL BALLOT.*

Comment [S89]: See above- I have not flagged all the locations where these challenge questions need to change .

31 ~~48.2~~ If the person challenged answers unsatisfactorily or refuses to answer the challenge  
32 questions, the elector shall be offered a provisional ballot.

1 *[Current Rule 48 is amended and moved to Rule 9. Amendments are shown below.]*

2 **Rule 10. CANVASSING AND RECOUNT**

3 ~~41.1~~ Definitions

4 ~~41.1.1~~ “Canvass board” means a committee composed of the county clerk and recorder  
5 and the registered electors appointed by the major parties in accordance with  
6 section ~~1-10-101~~, C.R.S.

7 ~~41.1.2~~ “Canvass workers” means workers appointed or hired by the designated election  
8 official to assist in the preparation and conduct of the canvass.

9 ~~41.1.3~~ “Statement of Ballots Form” means the form used at the polling location that  
10 accounts for all ballots at that location and includes all information required by  
11 this rule.

12 *[Current Rule 41.1 is moved to new Rule 1]*

13 ~~41.2~~ 10.1 Appointment to the Canvass Board

14 ~~41.2.1~~ 10.1.1 In all cases, the canvass board must consist of an odd number of members,  
15 and each member has equal voting rights.

16 ~~41.2.2~~ 10.1.2 For a partisan election, each major party may have no more than two  
17 representatives on the canvass board. The board must include an equal number  
18 of representatives from each major party, unless a major party fails to certify  
19 representatives for appointment.

20 ~~41.2.3~~ 10.1.3 Each major party representative on the canvass board must be registered to  
21 vote in the county where the representative will serve and affiliated with the  
22 party he or she represents.

23 ~~41.2.4~~ 10.1.4 A candidate for office and members of the candidate’s immediate family  
24 may not serve on the canvass board.

25 ~~41.3~~ 10.2 Duties of the Canvass Board

26 ~~41.3.1~~ 10.2.1 The canvass board must make its determinations by majority vote in  
27 accordance with section ~~1-10-101.5(3)~~ 1-10-101.5(1)(c), C.R.S.

28 ~~41.3.2~~ 10.2.2 The canvass board’s duties are:

29 (a) Conduct the canvass in accordance with section ~~1-10.5-101~~ 1-10-101.5,  
30 C.R.S., including:

31 (i) Account and balance the election and certify the official abstract of  
32 votes;

**Comment [S90]:** While reasonable, this odd number of canvass board members is not a statutory requirement. All this does is solve the problem of a lack of majority on a canvass board... a requirement for voting that was recently added without considering the consequences. Previously canvass boards would have acted by consensus.

- 1 (i-2). Reconcile the number of ballots counted to the number of ballots  
 2 cast; and
- 3 (iii-3) Reconcile the number of ballots cast to the number of voters who  
 4 voted by reviewing the reconciled detailed ballot logs and Statement of  
 5 Ballots;

6(b) Observe the post-election audit ~~AND INVESTIGATE AND REPORT ON RESOLUTION OF COMPLAINTS~~  
 in accordance with section 1-7-514(4), C.R.S., and Election Rule ~~11.5.4-11.4.3(k)~~;

8 (c) In coordination with the county clerk ~~and recorder~~  
 9 ~~REPORT THE AUDIT, AND~~ investigate and report discrepancies found in the audit under section 1-7-  
 10 514(2), C.R.S.; and

11 (d) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and  
 12 ~~Election~~ THIS Rule 14. The canvass board's role in conducting a recount  
 13 includes ~~AMONG OTHER ROLES,~~ selecting ballots for the random test, ~~observing-MANAGING OR~~  
~~CONDUCTING,~~ the recounting of ballots, and certifying the results.

15 ~~41.3.3~~ 10.2.3 If the board identifies a discrepancy in the Statement of Ballots, the Board  
 16 may review the ~~particular~~ ballots ~~at issue~~ to identify, correct, and account for  
 17 the ~~error~~.

18 ~~41.3.4 10.2.4 The canvass board may not perform duties typically reserved for election~~  
 19 ~~judges, including:~~

20 ~~(a) Determining voter intent;~~

21 ~~(b) evaluating EVALUATING voter eligibility; and~~

22 ~~(c) Requesting new logs or reports that were not created to conduct the election.~~

23 ~~41.4~~ 10.3 Detailed Ballot Log

24 ~~41.4.1~~ 10.3.1 The designated election official must keep a detailed ballot log that  
 25 accounts for every ballot issued and received beginning when ballots are  
 26 ordered and received ~~INCLUDING MAIL, PROVISIONAL, ON DEMAND, EMERGENCY, AND UOCAVA~~. The  
 election judges ~~OFFICIALS~~ must reconcile the log at the conclusion of each workday.

28 ~~41.4.2~~ 10.3.2 The designated election official must keep and reconcile ~~BALLOT~~ daily  
 29 logs ~~of mail in, mail, and early voting ballots~~.

30 ~~41.4.3~~ 10.3.3 The designated election official must indicate in the detailed log the  
 31 number of paper ballots that are sent to ~~AND RETURNED FROM~~ each polling location ~~for use on-~~  
~~election EACH~~ day ~~REPORTED BY BALLOT STYLE~~.

33 ~~41.4.4~~ 10.3.4 The designated election official must keep required logs in ~~either~~

**Comment [S91]:** The rules seem to be attempting to overlook this important role of canvass boards, and transfer the responsibility to the SOS. Meanwhile the end of precinct polling begs for additional citizen oversight opportunities and responsibilities.

**Comment [S92]:** I was involved in writing the statute that requires a report of the audit to be written by the canvass board and published by the SOS. It is not only a report of the result of discrepancies and deserves to be included in rule explicitly, if not more explicit than I have made it here. In fact the statute is more explicit that what I have written here.

**Comment [S93]:** Recent rulemaking has sought to delimit the function of the canvass board in conducting a recount. My proposed change forces a re-reading of statute instead of reliance upon these functions mentioned here, only part of the statutory role.

**Comment [S94]:** There is no statutory limitation to "observation" at all. Quite the contrary.

**Comment [S95]:** This recently approved rule unnecessarily inhibits the access by the canvass board to the ballots- the most essential record of the election for integrity purposes- particularly regarding the 3 major functions of the canvass board in certification, audit and recount.

**Comment [S96]:** This restriction on the canvass board is not supported by Statute. The members of the canvass board are included in the definition of election official in CRS 1-1-104(10) as follows:

"(10) "Election official" means any county clerk and recorder, election judge, member of a canvassing board, member of a board of county commissioners, member or secretary of a board of directors authorized to conduct public elections, representative of a governing body, or other person contracting for or engaged in the performance of election duties as required by this code."

Note that among these, the most problematic of election officials from the point of view of the necessary independence of either audit or recount are in fact the county commissioners and the clerk, all of whom are subject to re-election. It is not the canvass board that ought to be carved out for special limited treatment. It is instead these specially interested elected officials.

**Comment [S97]:** Because of Colorado's election complexity all must be mentioned. Unfortunately "mail ballot" may no longer have meaning and may need to be defined.

**Comment [S98]:** Obviously not just on election day. Note this requirement seems to be repeated in 10.4.1

1 AN EASILY ACCESSIBLE electronic or manual format.

2 ~~41.5~~ 10.4 Election ~~Day~~ Tracking Process

3 ~~41.5.1~~ 10.4.1 The designated election official must supply each polling location with a

4 Statement of Ballots Form. ~~Combined precincts may use one form.~~ The form

5 must include a place for the ~~judges~~ ELECTION OFFICIALS to account for the

6 following information FOR EACH DAY VOTING TAKES PLACE, LISTED BY BALLOT STYLE:

7 (a) The name or number(s) of the ~~precinct or vote center~~ POLLING LOCATION;

8 (b) The number of ballots AND BALLOT PACKETS provided to the polling location;

9 (c) The number of ballots cast WITHOUT SIGNED ENVELOPES;

10 (d) The number of unvoted ballots AND MAIL BALLOT PACKETS ON HAND;

11 (e) The number of damaged or spoiled ballots; and

12 (f) The number of voted provisional ballots.

(G) THE NUMBER OF UNVOTED MAIL BALLOTS OR PACKETS SURRENDERED.

(H) THE NUMBER OF MAIL BALLOT PACKETS ISSUED TO ELECTORS.

(I) THE NUMBER OF VOTED DRE BALLOTS

(J) THE NUMBER OF VOTED UOCAVA BALLOTS

(K) THE NUMBER OF VOTED EMERGENCY BALLOTS

(L) THE NUMBER OF VOTED MAIL BALLOT PACKETS RECEIVED

13 ~~41.5.2~~ 10.4.2 The election ~~judge~~ OFFICIALS must reconcile the total number of voted

14 ballots with the number of voters who voted.

15 ~~41.5.3~~ 10.4.3 The election ~~judge~~ OFFICIALS must verify that the total number of voted

16 ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is

17 the same as the number of total ballots supplied to the polling location.

18 ~~41.5.4~~ 10.4.4 The election ~~judge~~ OFFICIALS must reconcile the number of people who

19 signed ~~the pollbook~~ SIGNATURE CARDS to the total of the number of ballots cast.

20 ~~41.5.5~~ 10.4.5 If there is a discrepancy in the numbers on the Statement of Ballots form,

21 the ~~judge~~ ELECTION OFFICIALS must explain the discrepancy in writing (for

22 example, the voter signed in but left the polling ~~place~~ LOCATION without voting,

23 etc.).

24 ~~41.5.6~~ 10.4.6 The ~~judge~~ ELECTION OFFICIALS must return the completed Statement of

25 Ballots form to the designated election official with the other precinct supplies

26 and mail a duplicate copy to the designated election official's office AT THE END OF ELECTION DAY

OR IN CASE OF LATE ARRIVING UOCAVA BALLOTS, 8 DAYS AFTER ELECTION DAY.

27 ~~41.6~~ 10.5 Designated Election Official's Disposition of Forms

28 ~~41.6.1~~ 10.5.1 The designated election official must review the Statement of Ballots form

29 for completion and accuracy.

30 ~~41.6.2~~ 10.5.2 If the designated election official or the canvass board discovers a problem

31 with the Statement of Ballots form that cannot be easily resolved, they may

32 contact the election ~~judges~~ OFFICIALS for an explanation or correction.

**Comment [S99]:** Easy accessibility for canvass board and public would obviously be an electronic format. I hope this rule written this way will favor electronic delivery.

**Comment [S100]:** The title of this section is incorrect- "election day" is not the day election processing is done any more.

**Comment [S101]:** When the rule was written this made sense as a precinct polling place report. Now with vote center style voting and the rise of coordinated special districts, it is ballot style that must be specified as the defining subset and with elections operating on many days other than election day, a daily report is necessary.

**Comment [S102]:** Many new and different numbers must be reported from polling locations. I may not have included all of the new items here yet.

**Comment [S103]:** All these roles should be performed by election judges. This shift to "officials" is highly troubling and will lead to lower integrity and oversight of and citizen involvement in the election over time. Already there are reports of elections planned under 1303 to use no election judges at all.

**Comment [S104]:** ditto

**Comment [S105]:** This language is sorely out of date and not 1303 compatible any more. See my comment on the previous page for the missing categories that must be reconciled. Please update this paragraph to include the mail ballot packets, and UOCAVA, emergency, etc. that will be handled at least at one of the polling locations.

**Comment [S106]:** ditto

**Comment [S107]:** ditto

**Comment [S108]:** ditto

**Comment [S109]:** this change is required by the UOCAVA late ballot return deadline.

1 41.7 10.6 Procedures for ~~the Day of the~~ Canvass

2 41.7.1 10.6.1 The designated election official must provide ~~the following~~ information to

3 the canvass board UPON REQUEST. BUT AT A MINIMUM INCLUDING:

4(a) The name of each ~~CONTEST candidate, office,~~ and votes received INCLUDING UNDER AND OVER

5 VOTES BY VOTING METHOD, BY VOTING DEVICE AND BY PRECINCT;

6 ~~(b) The number/ OR letter of each ballot issue or question and votes received;~~

7 ~~(c) The number of voters who voted early;~~

8 (B) THE STATEMENT OF BALLOTS FORM FOR EACH DAY OF VOTING AND EACH POLLING LOCATION AND THE

9 SIGNATURE CARDS FROM EACH POLLING LOCATION;

10 ~~(d-c) The number of mail-in or mail ballots cast, including the number OF~~

11 ~~accepted and rejected MAIL BALLOTS BY REJECTION CODE; and~~

12 ~~(e-D) The number of provisional ballots counted-CAST, INCLUDING THE NUMBER~~

13 ~~ACCEPTED AND REJECTED BY REJECTION CODE.~~

14 (E) A DESCRIPTION OF ANY KNOWN ANOMALIES, DISCREPANCIES, EXCEPTIONS OR DEFECTS IN THE ELECTION.

15 1141.7.2 10.6.2 Any written OR ELECTRONIC documentation ~~regarding official numbers MAY BE is-~~

16 included as part

17 of the canvass.

18 10.6.3 THE CANVASS BOARD MUST MEET TO BEGIN CONSIDERATION OF ALL OF ITS FUNCTIONS NO LATER THAN 7

19 DAYS AFTER ELECTION DAY.

20 41.8 10.7 Official Abstract AND REPORTING TO THE SECRETARY OF STATE

21 41.8.1 10.7.1 ~~The designated election official must include the number of eligible~~

22 ~~ACTIVE REGISTERED voters AND THE NUMBER OF REGISTERED VOTERS (ACTIVE~~

23 ~~AND INACTIVE) on election day on the official abstract.~~

24 41.8.2 10.7.2 The canvass board must use the official abstract in a format approved by

25 the Secretary of State.

26 41.8.3 10.7.3 The official COUNTY abstract must include, by precinct/ OR ballot style ~~or~~

27 ~~vote center,~~ where applicable:

28 21 (a) THE TOTAL NUMBER OF ACTIVE REGISTERED ELECTORS AT 7PM ON ELECTION DAY;

29 22 (b) THE TOTAL NUMBER OF REGISTERED ELECTORS (ACTIVE AND INACTIVE) AT 7PM ON

30 ELECTION DAY;

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

32 ~~(b) The total active registered electors in the precinct and the total for the~~

33 ~~jurisdiction holding the election;~~

34 (c) The total number of electors voting in each precinct ~~and the total for the~~

35 ~~jurisdiction holding the election;~~ BALLOTS CAST IN THE ELECTION

36 (d) The number of voters who voted early;

37 ~~(e) The number of emergency registrations;~~

**Comment [S110]:** Canvass should usually take more than one day for obvious reasons (audit, investigations, research, late counted ballots, etc.) "Day of Canvass is long obsolete although some counties attempt to require the canvass to be performed in a single day, sometimes the last day it is allowed to be performed, thus drastically limiting the function of the canvass board.

**Comment [S111]:** This requires the clerk to perform the function that explains why that role is part of the canvass board... not to control its process and outcome but to provide the essential information. Recent rules changes have sought to circumscribe the exact information that the canvass board may request. These limitations have damaged the function of the canvass board and made the elected official, elected by the election, only more responsible for an oversight function that they cannot ethically or logically perform because they are overseeing their own work.

**Comment [S112]:** This makes sure the reports contain sufficient detail for understanding the basic election numbers. Over and under votes are used to balance each contest vote counts with the number of ballots received.

**Comment [S113]:** These are crucial records of the election needed for canvass board review.

**Comment [S114]:** By rejection code report is a very good window into the integrity of the election, needed for the decision to certify or not.

**Comment [S115]:** Ditto

**Comment [S116]:** This is a crucial requirement for election transparency to the citizen board that is intended to get an independent perspective on election decisions. Note this may be provided verbally. Written would be even better.

**Comment [S117]:** Increasingly, electronic documentation is taking precedence over written in elections and must be included.

**Comment [S118]:** "regarding official numbers" is a vague limitation apparently offering the local official total discretion over what information to allow the canvass board to see. This is a concept that has no place in our rules.

**Comment [S119]:** A requirement for the canvass board to meet in a timely manner so that it can accomplish its required roles before certification of the abstract of the vote is required.

**Comment [S120]:** Because of same day election day registration, a time is required. 7PM

**Comment [S121]:** Ditto

- 1 (f) The number of ~~mail in or~~ mail ballots counted and the number rejected **BY REJECTION CODE**;
- 2 (g) The number of provisional ballots counted and the number rejected listed by
- 3 each rejection code; and
- 4 (h) The number of damaged and spoiled ballots.

**Comment [S122]:** Rejection code reporting was included for provisional ballots, why not mail ballot rejections? Does "mail ballot" have a definition. Look into adding one if not.

5 10.7.4 THE STATE PORTION OF THE ABSTRACT, WHICH THE COUNTY MUST TRANSMIT TO  
6 THE SECRETARY OF STATE, MUST INCLUDE:

- 7 (A) THE TOTAL NUMBER OF ACTIVE REGISTERED ELECTORS **AT 7PM** ON ELECTION  
8 DAY;
- 9 (B) THE TOTAL NUMBER OF REGISTERED ELECTORS (ACTIVE AND INACTIVE) **AT 7PM** ON  
10 ELECTION DAY;
- 11 (C) THE STATEMENT OF VOTES COUNTED BY RACE AND BALLOT QUESTION OR  
12 ISSUE **INCLUDING UNDER AND OVER VOTES**;
- 13 (D) THE TOTAL NUMBER OF BALLOTS CAST IN THE ELECTION; AND
- 14 (E) THE CANVASS ENR UPLOAD REQUIRED UNDER **RULE RULE** 11.11.4.

**Comment [S123]:** Because of same day, election day registration the time is needed- 7PM

**Comment [S124]:**

**Comment [S125R124]:** Ditto

**Comment [S126]:** Under and overvotes show important information about the election quality and are used to balance contests with single choice options against the number of ballots received and voters casting ballots.

14 ~~41.9~~ 10.8 The COUNTY Abstract is the Official Permanent Record.  
15 ~~41.9.1~~ 10.8.1 The designated election official must keep all official canvass reports and  
16 forms as part of the official permanent election record.

17 ~~41.9.2~~ 10.8.2 Once the canvass board certifies the abstract it may not withdraw the  
18 certification. In the event of a recount, the canvass board may only affirm or  
19 amend the abstract.

20 ~~41.10~~ 10.9 Appointment of Canvass Workers.

21 10.9.1 The designated election official **SUBJECT TO THE APPROVAL OF THE CANVASS BOARD**  
22 may appoint canvass workers to help prepare and  
23 conduct the canvass.

**Comment [S127]:** The canvass board needs a certain amount of independence to operate effectively. When the DEO appoints workers not acceptable to the canvass board, this independence can be severely damaged.

23 ~~41.11~~ 10.10 Voter History.

24 ~~41.11.1~~ 10.10.1 After the canvass, the designated election official must give VOTE  
25 credit to each voter ~~who votes by mail, at an early voting site, or at a polling~~  
26 ~~location.~~

27 ~~41.11.2~~ 10.10.2 If the voter history records do not match the number of voters who  
28 voted at that election, the designated election official must ensure the following:

- 29 (a) Each voter received credit for voting; and
- 30 (b) All ~~pollbooks and~~ signature cards are accounted for.

1 ~~41.11.3~~ 10.10.3 All research concerning discrepancies must be explained ~~and~~  
2 TO THE SATISFACTION OF THE CANVASS BOARD AND documented.

**Comment [S128]:** There is no criterion for quality of this explanation, but the canvass board can properly be asked to provide it.

3 ~~41.12~~ 10.11 Written Complaints.

4 10.11.1 The designated election official must provide the canvass board with any written  
5 complaint submitted by a registered elector about a voting device.

6 ~~41.12.1~~ 10.11.2 If the complaint is resolved, the designated election official must provide  
7 the details of the resolution

8 ~~41.12.2~~ 10.11.3 If the complaint is pending resolution when the board meets to conduct  
9 the canvass, the designated election official must provide a proposal for how the  
10 issue will be resolved.

11 ~~41.13~~ 10.12 Role of Watchers.

12 10.12.1 Watchers appointed under section ~~1-10.5-101(1)(a)~~ 1-10-101(1)(a), C.R.S., may  
13 observe the board while it performs its duties, subject to Rule 8.

14 ~~41.14~~ 10.13 Role of the Secretary of State.

15 10.13.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may  
16 provide guidance and investigate imperfections as outlined below.

17 ~~41.14.1~~ 10.13.2 The county clerk ~~and recorder~~ or the canvass board may request  
18 that the Secretary of State provide guidance and support to the canvass board in  
19 the exercise of the board's duties.

20 ~~41.14.2~~ 10.13.3 If, in the course of assisting a canvass board, the Secretary of State  
21 discovers an imperfection that the Secretary believes may affect the conduct of  
22 other canvass boards, the Secretary may provide notice to other counties  
23 regarding the nature of the imperfection.

24 ~~41.14.4~~ 10.13.4 Imperfect returns or failure to certify.

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

30 (b) If the canvass board fails to certify or certifies imperfect returns that have  
31 a reasonable potential to change the outcome of any race or ballot  
32 measure, the Secretary of State will conduct an investigation to identify  
33 the nature of, and advise the county clerk ~~and recorder~~  
34 AND CANVASS BOARD in correcting, the  
35 inaccuracy.  
36  
37  
38  
39  
40  
41

**Comment [S129]:** CRS is clear on this collaboration of canvass board and clerk (who is also on the canvass board and therefore a redundant inclusion).

1 *[Current Rule 41 moved to new Rule 10 Amendments between the current and new rule*  
2 *language are shown above.]*

3 ~~14.3~~ 10.14 RECOUNT GENERALLY.

4 10.14.1 The purpose of a recount is to RE-TABULATE THE BALLOTS WITH BEST POSSIBLE  
5 ACCURACY AND ATTENTION TO EXPRESSIONS OF VOTER INTENT. ~~review the ballots to~~  
6 ~~assure they were counted properly. Unless directed otherwise by the Secretary of~~  
7 ~~State, all procedures of election night shall be followed as closely as possible~~  
8 ~~during the recount, including an examination of the ballots.~~

**Comment [S130]:** This expression of purpose of the recount is key to its proper execution. Without the attention to accuracy and voter intent, the recount is purposeless.

8 10.14.2 FOR STATEWIDE OR FEDERAL RACES, BALLOT ISSUES OR BALLOT QUESTIONS, THE  
9 COUNTY CLERK ~~AND RECORDER~~ MUST COORDINATE SCHEDULING THE RECOUNT  
10 THROUGH THE SECRETARY OF STATE'S OFFICE SO THAT IT CAN ENSURE ADEQUATE  
11 OBSERVER COVERAGE.

12 10.15 RECOUNT COST ESTIMATES AND REIMBURSEMENTS

13 10.15.1 A COUNTY MUST SUBMIT A REQUEST FOR REIMBURSEMENT FOR A MANDATORY  
14 RECOUNT IN A STATEWIDE OR FEDERAL RACE USING THE SECRETARY OF STATE  
15 APPROVED FORM. THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR MEALS  
16 OR NORMAL OVERHEAD COSTS OR REGULAR EMPLOYEE COMPENSATION. THE  
17 COUNTY MUST INCLUDE ITEMIZED COSTS FOR REASONABLE EXPENDITURES,  
18 INCLUDING:

- 19 (A) MAILINGS AND NOTICES;
- 20 (B) ELECTION JUDGES, TEMPORARY STAFF, CANVASS BOARD PAY, AND  
21 OVERTIME PAY; AND
- 22 (C) COPIES AND OTHER OFFICE EXPENSES RELATED TO THE RECOUNT.

23 10.15.2 REQUESTED RECOUNTS

24 (A) THE COUNTY CLERK MUST PROVIDE AN ITEMIZED COST ESTIMATE IN  
25 ACCORDANCE WITH SECTION 1-10.5-106, C.R.S., UPON SUBMISSION OF A  
26 FORMAL REQUEST FOR A RECOUNT.

27 (B) IN PREPARING A COST ESTIMATE FOR A REQUESTED RECOUNT, THE COUNTY  
28 MUST USE THE SECRETARY OF STATE APPROVED FORM. THE ESTIMATE MUST  
29 INCLUDE REASONABLE ITEMIZED COSTS FOR CONDUCTING THE RECOUNT.  
30 THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR NORMAL OVERHEAD  
31 COSTS.

- 32 (C) ~~ANY OTHER COSTS AGREED TO BY THE REQUESTING PARTY.~~
- 33 (D) THE COUNTY CLERK MUST SUBMIT A COST ESTIMATE TO THE SECRETARY OF  
34 STATE WHEN THE CLERK PROVIDES IT TO A REQUESTING PARTY.

**Comment [S131]:** This is an open invitation for requests for reimbursement for extraneous costs that could become obstacles to a recount. This loophole for creation of obstacles need not be opened here.

1 10.16 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND RULE 10.2.2(D), THE CANVASS  
2 BOARD'S ROLE IN CONDUCTING A RECOUNT INCLUDES ~~BUT IS NOT LIMITED TO~~ SELECTING  
3 BALLOTS FOR THE TEST, ~~CONDUCTING OR MANAGING~~  
~~OBSERVING~~ THE RECOUNTING OF BALLOTS, AND CERTIFYING THE RESULTS.

4 ~~14.4~~ 10.17 ~~General Provisions~~ WATCHERS AND OBSERVERS

5 ~~14.4.1~~ 10.17.1 The Secretary of State may ~~have~~ APPOINT ~~an~~ official ~~observer~~  
6 OBSERVERS ~~at every recount location~~ IN ANY RECOUNT.

7 ~~14.4.2~~ Any candidate who is subject to the recount may be present and observe the  
8 recount at any recount location or designate one Watcher to observe the recount  
9 at any recount location. ~~Watchers must provide the election official with a~~  
10 ~~certificate signed by the candidate, except that an officer of the county party~~  
11 ~~may be accepted as a candidate's watcher without a certificate if no other person~~  
12 ~~is designated by the candidate for that location.~~

13 ~~14.4.3~~ 10.17.2 Each candidate, ~~his or her watcher,~~ OR THE CANDIDATE'S<sup>2</sup> WATCHERS,  
14 ~~members of the media~~ OBSERVERS, and official observers as defined in Rule 8.1,  
15 may be present in the room when a AND WITNESS THE recount is conducted IN  
16 ACCORDANCE WITH RULE 8. ~~During the recount the candidate, watcher,~~  
17 ~~members of the media, and official observers may not interfere with the recount~~  
18 ~~process.~~

19 ~~14.4.4~~ 10.17.3 The recount board, candidates, AND watchers, ~~members of the media, and~~  
20 ~~official observers will~~ MUST take an oath.

21 10.17.4 COMPLAINTS. A WATCHER MAY SUBMIT A COMPLAINT IN WRITING TO THE  
22 COUNTY CLERK OR DESIGNEE. WRITTEN COMPLAINTS DURING A RECOUNT WILL  
23 BE ADDRESSED IN ACCORDANCE WITH RULE ~~4.13~~.

24 10.18 TESTING RECOUNT EQUIPMENT

25 10.18.1 THE CANVASS BOARD MUST REVIEW THE POST-ELECTION AUDIT BEFORE  
26 SELECTING THE EQUIPMENT FOR TESTING UNDER SECTION 1-10.5-102(3), C.R.S.  
27 TO THE EXTENT FEASIBLE, THE BOARD MUST SELECT EQUIPMENT FOR TESTING  
28 THAT WAS NOT INCLUDED IN THE POST-ELECTION ~~AUDIT~~.

10.18.2 THE ~~CANVASS BOARD~~ COUNTY CLERK MUST TEST ALL SCANNERS THAT WILL BE USED IN THE  
30 RECOUNT. THE PURPOSE OF THE TEST IS TO ENSURE THAT THE ~~RESOLUTION BOARD AND~~  
31 ~~TABULATION MACHINES WORKING TOGETHER ARE CAPABLE OF COUNTING~~ SUFFICIENTLY ACCURATELY TO  
32 ~~ENSURE A CORRECT OUTCOME OF THE ELECTION IN CONSIDERATION OF A VERY NARROW VICTORY MARGIN.~~  
33 ~~PROPERLY. THIS MEANS THAT THE MOST DIFFICULT TO COUNT BALLOTS MUST BE COUNTED~~ ACCURATELY.

34 (A) THE TEST DECK MUST INCLUDE 50 BALLOTS OR 1% OF THE TOTAL NUMBER  
35 OF BALLOTS CAST IN THE ELECTION, WHICHEVER IS GREATER, ~~EXCEPT THAT THE TOTAL NUMBER OF~~  
36 ~~BALLOTS TESTED MAY NOT EXCEED THE TOTAL NUMBER OF BALLOTS TESTED IN THE LOGIC AND~~  
37 ~~ACCURACY TEST BEFORE THE ELECTION.~~ THE BALLOTS MUST BE ~~MARKED-SELECTED~~ TO TEST EVERY  
38 OPTION ~~IN THE CONTEST INCLUDING ACTUAL VOTER MARKS THAT ARE DIFFICULT TO COUNT BY~~ MACHINE  
39 ~~FOR THE RACE OR MEASURE THAT WILL BE RECOUNTED.~~

**Comment [S132]:** Like the rules for canvass, here we see a gradual encroachment of the independent ability of the canvass board to review and correct for any errors and weaknesses in the original counting done under control of the election official. Clearly the recount must be operated in a manner different in the respect of being better (more accurate) than the original count. We know that the original count is not perfect, since for example that detected undervotes on ballots are not even examined.

**Comment [S133]:** Here the rule should extrapolate "conducting" from statute into "conducting" in case of a small county or "managing" in case of a large county. Remember the election official is a member of the canvass board.

**Comment [S134]:** There is no statutory support for the canvass board being limited to "observing" the recount. That would be substantially inconsistent with the statutory responsibility- "conducting". Have no doubt, what we are seeing here is an asymmetric conflict between the power of the official in operating the election v. the limited and incrementally dropping power of the public to offset that special interest in partisanship or simply re-election.

**Comment [S135]:** Wrong citation.

**Comment [S136]:** FYI I don't know how this paragraph makes any sense but it is from statute.

**Comment [S137]:** This recount must be independent from the weaknesses and errors if any of the original count The canvass board is the only source of that independence other than the SOS.

**Comment [S138]:** This is a careful statement of purpose that lays out the reasons for the extra care to be taken with the recount.

**Comment [S139]:** The creation of a new test deck or use of the original LAT deck are bad ideas. It is essential that this LAT use actual election ballots, including ones that are problematic in marking, and that the LAT be substantially more accurate and more precise than the one used for the election, and in an case good enough to achieve the accuracy needed to ensure the outcome. This depends on the victory margin of the eventual count. The way to get there is to select poorly marked ballots for the LAT, and use a substantial number of them, higher than the percentage that appear in the election. I can see no excuse for the limitation on the number of test ballots to the number counted in the original LAT.

**Comment [S140]:** This provision allows for the extra precision of the new LAT by challenging the system with real ballot marks that are known to be difficult to capture.

1 (1) ~~IN A MANDATORY RECOUNT, THE CANVASS BOARD MUST SELECT THE~~  
2 ~~BALLOTS TO BE TESTED FROM THE PRE-ELECTION PUBLIC LOGIC AND~~  
3 ~~ACCURACY TEST DECK. BALLOTS VOTED IN THE CONTEST.~~

4 (2) ~~IN A REQUESTED RECOUNT, THE PERSON REQUESTING THE RECOUNT~~  
5 ~~MAY MARK UP TO 25 BALLOTS. ANY OTHER CANDIDATE OR COMMITTEE IN THE CONTEST RACE~~  
6 ~~MAY ALSO MARK UP TO 25 BALLOTS TO BE ADDED TO THE TEST BALLOTS. THE CANVASS BOARD~~  
~~MUST RANDOMLY SELECT BALLOTS FROM THE PRE-ELECTION PUBLIC LOGIC AND ACCURACY TEST~~  
~~DECK TO ENSURE THE MINIMUM NUMBER OF TEST BALLOTS REQUIRED BY THIS RULE.~~

10 (B) ~~SWORN ELECTION~~ JUDGES ~~OR STAFF~~ MUST HAND TALLY THE TEST BALLOTS FOR  
11 COMPARISON TO THE TABULATION RESULTS.

12 (C) THE TEST IS LIMITED TO THE ~~CONTEST RACE OR MEASURE~~ THAT IS RECOUNTED.  
13 (D) ~~THE TEST DECK MUST BE ENTERED INTO THE OPTICAL SCANNER TWICE BEFORE RESULTS ARE COMPARED.~~

1310.18.3 THE ~~COUNTY CLERK CANVASS BOARD~~ MUST TEST THE VVPAT RECORDS FROM ~~1.5%~~ ~~OF THE~~  
~~DRES RANDOMLY SELECTED WITH DICE~~ THAT HAD VOTES CAST FOR THE ~~CONTEST RACE OR MEASURE~~ BEING  
RECOUNTED.

15 (A) ~~SWORN ELECTION~~ JUDGES ~~OR STAFF~~ MUST MANUALLY ~~VERIFY COMPARE~~ THE RESULTS ON THE  
16 MACHINES SELECTED FOR THE TEST.

17 (B) THE TEST IS LIMITED TO THE ~~CONTEST RACE OR MEASURE~~ THAT IS RECOUNTED.

18 10.19 COUNTING ~~OF~~ BALLOTS

19 10.19.1 IN ACCORDANCE WITH SECTION 1-10.5-102(3)(B), C.R.S., IF THERE ARE NO  
20 DISCREPANCIES IN THE TEST UNDER RULE ~~14.6-10.18~~, THE RECOUNT MUST BE  
21 CONDUCTED IN THE SAME MANNER AS THE BALLOTS WERE COUNTED IN THE  
22 ELECTION EXCEPT AS OUTLINED IN THIS RULE.

23 ~~14.6.5~~ 10.19.2 A clear audit trail ~~shall~~ MUST be maintained throughout the recount  
24 including, but not limited to, a log of seal numbers on transfer cases or ballot  
25 boxes ~~as defined in section 1-7-505, C.R.S., and the corresponding numbered~~  
26 ~~seal used as a replacement for the original seal, upon completion of the recount~~  
27 ~~of ballots within that~~ FOR EACH transfer case or ballot box.

28 *[Current Rule 14.6.5 is amended and moved to new Rule 10.19.2. Amendments*  
29 *between the current and new rule language are shown above.]*

30 10.19.3 BALLOTS MUST BE REVIEWED FOR VOTER INTENT USING THE STANDARDS IN RULE  
31 18.

32 (A) EVERY ~~BALLOT WITH AN~~ OVER-VOTE OR UNDER-VOTE IN THE RACE(S) OR  
33 MEASURE(S) SUBJECT TO THE RECOUNT MUST BE REVIEWED FOR VOTER  
34 INTENT UNDER RULE 18 ~~USING THE SAME GUIDELINES THAT WERE USED~~  
35 ~~DURING THE ELECTION.~~

**Comment [S141]:** Mandatory and requested recount both can use voter marked ballots.

**Comment [S142]:** As previously explained, it is the real ballots in the election that need to be tested.

**Comment [S143]:** This may require replacement of "committee" with the correct description. Recounts are not only of races.

**Comment [S144]:** If the candidates have concerns over the machine capability they may test those concerns with these 25 ballots. This is good. Regardless of mandatory or requested recount.

**Comment [S145]:** It is a very bad idea to use the pre-election LAT deck- this causes the recount to be dependent on the accuracy of the original test that may have allowed the original count to be in error.

**Comment [S146]:** Sworn? Election judges are the appropriate actors... not "staff" whatever that means.

**Comment [S147]:** This is not a function that should be left to staff. Resolution of voter intent is needed here, so an appropriately bipartisan and overseen process should be used. I don't know the meaning of "sworn judges".

**Comment [S148]:** "contest" is the defined term.

**Comment [S149]:**

**Comment [S150R149]:** This new proposal will add to the precision of the LAT with very little extra need for time. The hand count of the test ballots is simply multiplied by two. If there is lack of reliability in vote mark capture, this improvement on the test may find it.

**Comment [S151]:** Why only 1%? 5% is the generally accepted statutory number for the audit, and this recount needs even more accuracy than the audit.

**Comment [S152]:**

**Comment [S153]:** Using dice is a way to have publicly verifiable randomness. This is a role for the canvass board in conducting the recount, not the election official.

**Comment [S154]:** See above comment on "sworn" and "staff".

**Comment [S155]:** "verify" presumes accuracy. "compare" does not and is the more correct term.

**Comment [S156]:** "contest" is a simpler defined term if my proposal to define contest is accepted.

1 (B) THE JUDGES CONDUCTING THE VOTER INTENT REVIEW MAY RESOLVE THE  
2 INTENT DIFFERENTLY THAN THE JUDGES IN THE ELECTION.

3 10.19.4 TO RECOUNT BALLOTS ON OPTICAL SCANNERS:

4 (A) ~~IF THE ORIGINAL COUNT METHOD WAS CENTRAL COUNT,~~ THE COUNTY MUST  
5 CREATE A NEW ELECTION DATABASE THAT BECOMES A PART OF ELECTION SETUP RECORDS.

6 (B) ~~IF THE ORIGINAL COUNT WAS BY PRECINCT COUNT,~~ THE COUNTY MUST ~~USE~~  
7 FORMAT ONE OR MORE ~~BLANK~~ PROM CARTRIDGES, ROM CARTRIDGES, OR MEMORY  
8 CARDS NOT ALREADY USED IN THE ELECTION.

9 (C) ALL ~~PRECINCT~~ BALLOTS ~~MAY MUST~~ BE TABULATED CENTRALLY REGARDLESS OF  
10 WHETHER THE COUNTY USED PRECINCT OR CENTRAL TABULATION ~~WAS USED~~  
11 ~~ON ELECTION DAY.~~

12 *[Portions of Current Rules 14.6.9 – 14.6.12 are moved to new Rules 10.19.3 and*  
13 *10.19.4]*

14 10.19.5 ~~14.7.3~~ Ballots for the recount shall be processed following the State of Colorado  
15 ~~Procedures for the use of the Ballot Now Voting System in conjunction with the~~  
16 ~~following procedures:~~ TO RECOUNT BALLOTS USING “BALLOT NOW”:

17 (A) BACK UP THE OFFICIAL ELECTION DATABASE.

18 (aB) Open Ballot Now with an unused ~~MBB~~ (Mobile Ballot Box) (MBB) from  
19 the election and create a Ballot Now recount database.

20 (bC) Scan and resolve all recount ballots ~~following original election procedures~~  
21 ACCORDING TO THIS RULE ~~44~~ 10.

22 (c) ~~Use the Audit Trail Report and Original Scan Batch Reports with notes to~~  
23 ~~ensure that resolution action follows the original resolution.~~

24 (d) Save all recount ~~CVRs~~ (Cast Vote Records) to the MBBS (~~Mobile Ballot~~  
25 ~~Box~~) after verifying that the number of ballots processed matches the  
26 number of ballots cast in the recount contest(s).

27 (e) Open a new recount election in “Tally” and process the recount MBBS  
28 following the tabulation procedures above.

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

30 (g) Backup the test database and the official recount database ~~following the~~  
31 ~~“Archive”~~ procedures.

32 *[Portions of current Rule 14.7.1 and 14.7.2 are moved to Rule 10.19.5. Current*  
33 *Rule 14.7.3 is amended and moved to new Rules 10.19.5. Amendments are*

**Comment [S157]:** It is unclear why a new election database is not being created for a precinct counted election. Otherwise, the county is dependent on any remaining stock of unused memory cards. In any case this rule about the blank memory cards makes little sense. And the election database could have been created with an error of some kind. And central count is no longer defined. The county should make a new database (actually then part of “election records” ) and new memory cards, etc.

**Comment [S158]:** Existing records of the election must be kept as required and not destroyed by the recount process.

**Comment [S159]:** No need for this word “precinct”.

**Comment [S160]:** I see no reason to leave this vague and up to the county officials or canvass boards. Oversight will be much easier if all ballots are recounted in the same place with the same methods.

1 *shown above.]*

2 10.19.6 TO RECOUNT BALLOTS BY HAND COUNT.

3 (A) IF THE TABULATION OF THE ORIGINAL COUNT WAS CONDUCTED BY HAND  
4 COUNT, ~~OR THE TEST IN RULE 10.18.2 PRODUCED DISCREPANCIES,~~ THE RECOUNT MUST BE CONDUCTED BY HAND  
5 COUNT.

6 ~~14.5.4~~(B) Ballots ~~shall~~ MUST be counted ~~into groups~~ IN BATCHES of 25 to  
7 ensure that the number of ballots recounted matches the number originally  
8 counted.

9 ~~14.5.5~~(C) Votes ~~shall~~ MUST be counted by individual hash marks in 25-count  
10 sections by two different judges.

11 *[Current Rules 14.5.4 and 14.5.5 are amended and moved to new Rules*  
12 *10.19.6(a) and (b). Amendments between the current and new rule language are*  
13 *shown above.]*

14 10.19.7 FOR TABULATION OF DREs, IF THERE ARE NO DISCREPANCIES IN THE TEST UNDER  
15 RULE ~~14.6~~ 10.18.3, THE COUNTY CLERK MUST UPLOAD THE MEMORY CARDS.

16 10.19.8 TABULATION OF BALLOTS CAST ~~BY ONE METHOD~~ MUST BE COMPLETED THROUGH  
17 A PRECISE, CONTROLLED PROCESS THAT ENSURES EACH CONTAINER OF BALLOTS  
18 IS ~~RECOUNTED,~~ RETABULATED AND RESEALED, ~~AND RETABULATED~~ BEFORE  
19 TABULATION OF THE NEXT ~~METHOD~~ CONTAINER BEGINS. ~~EXCEPT THAT, IF MAIL-IN~~  
20 ~~BALLOTS WERE ORIGINALLY COUNTED WITH EARLY VOTING BALLOTS, THE~~  
21 ~~RECOUNT MUST BE CONDUCTED IN THE SAME MANNER.~~

22 ~~14.6.6~~ 10.19.9 The number of ballots counted by a ~~METHOD AND~~ precinct according to the  
23 ~~election night report shall~~ FINAL **CERTIFIED** RESULTS FOR THAT RACE OR MEASURE MUST BE  
24 available during the recount for comparison purposes.

25 *[Current Rule 14.6.6 moved to new Rule 10.19.9. Amendments between the*  
26 *current and new rule language are shown above.]*

27 10.20 CANVASS AND REPORTING RESULTS

28 ~~14.6.7~~ 10.20.1 Totals of recounted ballots ~~shall be processed, counted, and~~ MUST BE  
29 reported in summary form as follows:

30 (a) Sum total of votes cast for each ~~candidate, ballot issue or ballot question~~  
31 ~~subject to the recount,~~ RACE OR MEASURE RECOUNTED, under-votes, and over-  
32 ~~votes for all precincts~~ FOR EACH ~~LOCATION~~ **TABULATION DEVICE AND BY PRECINCT**;

33 (b) Sum total of votes cast for each ~~candidate, ballot issue or ballot question~~  
34 ~~subject to the recount, under votes and over votes for all mail in ballots (a~~  
35 ~~combined total, not totaled by individual precincts or location, unless your~~  
36 ~~system allows);~~

**Comment [S161]:** How did this important path in the recount process get left out? Of course a hand count is essential if the machine cannot accurately capture the votes on the actual ballots voted in the election.

**Comment [S162]:** "Final" is not defined. Certified is.

**Comment [S163]:** "Location" is meaningless here. Device and precinct reports are important to judge tabulation quality, as of course are over and under votes.

1 (c) ~~Sum total of votes cast for each candidate, ballot issue or ballot question,~~  
2 ~~subject to the recount, under votes, and over votes for all early voting~~  
3 ~~locations (a combined total, not totaled by individual precinct or locations,~~  
4 ~~unless the voting system so allows);~~

5 (d) ~~Determine the grand total of ballots cast in early, mail in, and precinct~~  
6 ~~voting.~~

7 ~~(E-B) THE TOTALS MUST BE A COMBINED TOTAL, NOT TOTALED AND BY INDIVIDUAL~~  
8 ~~PRECINCTS OR AND BATCHES IF LOCATION, UNLESS THE TABULATION SYSTEM ALLOWS.~~

~~(C) THE RECOUNT IS SUBJECT TO A RANDOM AUDIT PURSUANT TO CRS 1-7-514.~~

9 *[Current Rules 14.5.1 and 14.6.7 are amended and moved to new Rule 10.20.1.*  
10 *Amendments are shown above.]*

11 10.20.2 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND THIS RULE 10, THE  
12 CANVASS BOARD MUST AMEND, IF NECESSARY, AND RE-SUBMIT THE ABSTRACT OF  
13 VOTES CAST.

14 **Rule 11. Rules Concerning Voting Systems**

15 11.1 Voting system access.

16 ~~11.2.1 The county clerk and recorder shall not program or operate the voting system~~  
17 ~~subject to section 1-5-607, C.R.S.~~

18 ~~11.2.2 11.1.1 Any election setup materials shall be stored by the THE county clerk and~~  
19 ~~recorder DESIGNATED ELECTION OFFICIAL MUST SECURELY STORE ELECTION SETUP~~  
20 ~~RECORDS under security with access limited to the person or persons so authorized~~  
21 ~~in writing by the county clerk and recorder. NO PERSON MAY ACCESS THE RECORDS~~  
22 ~~WITHOUT THE CLERK'S WRITTEN AUTHORIZATION.~~

23 ~~11.2.3 11.1.2 Employees of the county clerk and recorder THE COUNTY CLERK MUST~~  
24 ~~DEPUTIZE EMPLOYEES who are authorized by the county clerk and recorder to~~  
25 ~~prepare or maintain the voting system or election setup materials shall RECORDS~~  
26 ~~MUST be deputized by the county clerk and recorder for this specific purpose and~~  
27 ~~so sworn prior to 60 DAYS BEFORE the first election DAY. of the calendar year in which they will~~  
28 ~~be performing one or more of these activities.~~

29 ~~11.2.4 11.1.3 The county clerk and recorder shall request an Internet Criminal History~~  
30 ~~Check (ICHC) from the Colorado Bureau of Investigation (CBI) for all full time,~~  
31 ~~part time, permanent and contract employees of the county who staff the counting~~  
32 ~~center and OR who have any access to the electromechanical voting systems or~~  
33 ~~electronic vote tabulating equipment. At the direction of the county clerk and~~  
34 ~~recorder, an ICHC check may be conducted on election judges. The county clerk~~  
35 ~~and recorder shall request the ICHC once per calendar year for such employees~~  
36 ~~prior to the first election of the year. IN ACCORDANCE WITH SECTION 24-72-305.6,~~  
37 ~~C.R.S., ALL PERMANENT AND TEMPORARY COUNTY STAFF AND ALL VENDOR STAFF~~  
38 ~~WHO HAVE ACCESS TO THE VOTING SYSTEM OR ANY VOTING OR COUNTING~~

**Comment [S164]:** Precinct reports allow comparison of similar demographics and batch reports are used for auditing.

**Comment [S165]:** For the same reason we do an audit of the original counts, the audit of the recount is necessary to make sure that it is sufficiently accurate. A risk limiting audit will be particularly suited to a recount when ballots are all counted centrally.

**Comment [S166]:** This designation is important and requires a deadline so that oversight can be performed by the public. The record of designation must become a public record and of course preferably published.

1 EQUIPMENT MUST PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN ~~RULE~~  
2 ~~RULE 6.4.~~

3 ~~11.2.5 If the ICHC indicated that the employee or contract employee has been found~~  
4 ~~guilty of a crime involving breach of trust, fraudulent, coercive, or dishonest~~  
5 ~~practices or demonstrating incompetence, untrustworthiness, or election offenses~~  
6 ~~pursuant to sections 1-13-101 et seq., C.R.S., the county clerk and recorder shall~~  
7 ~~MUST prohibit such employee or contract employee from preparing, programming,~~  
8 ~~operating, using or having any access whatsoever to electromechanical voting~~  
9 ~~systems or electronic vote tabulating equipment at any time during that person's~~  
10 ~~employment.~~

11 ~~11.2.6 Vendors or their authorized representatives shall provide a criminal history check~~  
12 ~~to the county clerk and recorder for any employee of the vendor who has any~~  
13 ~~access to electromechanical voting systems or electronic vote tabulating~~  
14 ~~equipment. The vendor shall provide the criminal history check ICHC to the~~  
15 ~~county clerk and recorder once per calendar year for such employees prior to the~~  
16 ~~first election of the year.~~

17 11.2 Performance Bond.

18 11.2.1 ~~Effective upon the date of the adoption of this rule, A voting system provider or~~  
19 ~~service provider that provides election setup or tabulation services to one or more~~  
20 ~~counties shall MUST:~~

21 (a) ~~Provide the services by ENTER INTO A written FILE A COPY OF THE contract,~~  
22 ~~STATEMENT OF WORK, PURCHASE ORDER, OR SIMILAR DOCUMENT, AND FILE~~  
23 ~~a copy of which shall be kept on file with the county clerk and recorder~~  
24 ~~and the Secretary of State.~~

25 (b) Post a performance bond, executed by a corporate surety licensed to  
26 transact business in the State of Colorado. The county under contractual  
27 obligation with the ~~voting system provider or service provider that~~  
28 ~~provides election setup or tabulation services shall MUST be designated as~~  
29 ~~the NAMED beneficiary of the bond; and. THE BOND AMOUNT MUST BE THE~~  
30 ~~GREATER OF \$10,000 OR THE FULL AMOUNT OF THE CONTRACT WITH THE~~  
31 ~~STATE OR BENEFICIARY COUNTY AND THE BOND MUST BE ON FILE 30 DAYS BEFORE~~  
32 ~~WORK STARTS.~~

33 (c) Provide proof ~~that a~~ OF THE performance bond ~~has been posted with~~ TO the  
34 Secretary of State and the office of the ~~designated election official~~  
35 ~~COUNTY CLERK AND RECORDER. The amount of the bond shall be the~~  
36 ~~greater of either \$10,000 or the full amount of the contract with the~~  
37 ~~beneficiary county.~~

38 11.3.2 Performance bonds shall be on file 30 (thirty) days prior to any work commencing  
39 under contract with the county.

Comment [S167]: It might not only be county.

1 11.2.3 The voting system provider shall MUST update all bond documents for each  
2 contract or election. performed.

3 11.3.4 Copies of the performance bond for the secretary of state's office shall be sent to:  
4 Colorado Department of State, Voting Systems Specialist, 1700 Broadway, Suite  
5 270, Denver, Colorado 80290, or to voting.systems@sos.state.co.us

6 11.3 Voting System Inventory.

7 11.3.1 The designated election official shall MUST maintain an inventory record for each  
8 electronic ~~vote tabulating device~~ used in an election. ~~Such records shall~~ THE  
9 RECORD MUST include, ~~but not be IS NOT limited to,~~ the manufacturer, make,  
10 model, serial number, hardware/firmware/software version or release number,  
11 hash value documentation where applicable, date of acquisition, description of  
12 any services, repairs, maintenance, upkeep, and version upgrades, and the dates of  
13 performance of such services as of the date of adoption of these rules THE  
14 SERVICES WERE PERFORMED.

**Comment [S168]:** This inventory needs to be made more broad to include ballot marking devices and signature checking equipment, ballot on demand, UOCAVA assistive systems and vote reporting systems, etc.

15 11.3.2 IF THE INVENTORY IS IN ELECTRONIC FORMAT, IT MUST BE EXPORTABLE TO A  
16 COMMA SEPARATED (CSV), EXCEL SPREADSHEET (XLS OR XLSX), OR ~~QUOTE OR~~  
17 ~~TAB~~QUOTE OR TAB SEPARATED (TXT) FILE BEFORE DELIVERY TO THE SECRETARY  
18 OF STATE.

19 11.4.2 ~~11.4.3~~ 11.3.3 The designated election official shall MUST furnish FILE THE  
20 INVENTORY WITH the Secretary of State with an extract or copy of the inventory  
21 NO LATER THAN ~~10 TEN~~ DAYS BEFORE THE ELECTION for use in the Logic and  
22 Accuracy Test and the Post-Election Audit Test. ~~The requirements for this extract~~  
23 ~~are:~~

- 24 (a) ~~Be in either electronic or paper format;~~
- 25 (b) ~~Contain information regarding: make, model, serial number, type (optical~~  
26 ~~scanner or DRE), AND specific location of use, and specific precincts~~  
27 ~~programmed on each device or card;~~
- 28 (c) ~~Inventories maintained in electronic format shall be exportable to an~~  
29 ~~industry standard file type — comma separated (CSV), excel spreadsheet~~  
30 ~~(XLS OR XLSX), or Quote or Tab separated (TXT) file prior to electronic~~  
31 ~~delivery to the Secretary of State; and~~
- 32 (d) ~~The designated election official shall send the inventory list to the~~  
33 ~~Secretary of State's office not less than ten (10) days prior to an election to~~  
34 ~~the attention of the Voting Systems Specialist. Inventory lists may be sent~~  
35 ~~BY MAIL, E-MAIL, OR FAX. in one of three means: E mail:~~  
36 ~~voting.systems@sos.state.co.us Subject line = County Number, County~~  
37 ~~Name, HARDWARE INVENTORY LIST; or Via facsimile to: 303-869-~~  
38 ~~4861 attn: Secretary of State, Voting Systems Specialist; or via First Class~~

1 Mail to Colorado Department of State/Attn: Voting Systems  
2 Specialist/1700 Broadway Suite 270/Denver, CO 80290.

3 11.4 ~~Voting System Testing. 11.5.1~~ THE CLERK MUST PERFORM A HARDWARE  
4 DIAGNOSTIC TEST, A LOGIC AND ACCURACY TEST, AND A POST-ELECTION AUDIT TEST. ~~Three~~  
5 ~~types of voting system testing: shall be performed for each election within a jurisdiction.~~  
6 ~~The three tests are:~~

- 7 ● ~~A Hardware Diagnostic Test;~~
- 8 ● ~~A Logic and Accuracy Test (LAT); and~~
- 9 ● ~~A Post Election Audit Test.~~

10 ~~11.5.2~~ 11.4.1 Hardware Diagnostic Test

11 11.5.2.1 (A) The ~~county clerk and recorder~~ shall commence ~~DESIGNATED~~  
12 ~~ELECTION OFFICIAL~~ MUST PERFORM the Hardware Diagnostic Test  
13 ~~prior to~~ BEFORE the election ON EACH DEVICE THAT THE CLERK  
14 WILL USE IN THE ELECTION, INCLUDING SPARE OR BACK UP DEVICES.  
15 THE TEST MUST INCLUDE THE FOLLOWING DEVICES AND PROVIDE  
16 THE FOLLOWING INFORMATION: ~~and allow time for each electronic~~  
17 ~~voting device within the county to be tested. Each device being~~  
18 ~~used in the election, including units identified as spare or backup~~  
19 ~~units, shall be tested to verify that mechanical components are~~  
20 ~~working correctly. This test shall include, but not be limited to, the~~  
21 ~~following tests:~~

- 22 (a) (1) All input and output devices;
- 23 (b) (2) Communications ports;
- 24 (c) (3) System printers;
- 25 (d) (4) System modems when applicable;
- 26 (e) (5) System screen displays;
- 27 (f) (6) Boot performance and initializations;
- 28 (g) (7) Firmware loads;
- 29 (h) (8) Software loads;
- 30 (i) (9) Display of firmware OR software hash value (MD5 or SHA-  
31 1) when possible;
- 32 (j) (10) Confirmation that screen displays are functioning; and

1 (k) (11) Date, time and calibration of systems.  
2 11.5.2.2 (B) THE ~~CLERK DESIGNATED ELECTION OFFICIAL~~ MUST SEAL each device  
3 tested ~~shall be sealed~~ upon the successful completion of the test  
4 AND RETAIN documentation of the seal information and all records  
5 ~~from testing must be maintained for each device~~ IN ACCORDANCE  
6 WITH SECTION 1-7-802, C.R.S.

7 11.5.3 11.4.2 Logic and Accuracy Test. ~~The designated election official shall conduct a~~  
8 ~~Logic and Accuracy Test according to the following requirements.~~

9 11.5.3.1 (A) The designated election official ~~shall~~ MUST create a Testing Board  
10 ~~consisting of at least two persons~~ AT LEAST ONE REGISTERED ELECTOR  
11 ~~AFFILIATED WITH THE~~ FROM REPRESENTING EACH OF THE MAJOR POLITICAL  
12 PARTIES, AS DEFINED IN SECTION 1-1-104(22), C.R.S., ~~AND one~~  
13 ~~REGISTERED ELECTOR from each OTHER major political party, IF~~  
14 APPOINTED BY THAT PARTY. TESTING BOARD MEMBERS MUST BE REGISTERED TO  
15 VOTE IN THE COUNTY.

16 11.5.3.2 (B) ~~Prior to the commencement of voting,~~ The designated election  
17 official ~~shall~~ MUST conduct the public Logic and Accuracy Test  
18 AT LEAST ONE WEEK BEFORE VOTING BEGINS AND ISSUE A PRIOR PUBLIC NOTICE OF THE SCHEDULE.

19 11.5.3.3 (C) THE DESIGNATED ELECTION OFFICIAL MUST ENSURE THAT THE Logic  
20 and Accuracy Test ~~shall be~~ IS open to ~~representatives of the press~~  
21 ~~and~~ THE MEDIA AND the public to the extent allowable ~~and pursuant~~  
22 ~~to~~ IN ACCORDANCE WITH section 1-7-509(2)(b), C.R.S. The  
23 designated election official may limit the number of  
24 representatives from each group ~~to accommodate for~~ BECAUSE OF  
25 space limitations ~~and~~ OR other considerations.

26 11.5.3.4 (D) ~~Testing Board Test Ballots~~ ~~In preparation for the Logic and~~  
27 ~~Accuracy Test,~~ The designated election official ~~shall~~ MUST provide  
28 ~~to each member of the Testing Board,~~ at least ~~twenty five (25)~~ 25  
29 CLEARLY-MARKED DESIGNATED FOR TEST PURPOSES BLANK ballots ~~that are clearly marked as~~  
~~test ballots~~ TO EACH TESTING BOARD MEMBER ~~to be used for the Logic and Accuracy Test.~~ TEST  
BALLOTS MUST BE TAKEN FROM ACTUAL BALLOT INVENTORY OR PRINTERS PROOFS AND SUBSEQUENTLY  
MARKED TO DESIGNATE THEM AS BALLOTS TO BE USED FOR TESTS.

32 11.5.3.5 (E) ~~The members of the~~ Testing Board MEMBERS ~~shall~~ MUST secretly  
33 ~~vote their position~~ BALLOTS IN ACCORDANCE WITH THE HOW THEY BELIEVE VOTERS WILL FOLLOW  
34 INSTRUCTIONS PRINTED ON THE BALLOTS and retain a record of the  
35 tally. ~~of their test votes.~~ The test ballots ~~shall~~ MUST have a known  
36 ~~predetermined outcome by the members of the Testing Board's~~  
37 ~~secret vote and tally.~~ Of the ~~twenty five~~ AT LEAST 25 test ballots,  
two ~~shall~~ MUST be tested as audio ballots where applicable.

39 11.5.3.6 (F) ~~County Test Ballots~~ ~~In preparation for the Logic and Accuracy~~  
40 ~~Test,~~ The designated election official ~~shall~~ MUST prepare a

**Comment [S169]:** One from each party is ot enough in most cases due to the hardship of testing DRE.

**Comment [S170]:** Test board members need not be members of the party that appoints them nor registered in the county. They probably should be party members if the election official appoints them.

**Comment [S171]:** No reason for this at all... just obstructive to the freedom of a party to appoint the best test representatives.

**Comment [S172]:** As explained in the previous comment

**Comment [S173]:** There may be a statutory requirement for this advance public notice.

**Comment [S174]:** Advance public notice of the testing is necessary. This should be made compatible with any statutory requirement (I have not looked it up).

**Comment [S175]:** These test ballots must not be printed as "test" ballots or the test is rendered ineffective.

**Comment [S176]:** Under the corrected definition, blank is the correct term.

**Comment [S177]:** This specifies enough to make the test ballots meaningful for the election quality and not simply a test of special test ballots.

**Comment [S178]:** No ownership.

**Comment [S179]:** This caveat allows for a meaningful test, not just perfectly voted test ballots.

**Comment [S180]:** The test must not be limited in scope arbitrarily. If test board members choose to increase the accuracy of the test they should be allowed to do so.

sufficient number of test ballots that represent every precinct which shall include AND every ballot style AND PRECINCT, IF APPLICABLE, allow for a sufficient number of ballots to mark every vote position for every candidate on every race including write-in candidates, allow for situations where a race may permit an elector to vote for two or more positions, WHERE APPLICABLE, and include overvotes and undervotes for each CONTEST race.

Comment [S181]: "Race" is not defined and not appropriate here.

11.5.3.7 (G) The test ballots shall TESTING BOARD MUST be tested TEST THE BALLOTS on each type of voting device utilized TO BE USED in a given THE election and each method of counting. TYPE OF VOTING METHOD BALLOT INCLUDING AN The tests shall include testing of mail in ballot counting methods, election day counting methods MAIL, REGULAR, provisional, ballot, counting methods, early voting counting methods and audio PRESENTATION OF THE BALLOT ballots, if applicable.

Comment [S182]: Future tense needed.

Comment [S183]: "Type of ballot" is not clear. "voting method" may also not be clear but is closer. Voting device is clear.

11.5.3.8 (H) Conducting the Test.

Comment [S184]: "audio presentation of the ballot" gets away from attempting to define audio as "the" ballot- this is getting dangerously close to that.

11.5.3.8.1 (1) The designated election official and Testing Board shall MUST observe the tabulation of all test ballots by means of the voting device and compare the tabulation with the previously retained records of the test vote count The cause of AND MUST CORRECT any discrepancies shall be corrected prior to the start of BEFORE ANY USE IN VOTING OR vote tabulation.

Comment [S185]: With central count, vote tabulation is too late for this deadline. Perhaps a date linked to election day would be better.

11.5.3.8.2 (2) Prior to the start of testing, THE DESIGNATED ELECTION OFFICIAL MUST all devices used will have the public counter reset THE PUBLIC COUNTER to zero ON ALL DEVICES, and PRESENT ZERO TAPES presented 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 DESIGNATED Election Official shall MUST verify and document the accuracy of the value to be included with the records for the device.

11.5.3.8.3 (3) THE DESIGNATED ELECTION OFFICIAL MUST MAKE an appropriate number of voting devices will be available and the Testing Board may witness the necessary programming and/or downloading of memory devices necessary to FOR THE test. the specific precincts.

11.5.3.8.4 (4) The Testing Board and designated election official or his or her designated deputized clerks, as necessary, shall MUST count the test ballots as follows:

(a) Mail in Ballots:

1 (1) ~~All county test ballots shall be counted on at least~~  
2 ~~one, but not more than three, mail in ballot vote~~  
3 ~~counting devices and have the predetermined total~~  
4 ~~verified to the machine total.~~

5 (2) ~~All Testing Board Member test ballots shall be~~  
6 ~~counted individually with reports generated to~~  
7 ~~verify the machine count to the predetermined hand~~  
8 ~~tally.~~

9 (b) ~~Precinct Count Ballots (Optical Scan and DRE):~~

10 (1) ~~The Testing Board shall randomly select 20% but~~  
11 ~~not more than 10 ballots representing unique~~  
12 ~~precincts from the Testing Board's test ballots.~~

13 (2) ~~In the event a selected precinct contains a~~  
14 ~~combination of DRE and Optical Scan voting~~  
15 ~~devices, the Testing Board shall decide on the~~  
16 ~~percentage of ballots to be counted on each type of~~  
17 ~~device used for that precinct.~~

18 (3) ~~The precinct specific county test ballots will be~~  
19 ~~added to the testing board test ballots to be counted~~  
20 ~~on the specific precinct device. The testing board~~  
21 ~~shall manually verify the ballots to be counted prior~~  
22 ~~to any machine count.~~

23 (4) ~~The Testing Board shall verify the manual count to~~  
24 ~~the voting device count.~~

25 (c) (A) ~~Vote Center Count Ballots— Optical Scan SCANNERS:~~

26 (1) ~~All testing board~~ THE TESTING BOARD ~~test ballots~~  
27 ~~shall~~ MUST BE COUNTED COUNT TEST BALLOTS on at  
28 ~~least one, but not more than 5 FIVE voting devices,~~  
29 ~~WHICH MUST REPRESENT AT LEAST ONE DEVICE USED~~  
30 ~~AT A VOTER SERVICE AND POLLING CENTER, AND ONE~~  
31 ~~CENTRAL COUNT DEVICE. IF THE COUNTY WILL USE A~~  
32 ~~SCANNER TO BE USED,~~ IN EACH VOTER SERVICE AND POLLING  
33 ~~CENTER, AT LEAST ONE MUST BE INCLUDED IN THE~~  
34 ~~TEST,~~ designated for Vote Center Counting and have  
35 ~~the predetermined total verified to the machine~~  
36 ~~total.~~ AND AT LEAST ONE SCANNER TO BE USED FOR COUNTING BALLOTS VOTED OUTSIDE A POLLING LOCATION.

37 (2) ~~The TESTING BOARD MUST~~ USE DICE TO RANDOMLY SELECT THE  
38 ~~MACHINES TO TEST.~~

**Comment [S186]:** If one scanner per any location, each is tested.

**Comment [S187]:** This makes sure a central count scanner is tested- even if it is not called a central count scanner.

**Comment [S188]:** Specificity for what "randomly" means.

1 (2) (3) ~~All~~ THE TESTING BOARD MUST COUNT THE BOARD'S  
2 AND THE COUNTY'S test ballots ~~BALLOT BATCHES~~  
3 ~~shall be counted individually~~ SEPARATELY AND  
4 GENERATE REPORTS ~~with reports generated to verify~~  
5 THAT DETERMINE IF the machine count IS IDENTICAL to the  
6 predetermined tally. ~~of the test ballots.~~

Comment [S189]: "verify" presumes accuracy, "determine if" is more appropriate.

7 (3) ~~The testing board shall randomly select the~~  
8 ~~machines to be tested.~~

9 (d) (B) ~~Vote Center Count Ballots—DREs:~~

10 (1) ~~All testing board~~ THE TESTING BOARD MUST COUNT  
11 THE AT LEAST 25 test ballot VOTE PATTERNS ~~shall be counted~~ on at least one, ~~but~~  
12 ~~not more than 5 FIVE~~ DREs. ~~designated for Vote~~  
13 ~~Center Counting and have the predetermined total~~  
14 TO BE USED IN EACH POLLING LOCATION, ~~verified to the machine total.~~

Comment [S190]: "at least" to prevent enforcement of a limitation if the test board wishes to achieve more accuracy.

Comment [S191]: You can't vote a "ballot" on a DRE. You can vote a pattern. To make the test reliable, video of the test votes must be recorded and played back to resolve discrepancies in the vote counts. If we were serious about DRE we would require the video tape.

15 (2) THE TESTING BOARD MUST USE DICE TO RANDOMLY SELECT THE  
16 MACHINES TO TEST.

Comment [S192]: If DRE are used at any location, one per each location is to be tested.

Comment [S193]: Specifies what "randomly" means.

17 (3) THE TESTING BOARD MUST IDENTIFY AND TEST TWO HAVA COMPLIANT  
ASSISTIVE DEVICES WITH BALLOTS AS VOTE PATTERNS USING AUDIO PRESENTATIONS OF THE ~~BALLOT'S.~~

Comment [S194]: These changes better specify the testing of two HAVA compliant devices using audio.

19 (2) (4) ~~All~~ THE TESTING BOARD MUST COUNT THE BOARD'S  
20 AND THE COUNTY'S test ballots VOTE PATTERNS, BATCHES  
21 ~~shall be counted individually~~ SEPARATELY AND  
22 GENERATE REPORTS ~~with reports generated to verify~~  
23 DETERMINE IF THAT the machine count IS IDENTICAL to the  
24 predetermined tally ~~of the test ballots.~~ FOR DRES  
25 WITH VVPAT DEVICES, THE TESTING BOARD MUST  
26 MANUALLY COUNT THE PAPER RECORD TO ~~VERIFY~~  
27 DETERMINE IF THAT THE PRE-DETERMINED TOTALS OF THE TESTING  
28 BOARD AND COUNTY TEST BALLOT BATCHES MATCH  
29 THE VVPAT HAND TABULATED TOTAL.

Comment [S195]: Vote patterns is correct in place of ballot.

Comment [S196]: As commented above

30 (3) ~~The testing board shall randomly select the~~  
31 ~~machines to be tested.~~

Comment [S197]: Ditto

32 (e) ~~Early Voting and Provisional Ballots Counted on Optical~~  
33 ~~Scan Devices:~~

34 (1) ~~All test ballots shall be counted on at least one, but~~  
35 ~~not more than five, optical scan devices designated~~  
36 ~~for Early Voting or Provisional Ballot Counting and~~  
37 ~~have the predetermined total verified to the machine~~  
38 ~~total.~~

Comment [S198]: To be clear, hand counted (and one hopes not by barcode.)

1 (2) ~~All test ballots shall be counted individually with~~  
2 ~~reports generated to verify the machine count to the~~  
3 ~~predetermined tally of the test ballots.~~

4 (f) ~~Early Voting and Provisional Ballots Counted on DREs:~~

5 (1) ~~All test ballots shall be counted on at least one, but~~  
6 ~~not more than five, DREs designated for Early~~  
7 ~~Voting or Provisional Ballot Counting and have the~~  
8 ~~predetermined total verified to the machine total.~~

9 (2) ~~All Testing Board Member test ballots shall be~~  
10 ~~counted individually with reports generated to~~  
11 ~~verify the machine count to the predetermined tally~~  
12 ~~of the Testing Board test ballots.~~

13 11.5.3.8.5 ~~DREs equipped with V VPAT devices shall be manually~~  
14 ~~verified (by hand) to determine that the pre-determined total of~~  
15 ~~the testing board ballots, matches the V VPAT total, which in~~  
16 ~~turn matches the machine total.~~

17 11.5.3.8.6 ~~At least two of the testing board ballots shall be identified as~~  
18 ~~Audio Ballots to be tested as such, and included with the count.~~

19 11.5.3.8.7 (5) THE DESIGNATED ELECTION OFFICIAL MUST  
20 KEEP all test materials, when not in use, ~~shall be~~  
21 ~~kept~~ in a ~~metal~~ DURABLE, SECURE box with  
22 ~~individual~~ seals for ~~each member of~~ the Testing  
23 Board. The designated election official may affix  
24 his or her own seal in addition to those of the  
25 Testing Board. The designated election official ~~shall~~  
26 MUST be the custodian of the box or boxes but ~~shall~~  
27 MAY not open ~~and/or~~ use the test materials outside  
28 ~~of the TESTING BOARD's presence EXCEPT TO FULFILL A RECORDS REQUEST.~~ ~~of the Testing~~  
29 ~~Board.~~

30 (6) AFTER TESTING, THE TESTING BOARD MUST WATCH  
31 THE DESIGNATED ELECTION OFFICIAL RESET AND  
32 ~~PLACE A SEAL ON EACH VOTING DEVICE.~~ ~~TESTED.~~

33 11.5.3.8.8 (7) The Testing Board and the designated  
34 election official ~~shall~~ MUST sign a written statement  
35 ~~attesting to the qualification OF THE ELECTION SETUP RECORDS TO FUNCTION CORRECTLY ON EACH~~  
~~SELECTED AND PRESUMABLY REPRESENTATIVE DEVICE. THIS REPORT SHALL INCLUDE~~ ~~of each device that~~  
~~was successfully tested,~~ the number of the seal attached to the ~~voting~~ device at the end of the test,  
any problems discovered, and ~~provide any other documentation as necessary to provide a full and~~  
accurate account of the condition of ~~a given THE device AND THE ELECTION SETUP RECORDS.~~

**Comment [S199]:** No need for a seal for each test board member... Should we have a seal for each election judge in a polling place? Remember that these machines are left overnight just as the test data is.

**Comment [S200]:** Because it specifically says may not open, we must have a caveat for CORA request. Election officials may also wish to see test records. They can use a CORA request. Why are test records subject to such security, more than for ballots?

**Comment [S201]:** To clarify the language.

**Comment [S202]:** This clarifies the actual meaning of the LAT result. One hopes that this citizen LAT testing will be done also on ballot on demand and UOCAVA ballot processing and other equipment that is critical to election tabulation.

**Comment [S203]:** No need to limit it to "voting device" whatever that means.

**Comment [S204]:** The LAT is designed to assess the functionality of the election setup records (ballot programming) rather than the individual accuracy of the device. If the latter were true, more ballots would be tested.

1 11.5.3.8.9 Upon completion of the testing, the Testing Board shall witness  
2 the resetting and sealing of each tested voting device.

3 ~~11.5.4~~ 11.4.3 Post-Election Audit

4 11.5.4.1 (A) ~~Within forty eight (48) NO LATER THAN 48 hours of~~ AFTER the  
5 close of polls on election night, the Secretary of State shall MUST  
6 notify the designated election official which COMBINATION OF voting devices and  
7 ~~which CONTESTS race or races~~ on the ballots have been selected for auditing  
8 purposes WILL BE AUDITED (CRS 1-7-514) based on the submitted hardware  
9 inventory list referred to in Rule ~~11.4.2~~ 11.3.

Comment [S205]: To be accurate.

Comment [S206]: Not just races

Comment [S207]: Citation.

10 11.5.4.2 (B) The selection of SECRETARY OF STATE WILL RANDOMLY SELECT  
11 equipment will be based on a random selection of five (5) percent  
12 of ~~precinct COUNT BALLOT SCANNERS scanner based voting~~  
13 USED FOR IN-PERSON VOTING equipment, at least one central count scanner/vote center, and five  
14 (5) percent of ~~Direct Record Electronic (DRE) DRE voting~~  
15 devices AND AT LEAST ONE SCANNER USED FOR BALLOTS RETURNED IN  
SIGNED ENVELOPES.

Comment [S208]: Make sure to include all voting methods in the audit- in-person (DRE and flat ballot) and also by mail ballot packet.

Comment [S209]: A definition like this is needed to make sure the intent of 1-7-514 is met- that all ballot processing types are audited. It says device type and usually central count and in person voting is done by a different device type. These new rules seek to eliminate the significance of the difference but should not be doing that.

Comment [S210]: Ditto

16 (1) IF FOR IN-PERSON VOTING ~~IF~~ THE COUNTY USED A SCANNER IN EACH VOTER SERVICE  
17 AND POLLING CENTER, AT LEAST ONE SUCH SCANNER MUST BE  
18 INCLUDED IN THE AUDIT.

Comment [S211]: This paragraph ought not prevent auditing of mail ballot processing nor should it require every VSPC to have a scanner in order for any of those scanners to be audited. With my proposed text in the previous paragraph, this paragraph is duplicative and can be deleted.

Comment [S212]: At minimum audit one scanner used in VSPC

Comment [S213]: CRS calls for the canvass board to receive and investigate the complaint. Here the SOS appears to be attempting to take over the role.

Comment [S214]: 4 edits here: two contest minimum is not necessary, sufficient is correct; races not defined and not appropriate; it is an audit rather than a "verification"; contest is the simpler description and race is not defined.

19 (2) IF THE SECRETARY OF STATE RECEIVES CREDIBLE REPORTS  
20 OF EQUIPMENT MALFUNCTION, THE SECRETARY MAY SELECT  
21 ADDITIONAL EQUIPMENT FOR INCLUSION IN THE AUDIT AND  
MUST NOTIFY THE CANVASS BOARD OF ANY SUCH REPORTS FOR PURPOSES OF INVESTIGATION (CRS 1-7-514).

Comment [S215]: Reinstate this paragraph... it does describe an audit of election night results. Since the DEO has control over how many ballots are scanned on each device in each polling location, they can arrange for each to be auditable by limiting the number of ballots scanned on each. This will allow for an actual audit instead of a recount of these ballots.

Only in the case of very expensive central count equipment used for the mail ballots is a special case needed, and this case will no longer be needed once every county understands how to audit central count by using multiple memory cards per device or obtains new equipment that can report subballies by batch or single ballots. The effect of the removal of this paragraph had was to take us backward in terms of auditing quality instead of forward.

22 11.5.4.3 (C) Pursuant to IN ACCORDANCE WITH section 1-7-514, C.R.S., THE  
23 SECRETARY OF STATE MAY only SELECT devices used in the  
24 election. ~~shall be selected for the audit.~~

25 (D) THE SECRETARY OF STATE MUST RANDOMLY SELECT AT LEAST TWO A SUFFICIENT NUMBER OF  
26 RACES CONTESTS PER DEVICE FOR VERIFICATION AUDIT TO ENSURE THAT EACH RACE CONTEST  
27 OR MEASURE ON THE BALLOT IS AUDITED IN ACCORDANCE WITH  
28 SECTION 1-7-514, C.R.S.

29 11.5.4.4 For optical scanners used for any function of counting ballots VOTED IN PERSON except for  
30 Central Count/vote center as defined herein, the designated election  
31 officials shall manually COUNT verify all of the PAPER ballots that were counted on the  
32 randomly selected device(s) AND COMPARE RESULTS with the election summary report that was  
33 generated from the device(s) at the close of the polls. The Secretary of  
34 State shall randomly select a minimum of two (2) races per device to be  
35 manually verified to ensure that each office, issue, and question on the  
36 ballot is audited in accordance with section 1-7-514, C.R.S.

37 11.5.4.5 (E) For optical scanners used for the purpose of counting ballots in a  
38 USED TO COUNT BALLOTS REMOVED FROM RETURNED ENVELOPES  
Central Count/vote center environment as defined herein, the  
39 designated election officials shall MUST randomly select EITHER OF

1 ~~THE FOLLOWING AMOUNTS~~ BASED UPON THE TOTAL NUMBER OF  
2 BALLOTS COUNTED ON THE SELECTED DEVICE;  
3 (1) ~~IF LESS FEWER THAN 500~~ BALLOTS WERE COUNTED, THEN ALL  
4 MINIMUM OF 20 PERCENT OF THE BALLOTS COUNTED ON THE  
5 DEVICE MUST BE AUDITED USING THE METHOD OF RULE 11.5.4.4.

6 (2) IF 500 OR MORE BALLOTS WERE COUNTED ON THE SELECTED DEVICE, THEN A MINIMUM  
7 IF ELECTION NIGHT SUBTALLIES ARE AVAILABLE FOR SEPARATE MEMORY CARDS EACH REPRESENTING A  
8 SUBSET OF THE BALLOTS COUNTED BY THE DEVICE. THEN SUFFICIENT MEMORY CARDS SHALL BE RANDOMLY  
9 SELECTED USING DICE TO AUDIT 3% OF ALL THE BALLOTS REMOVED FROM RETURNED ENVELOPES CONTAINING  
10 THE CONTEST COUNTED IN THE ELECTION AND THEN PAPER BALLOTS REPRESENTING THE CONTENTS OF  
11 SELECTED MEMORY CARDS SHALL BE MANUALLY COUNTED FOR THE CONTESTS TO BE AUDITED AND RESULTS  
12 COMPARED WITH THE ELECTION NIGHT SUBTALLIES FOR EACH SELECTED MEMORY CARD; OR (3) IF SEPARATE  
13 MEMORY CARDS WERE NOT USED, THEN OF 100 BALLOTS PLUS FIVE (5) PERCENT OF THE DIFFERENCE  
14 BETWEEN THE NUMBER OF BALLOTS REMOVED FROM RETURN ENVELOPES, COUNTED CONTAINING THE  
15 CONTEST IN THE ELECTION SHALL BE RANDOMLY SELECTED AND 500, BUT NOT MORE THAN 500. FIVE

16 hundred (500) ballots of all the  
17 ballots counted on the specific audited device. If the  
18 amount of ballots is less than five hundred (500) on the  
19 audited device, then a minimum of twenty percent (20%) of  
20 the ballots counted on the device will be manually verified.

21 ~~(E)~~ The DESIGNATED ELECTION OFFICIALS MUST RESET THE public  
22 counter for that THE voting device shall be reset to zero and  
23 RECOUNT the ballots. ~~shall be recounted on the voting device.~~

24 ~~(G)~~ IN ALL THREE CASES, A THE DESIGNATED ELECTION OFFICIALS MUST MANUALLY COMPARE/VERIFY  
25 THE HAND COUNT TOTALS WITH THE new report will be generated from the electronic count of the  
26 AND THE CANVASS BOARD AND COUNTY CLERK MUST REPORT INITIAL, INTERIM AND FINAL RESULTS OF THIS  
27 COMPARISON PER CRS 1-7-514 ballots and shall be manually verified.

28 ~~(H)~~ The DESIGNATED ELECTION OFFICIAL MUST SEAL THE ballots and a  
29 copy of the report shall be sealed in a separate container. ~~and~~  
30 secured with the remainder of the official election records for the  
31 election. The Secretary of State shall randomly select a minimum  
32 of two (2) races per device to be manually verified to ensure that  
33 each office, issue, and question on the ballot is audited in  
34 accordance with section 1-7-514, C.R.S.

35 11.5.4.6 (1) For ~~Direct Record Electronic Devices (DREs)~~ DRES that do not  
36 meet the requirements of section 1-5-802, C.R.S. WITHOUT A  
37 VVPAT, used for any function of counting ballots in an election,  
38 the ~~designated~~ election officials will MUST manually verify COMPARE the  
39 VOTE TOTALS, image of all the ballots contained in the Ballot Log or Ballot Audit

40 BALLOT LOG OR FILE OF CAST VOTE RECORDS, BALLOT AUDIT that were counted on the specific  
THE device COUNTED ALONG with the report generated for that  
specific device at the close of polls. ~~which contains the election~~  
summary report. The Secretary of State shall randomly select a  
minimum of two (2) races per device to be manually verified to  
ensure that each office, issue, and question on the ballot is audited  
in accordance with section 1-7-514, C.R.S.

41 11.5.4.6.1 (1) For any device capable of producing OR VERIFYING the  
trusted build hash value (MD5 or SHA-1) of the firmware

**Comment [S216]:** This text separates the three situations- a simple small number of ballots in central count; a clerk who is using the sub tally by batch method for reporting so auditing of election night totals is possible (e.g. Eagle and Boulder); and third the case where the selected central count device has counted too many ballots on election night. In this final case only, the method proposed by the rule as provided will be used but for a substantial number of ballots, more than for the other two cases where the audit applies to election night totals.

**Comment [S217]:** The simple case for a small county- only a max of 500 ballots to audit and they represent everything on the selected machine from election night. This is similar to the precinct case we are abandoning.

**Comment [S218]:** Second case- like eagle or Boulder, batches are being used with separate memory cards and tallies taken from each on election night. In this case 3% of the ballots tabulated on the selected machine are tabulated (a bonus for using the better method).

**Comment [S219]:** The third case- more than 500 ballots on a device used to count mail ballots and the official chooses not to get election night batch sub tallies. In this case 5% of the ballots tallied on the selected device (probably itself only a small percentage of the election in a large county) are audited. Note these are fixed percentages as statute calls for.

**Comment [S220]:** There has never been a statutory basis for this cap and it severely negatively affects the quality of the audit for every large county. In fact the statute directly contradicts the cap by requiring a fixed percentage of ballots to be audited.

This method of "auditing" by recount is not useful to replicate the conditions of the original count and is therefore not an audit. Boulder and Eagle counties have been auditing central counted ballots by methods that do examine the quality of the election night count. These methods could replace the ...

**Comment [S221]:** Broadening the control away from the DEO over the audit but probably not enough. It ought to be the canvass board managing this audit to provide necessary independence.

**Comment [S222]:** Manual counting and comparison required- not just "verify".

**Comment [S223]:** Specific reference to the election audit report that is required by statute of all county canvass boards and was performed by them for one or two elections after the language was added to law. I worked with John Hershey or ...

**Comment [S224]:** Comparing the vote totals is a better description.

**Comment [S225]:** Terminology problem here. This terminology deserves a definition and application to each vendors vocabulary.

**Comment [S226]:** Unnecessary word "along"

1 or software, the designated election official shall MUST  
2 verify and document the accuracy of the value to be  
3 included with the records for the device prior to conducting  
4 the audit.

5 11.5.4.7 (J) For ~~Direct Electronic Devices (DREs)~~ DREs that WITH A VVPAT  
6 do meet the requirement of section 1-5-802, C.R.S., used for any  
7 function of counting ballots in an election, after the close of the  
8 polls, the ~~designated~~ election officials will MUST manually ~~verify~~ COMPARE A MANUAL COUNT OF all  
9 of the ENTIRE voter-verified paper VVPAT record produced with the  
10 report generated AT THE CLOSE OF POLLS for that specific device. which contains the election  
11 summary report. The Secretary of State shall randomly select a  
12 minimum of two races on each device to be manually verified to  
13 ensure that each office, issue, and question on the ballot is audited  
14 in accordance with section 1-7-514, C.R.S.

15 11.5.4.7.1(1) For any device capable of producing OR VERIFYING  
16 the trusted build hash value (MD5 or SHA-1) of the  
17 firmware or software, the designated election official shall  
18 MUST verify and document the accuracy of the value to be  
19 included with the records for the device prior to conducting  
20 the audit.

21 11.5.4.8 (K) AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE the  
22 actions of the random audit. as identified in this section are to be  
23 observed by at least two members of the canvass board. The  
24 designated election official may appoint additional deputized  
25 clerks to assist WITH in the functions of the audit.

26 11.5.4.9 (L) If there are discrepancies in the audit, the Canvass Board or the  
27 designated election official's deputized clerks shall OFFICIAL MUST:

28 11.5.4.9.1(1) First, manually verify the results as many times as  
29 necessary to Confirm that there is no discrepancy ERROR OR FAILURE TO CAPTURE VOTER INTENT in  
the manual count;

31 11.5.4.9.2(2) Second, Take any additional steps as necessary to  
32 check for AND CAPTURE voter INTENT error, which shall MUST include but IS not  
33 be limited to A SEARCH FOR: overvotes, stray marks on the ballot, or other  
34 voter intent indicia; and

35 11.5.4.9.3(3) Third, review the situation and Take ANY action as  
36 necessary in accordance with the Canvass Board's powers  
37 as set forth DESCRIBED in part 1 of Article 10 of Title 1,  
38 Colorado Revised Statutes INCLUDING REPORTS OF AUDIT AND INVESTIGATIONS.

39 11.5.4.10 (M) At all times relevant to the Post Election DURING THE audit, the  
40 designated election official or the deputized clerks or the Canvass

**Comment [S227]:** Broadened the actor from DEO to officials for conducting the audit. Ideally it would be the canvass board- the entity with some independence.

**Comment [S228]:** A more precise description.

**Comment [S229]:** This makes the comparison clear, as with the previous similar language.

**Comment [S230]:** This is only ok if it means the election official is not in charge of the audit. However, other references suggest that clerk control was the intention. Worse it appears that the reference to the clerk is to make sure the clerk can do more than just "observe". Clearly the DEO must not be in charge of the audit as this spoils the independence of the audit intended to check the quality of the work of the DEO. This is a battle being fought between citizens who do not trust election officials and those same election officials who in a better world would not trust themselves and would want an independently conducted audit. Obviously we are not living in that better world right now. But I am asking the SOS to help take us there.

**Comment [S231]:** This is the standard against which the machine is to be compared for the audit. A mark that could not be detected by machine creates a discrepancy that the audit is intended to pick up. Thus a discrepancy is something the audit would accept as normal and in fact detection of discrepancy is the audit's actual reason to exist.

**Comment [S232]:** More explanation of some ways to find voter intent.

**Comment [S233]:** This citation is only a brief portion of the statutory description of the canvass board duties, and excludes duties listed in 1-7-514 for audit which must be included.

**Comment [S234]:** I would have expected the rules to be more specific here about detailing the process the canvass board should take in response to 1-7-514. I am not going to write up that extrapolation of the statute but it is clearly needed.

1 Board shall MUST take every precaution necessary to protect the CONSTITUTIONAL ANONYMITY  
2 confidentiality of the CAST VOTER INTENT ON ALL ballots. cast by the electors.

**Comment [S235]:** There is no definition of this term "cast". Confidentiality is not called for and will in fact hide failures to protect anonymity.

3 11.5.4.11 (N) Upon completion of AFTER the audit, the designated election  
4 official shall MUST promptly report the results of the audit to the  
5 Secretary of State's Office by 5:00 PM ON THE LAST DAY TO  
6 CANVASS. The report shall MUST be submitted following the  
7 completion of the audit and up to and including 5:00 pm on the last  
8 day of the canvass. The report shall MUST contain:

9 (a)(1) The make, model, and serial number of the voting device  
10 DEVICES that was audited;

11 (b)(2) The number of ballots originally counted by the EACH  
12 device OF AND the number of ballots audited as identified in  
13 paragraph (d) (4) of this section;

**Comment [S236]:** If the SOS recommended method of recount in place of audit is used, this will tell us what percentage of ballots were sampled.

14 (c)(3) The VOTE TALLY count of the specific CONTESTS race or races as provided on the  
15 summary report printed at the close of polls or the report  
16 generated for the audit INCLUDING UNDER AND OVER VOTES;

**Comment [S237]:** "vote tally" is more technically correct. Count of contests could be taken to mean what it says ie. one or two, etc

17 (d)(4) The VOTE TALLY count of the specific race RACES/CONTESTS as manually verified/COUNTED  
INCLUDING UNDER AND OVER VOTES;

**Comment [S238]:** "races" is not defined and incorrect.

18 (e)(5) Any other information required by section 1-7-514, C.R.S.  
INCLUDING A DESCRIPTION OF ANY INITIAL, INTERIM AND FINAL COUNTS CONDUCTED DURING THE AUDIT AND A  
REPORT OF ANY INVESTIGATIONS UNDERTAKEN PURSUANT TO THE AUDIT OR COMPLAINTS RECEIVED;

**Comment [S239]:** Inclusion of under and over makes the audit much more effective.

19 and  
20 (f)(6) The signature CANVASS BOARD MEMBERS' AND  
21 DESIGNATED ELECTION OFFICIAL'S SIGNATURES. of the  
22 canvass board and the designated election official.

**Comment [S240]:** Under and over allow for full balancing of the audited ballots.

**Comment [S241]:** Contests is correct instead of races. Races is not defined and incorrect.

**Comment [S242]:** Ditto the previous three comments.

**Comment [S243]:** It makes sense for the rules not to ignore this part of statute.

**Comment [S244]:** Presumably redundant when DEO is on canvass board as required.

23 11.5.4.12 (o) The DESIGNATED ELECTION OFFICIAL MAY SEND THE report may be  
24 sent by REGULAR MAIL, E-MAIL, OR FAX. any of the following three  
25 methods: E mail: voting.systems@sos.state.co.us; Subject line =  
26 County Number, County Name, POST ELECTION AUDIT; or via  
27 facsimile to: 303 869 4861 attn: Secretary of State, Voting  
28 Systems Specialist; or via First Class Mail: to Colorado  
29 Department of State/ Attn: Voting Systems Specialist/1700  
30 Broadway Suite 270/Denver, CO 80290.

31 *[Rule 11.6 is relocated to Rule 20.2.10]*

32 11.6 Procedures for Voter Verifiable Paper Audit Trail (V VPAT)

33 11.6.1 Security

34 11.6.1.1 The V VPAT record is considered an official record of the  
35 election, pursuant to section 1-5-802. All security procedures related to  
36 election ballots shall apply to V VPAT records.

1 ~~11.6.1.2 The housing unit for any V VPAT record to be used in the election shall~~  
2 ~~be sealed and secured prior to any votes being cast for the election.~~  
3 ~~Documentation of the seal number(s) must be maintained and noted~~  
4 ~~prior to voting, and at the conclusion of voting.~~

5 ~~(a) Election Judges shall attest to the V VPAT record having no votes~~  
6 ~~included on the paper record prior to the start of voting, and prior~~  
7 ~~to the installation or replacement of a new V VPAT record.~~

8 ~~11.6.1.3 If a DRE with V VPAT is used during early voting, the seal number(s)~~  
9 ~~must be recorded at the beginning and end of each voting day.~~

10 ~~11.6.1.4 At the Close of the polls, the V VPAT records will be transferred to the~~  
11 ~~central office in the same manner as any paper ballots. In the absence of~~  
12 ~~paper ballots, the V VPAT records will be transferred to the central~~  
13 ~~office in the same manner as any memory cards containing electronic~~  
14 ~~ballots.~~

15 ~~11.6.2 Anonymity~~

16 ~~11.6.2.1 The Election Official shall put measures in place to protect the~~  
17 ~~anonymity of voters choosing to vote on DREs during the voting~~  
18 ~~periods. These measures shall include:~~

19 ~~(a) Encouraging poll workers to personally vote on DREs when~~  
20 ~~possible to ensure more than one vote will be cast on the device.~~

21 ~~(b) Appropriate marking in Poll Book or other voting list indicating~~  
22 ~~voters choice to vote on DRE with the words: "Voted DRE", or~~  
23 ~~similar in place of paper ballot information. No record shall be~~  
24 ~~kept indicating the order in which people voted on the DRE, or~~  
25 ~~which V VPAT record is associated with the voter.~~

26 ~~(c) When more than one DRE is available at a voting location, the~~  
27 ~~voter shall be given the choice as to which DRE they would like to~~  
28 ~~vote on, to the extent practical.~~

29 ~~(d) Encouraging or allowing any and all voters the opportunity to vote~~  
30 ~~on a DRE if desired.~~

31 ~~11.6.2.2 Any report or export (electronic or paper based) generated from an~~  
32 ~~Electronic Pollbook shall remove the date/time stamp from the record~~  
33 ~~and not use this field as a sort method. Any assignment of Record IDs,~~  
34 ~~Key ID, or Serial Number stored in the database of votes shall be~~  
35 ~~randomly assigned.~~

1 ~~11.6.2.3 Any Pollbook, electronic, paper or otherwise shall not be exposed to the~~  
2 ~~same people at the same place who have exposure to the V VPAT~~  
3 ~~records.~~

4 ~~11.6.2.4 The examination of the V VPAT record shall always be done by at least~~  
5 ~~two witnesses.~~

6 ~~11.6.3 Storage~~

7 ~~11.6.3.1 The storage of the V VPAT records must be consistent with~~  
8 ~~storage of Paper Ballots pursuant to section 1 7 802.~~

9 ~~11.6.3.2 Individual spools containing V VPAT records must contain the~~  
10 ~~following catalog information affixed to the spool:~~

11 ~~(a) Date and Name of Election;~~

12 ~~(b) Name of Voting Location;~~

13 ~~(c) Date(s) and Time(s) of Voting;~~

14 ~~(d) Machine Serial Number of DRE Associated with the Record; and~~

15 ~~(e) Number of spools associated with this machine for this election (i.e.~~  
16 ~~“Spool 1 of 1”, or “Spool 1 of 2”, etc.).~~

17 ~~11.6.3.3 Light sensitive storage containers shall be used for the 25 month storage~~  
18 ~~period to ensure the integrity of the V VPAT paper record. Containers~~  
19 ~~shall be sealed, with record of the seal numbers maintained on file and~~  
20 ~~signed by two elections officials.~~

21 ~~11.6.3.4 A master catalog shall be maintained for the election containing the~~  
22 ~~complete total number of V VPAT spools used in the election.~~

23 ~~11.7 11.5 Escrow of County Election Setup. THE DESIGNATED ELECTION OFFICIAL MUST~~  
24 ~~SUBMIT ELECTION SETUP RECORDS TO THE SOS BY REGULAR MAIL NO LATER THAN 5:00 PM ON~~  
25 ~~THE SEVENTH DAY BEFORE VOTE TABULATION BEGINS AN ELECTION.~~

26 ~~11.7.1 No later than 5:00pm on the seventh (7th) day prior to any election, the~~  
27 ~~designated election official shall deposit a copy of the election setup records with~~  
28 ~~the Secretary of State’s office by mail.~~

29 ~~11.7.2 11.5.1 Jurisdictions that have contracted CONTRACT with either a Software~~  
30 ~~Service Bureau or a Vendor of Electronic Vote Counting Equipment~~  
31 ~~SOFTWARE SERVICE BUREAU OR AN VENDOR OF ELECTRONIC VOTE~~  
32 ~~COUNTING EQUIPMENT VENDOR may choose to have the VENDOR DELIVER~~  
33 ~~THE necessary election setup records. delivered to the Secretary of State’s~~  
34 ~~office within the specified time frame.~~

**Comment [S245]:** To be reasonably specific.

**Comment [S246]:** 7 days before election day is way too late for this escrow. Vote tabulation might begin 15 days before election day (and that is a dangerous mistake for integrity).

**Comment [S247]:** Surely this didn’t mean 7 days before election day. Is the intention so the SOS can check the election setup records? If so it must happen before the results of counting are irrevocable.

1 ~~11.7.3~~ 11.5.2 Election Setup Records SETUP RECORDS shall MUST be contained within IN  
2 an electronic media format that is native to the jurisdiction's specific  
3 ballot creation and tabulation system. Acceptable media formats range  
4 from Tape, Diskette, Cartridge, CD-ROM, DVD-ROM, Floppy, External  
5 Hard Drive, or Flash Media INCLUDE TAPE, DISKETTE, CARTRIDGE, CD-  
6 ROM, DVD-ROM, FLOPPY, EXTERNAL HARD DRIVE, OR FLASH MEDIA.

7 ~~11.7.14~~ All copies of electronic media shall be sent to:

8 Colorado Secretary of State  
9 Attn: Voting Systems Specialist  
10 1700 Broadway Suite 270  
11 Denver, CO 80290

12 ~~11.7.5~~ 11.5.3 Jurisdictions will THE DESIGNATED ELECTION OFFICIAL MUST include a  
13 point of contact and method of contact (phone, fax, e-mail, etc.). to inform  
14 the jurisdiction that the Secretary of State's office has received the  
15 election setup records.

16 ~~11.7.6~~ 11.5.4 Within 24 hours of receipt of the election setup files RECORDS, the  
17 Secretary of State or his or her designee STATE'S OFFICE will contact the  
18 jurisdiction to confirm receipt. of the escrow files.

19 ~~11.7.7~~ 11.5.5 The Secretary of State's office will store the ELECTION setup files  
20 RECORDS in a secured, fire proof, limited-access location. or container.

21 ~~11.7.8~~ ~~11.5.6~~ All parties shall MUST treat as confidential all escrowed materials and any  
22 other related information that comes into their possession, control, or  
23 custody, pursuant to this rule.

24 *[Rule 11.8 is amended and moved to New Rule 45.12]*

25 ~~11.8~~ Escrow of Voting System Software by Voting System Provider

26 ~~11.8.1~~ Voting System Providers must place in escrow a copy of the election software and  
27 supporting documentation being certified with either the Secretary of State or an  
28 independent escrow agent approved by the Secretary of State. See section  
29 1-7-511, C.R.S.

30 ~~11.8.2~~ Within ten days of the Voting System provider receiving notification of  
31 examination of voting equipment as part of the certification process, the Voting  
32 System Provider shall arrange for the completion of escrow requirements as  
33 indicated by this rule.

34 ~~11.8.3~~ Voting System Provider shall sign a sworn affidavit that the election software in  
35 escrow is the same as the election software used in its voting systems in this state.  
36 An annual update of the affidavit will be on file in a secured location with the  
37 Secretary of State's office.

**Comment [S248]:** This is far too all encompassing and harmful to public access and should be deleted. At most it can say that intellectual property included in any escrow that is legally privately owned and properly protected shall be kept confidential.

1 ~~11.8.4 A complete copy of the certified election software including any and all~~  
2 ~~subsystems of the certified software shall be maintained in escrow.~~

3 ~~11.8.5 Any changes to current configurations or new installations must be approved~~  
4 ~~through the certification program of the Secretary of State.~~

5 ~~11.8.6 In addition to the requirements listed below, the Voting System Provider must~~  
6 ~~include a cover/instructions sheet for any escrow material to include the Voting~~  
7 ~~System Provider Name, Address and pertinent contact information, Software~~  
8 ~~Version, Hardware Version, Firmware Revision Number and other uniquely~~  
9 ~~identifying numbers of the software submitted for certification.~~

10 ~~11.8.7 Election Software Source Code, maintained in escrow, shall contain internal~~  
11 ~~documentation such that a person reasonably proficient in the use of the~~  
12 ~~programming language can efficiently use the documentation to understand the~~  
13 ~~program structure, control techniques, and error processing logic in order to~~  
14 ~~maintain the Source Code should it be removed from escrow for any reason.~~

15 ~~11.8.8 System documentation shall include instructions for converting the escrowed~~  
16 ~~Source Code into Object Code, organized and configured to produce an~~  
17 ~~executable system, if warranted.~~

18 ~~11.8.9 System documentation shall include technical architecture design, analysis, detail~~  
19 ~~design, testing and an installation and configuration guide.~~

20 ~~11.8.10 — A set of schematics and drawings on electronic vote casting and counting~~  
21 ~~equipment purchased or in use by the county clerk and recorder shall be on file~~  
22 ~~with the Secretary of State.~~

23 ~~11.8.11 — All parties shall treat as confidential the terms of this Section including all~~  
24 ~~escrow materials and any other related information that comes into their~~  
25 ~~possession, control or custody pursuant to this section.~~

26 ~~11.8.12 — Copies of Electronic media and supporting documentation for Escrow~~  
27 ~~within the Secretary of State shall be sent to:~~

28 ~~Colorado Secretary of State~~  
29 ~~Attn: Voting Systems Specialist~~  
30 ~~1700 Broadway Suite 270~~  
31 ~~Denver, CO 80290~~

32  
33 ~~11.8.13 — Any cost of using an alternative third party escrow agent shall be borne by~~  
34 ~~the Voting System provider.~~

35 11.6 THE DESIGNATED ELECTION OFFICIAL MUST RETAIN ALL TESTING RECORDS AND  
36 DOCUMENTATION FOR 25 MONTHS.

37 11.7 METHODS OF SUBMISSION ARE:

1 11.7.1 BY REGULAR MAIL TO:

2 COLORADO SECRETARY OF STATE  
3 ATTN: VOTING SYSTEMS  
4 1700 BROADWAY – SUITE 200  
5 DENVER, CO 80290

6 11.7.2 BY EMAIL TO:

7 VOTING.SYSTEMS@SOS.STATE.CO.US

8 11.7.3 BY FAX TO:

9 303-869-4861

10 11.8 RULES CONCERNING ACCESSIBLE VOTING SYSTEMS

11 ~~34.2~~ 11.8.2 ~~No~~ A political subdivision ~~shall~~ MAY NOT purchase or lease ~~direct~~  
12 ~~recording electronic DRE voting systems or other~~ voting systems  
13 ~~equipped for individuals~~ USE BY PEOPLE with disabilities ~~at each polling~~  
14 ~~place unless such voting system(s) THEY are fully certified pursuant to~~  
15 ~~standards and guidelines recommended by the National Institute of~~  
16 ~~Standards and Testing (NIST) and adopted by the U.S. Election Assistance~~  
17 ~~Commission (EAC) IN ACCORDANCE WITH THE 2002 VOTING SYSTEM~~  
18 ~~STANDARDS PROMULGATED BY THE FEDERAL ELECTION COMMISSION.~~

19 *[Rule 34 is amended and moved to New Rule 11.9. (Amendments are shown above)]*

20 11.9 RULES CONCERNING NOTICE OF VOTING SYSTEM MALFUNCTION

21 ~~36.1~~ 11.9.1 A vendor or ~~the political subdivision~~ DESIGNATED ELECTION OFFICIAL ~~if no~~  
22 ~~private vendor supports their system~~ must ~~give notice to~~ NOTIFY the  
23 Secretary of State within 24 hours of a REPORTED OR ACTUAL malfunction  
24 of its voting/election system ~~(including, but not limited to, software,~~  
25 ~~firmware, hardware, or other equipment) in preparation for and on an~~  
26 ~~election held in this state.~~ THE NOTICE MUST INCLUDE A DESCRIPTION,  
27 DATE, AND THE NAMES OF THOSE WHO WITNESSED THE MALFUNCTION, AS  
28 WELL AS THE PROCEDURES FOLLOWED ~~PRIOR TO BEFORE~~ THE  
29 MALFUNCTION, AND ANY ERROR MESSAGES DISPLAYED. The notice may be  
30 verbal, but ~~must also be in~~ A writing MUST FOLLOW.

31 ~~36.2~~ Following the notice, the Secretary of State shall determine whether further  
32 information on the malfunction is required. At the request of the Secretary of  
33 State, a vendor (or the political subdivision, if no private vendor supports their  
34 system) must submit a report to the Secretary of State's office detailing the  
35 reprogramming (or any other actions) necessary to correct a voting system  
36 malfunction in preparation for and on an election held using the vendor's system.  
37 The report shall address whether permanent changes are necessary to prevent  
38 similar malfunctions in the future. If the malfunction requires a programming or  
39 election setup change to the database or other parts of the voting system, the

**Comment [S249]:** I doubt this makes sense at this point, although I think it is consistent with current statute.

1 designated election official shall submit an updated electronic copy of the election  
2 system database to the Secretary of State's office as set forth in Rule 11.

3 11.9.2 IF THE SECRETARY OF STATE REQUIRES ADDITIONAL INFORMATION THE VENDOR OR  
4 THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A REPORT TO THE SECRETARY  
5 OF STATE'S OFFICE DETAILING THE REPROGRAMMING OR ANY OTHER ACTIONS  
6 NECESSARY TO CORRECT A VOTING SYSTEM MALFUNCTION.

7 (A) THE REPORT MUST ADDRESS WHETHER PERMANENT CHANGES ARE  
8 NECESSARY TO PREVENT SIMILAR MALFUNCTIONS IN THE FUTURE.

9 (B) IF THE MALFUNCTION REQUIRES A PROGRAMMING OR ELECTION SETUP  
10 CHANGE TO THE DATABASE OR OTHER PARTS OF THE VOTING SYSTEM, THE  
11 DESIGNATED ELECTION OFFICIAL MUST SUBMIT AN UPDATED ELECTION  
12 SETUP RECORD TO THE SECRETARY OF STATE'S OFFICE AS SET FORTH IN  
13 RULE 11.8.

14 ~~36.3~~ (C) The report shall MUST be submitted within 30 days after the date of  
15 the request by the Secretary of State. ~~Notwithstanding the foregoing, if~~ If  
16 an election is scheduled within 60 days of the date of request by the  
17 Secretary of State, the Secretary of State may set an emergency deadline  
18 for filing the report. ~~The request may be verbal, but must also be in~~  
19 ~~writing.~~

20 ~~36.4~~ (D) Failure to submit a report within the required period shall IS be  
21 grounds to decertify the system.

22 ~~36.5~~ (E) The political subdivision holding the election in which the voting  
23 system malfunction occurred may submit the report in lieu of a report  
24 from the system's vendor.

25 ~~36.6~~ (F) A copy of this report will be attached to the system's most recent  
26 certification on file in the Secretary of State's office.

27 ~~36.7~~ (G) The Secretary of State's office will distribute a copy of this report  
28 to all counties using the voting system in question.

29 *[Rule 36 is amended and moved to New Rule 11.10. Amendments are shown above]*

## 30 11.10 PURCHASES AND CONTRACTS

31 11.10.1 IN ACCORDANCE WITH SECTION 1-5-623(3), C.R.S., A POLITICAL  
32 SUBDIVISION MAY NOT PURCHASE, LEASE, TRANSFER, OR RECEIVE A NEW AN  
33 ~~ELECTRONIC VOTING~~ DEVICE BY WHICH VOTES ARE CAPTURED AND RECORDED  
34 ELECTRONICALLY INCLUDING A TOUCH SCREEN OR SYSTEM OR ANY RELATED COMPONENT OF A  
35 DEVICE OR SYSTEM WITHOUT APPROVAL FROM THE SECRETARY OF STATE.

36 ~~45.12.1~~ 11.10.2 Any A POLITICAL SUBDIVISION MAY ONLY PURCHASE OR LEASE A  
CERTIFIED voting system IF ~~that has been certified under the procedures of Rule 45~~

**Comment [S250]:** I inserted a version of the original definition of electronic voting device, but added the word "captured". I am not sure what the original intention of the definition is, or what the intended scope of this paragraph is. Is it to include optical scanners? At present it seems not to.

1 are is eligible for purchase, lease, or rent for use by jurisdictions within the State  
2 of Colorado providing if the contract contains the following items:

- 3 (a) ~~The voting system is certified for use within the state;~~
- 4 (b) (A) The contract contains training and maintenance costs for the jurisdiction;  
5 and
- 6 (c) (B) ~~The contract identifies components contained in the certified~~ THE voting  
7 system COMPONENTS and ~~appears complete with all accessories necessary~~  
8 APPEAR COMPLETE AND CAPABLE OF for successfully conducting an  
9 election within the laws and rules of the State of IN Colorado.

10 ~~45.12.2~~ 11.10.3 The Secretary of State shall WILL maintain on file a list of all  
11 components used and purchased for use. The list shall WILL include, at a  
12 minimum, the name of the jurisdiction, the date of purchase, the serial number(s)  
13 of voting devices and name of the voting systems that was WERE purchased.

14 *[Rule 45.12 is amended and moved to New Rule 11.10. Amendments are shown above]*

15 11.11 ELECTION NIGHT REPORTING (ENR). THE COUNTY MUST REPORT ELECTION NIGHT  
16 RESULTS FOR ALL PRIMARY, GENERAL, COORDINATED AND RECALL ELECTIONS.

17 11.11.1 A DATA ENTRY COUNTY MUST PROGRAM THE ELECTION TO SUPPORT THE  
18 EXPORTING OF ELECTION NIGHT RESULTS IN ACCORDANCE WITH THE FOLLOWING  
19 ENR VENDOR'S DATA UPLOAD REQUIREMENTS:

- 20 (A) LIST CONTEST NAMES AND CANDIDATE NAMES EXACTLY AS PROVIDED ON  
21 THE CERTIFIED LIST.
- 22 (B) PROVIDE CONTEST NAMES IN ALL UPPERCASE LETTERS.
- 23 (C) FOR COUNTIES THAT USE THE ES&S AND PREMIER VOTING SYSTEMS,  
24 ARRANGE THE CONTESTS IN THE ORDER PRESCRIBED BY SECTION 1-5-  
25 403(5), C.R.S.
- 26 (D) CAPITALIZE CANDIDATE NAMES (E.G., JOHN A. SMITH).
- 27 (E) PRESENT A PRECINCT NAME AS A TEN-DIGIT PRECINCT NUMBER.
- 28 (F) FOR COUNTIES THAT USE THE HART VOTING SYSTEMS, USE THE  
29 "SPLIT\_NAME" FIELD SPLIT PRECINCT NAMING PURPOSES.
- 30 (G) CREATE A "PROVISIONAL" PRECINCT.
- 31 (H) USE ONLY THE PARTY CODES CERTIFIED BY THE SECRETARY OF STATE.
- 32 (I) DO NOT INCLUDE THE PARTY NAME OR CODE IN THE CANDIDATE NAME  
33 FIELD.

1 11.11.2 ~~NO LATER THAN EIGHT DAYS BEFORE THE ELECTION, A COUNTY MUST SEND~~  
2 THE FOLLOWING INFORMATION TO THE SECRETARY OF STATE, AT THE ADDRESS IN  
3 RULE 11.8:

4 (A) A DATA ENTRY COUNTY MUST EMAIL A SAMPLE OR "ZERO" FILE.

5 (B) A MANUAL ENTRY COUNTY MUST SEND A LIST OF ALL BALLOT CONTENT  
6 ~~CONTESTS TITLES, CANDIDATES, AND PARTY AFFILIATION.~~

7 11.11.3 THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS AND UPLOAD  
8 THEM TO THE ENR SYSTEM A MINIMUM OF THREE TIMES ON ELECTION NIGHT:

9 (A) AFTER THE CLOSE OF POLLS BUT NO LATER THAN 7:30 PM.

10 (B) AT OR AROUND 9:00 PM.

11 (C) ~~AT THE CONCLUSION OF TABULATION, THE~~ THE COUNTY MUST INDICATE  
12 THAT ~~ELECTION NIGHT~~ REPORTING IS COMPLETE IN THE ENR SYSTEM FOR  
13 ELECTION DAY AFTER THE COUNTY UPLOADS THE LAST RESULTS ON  
14 ELECTION NIGHT.

15 11.11.4 AFTER CANVASS THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS,  
16 AND CHECK THE APPROPRIATE BOX IN THE ENR SYSTEM TO INDICATE THAT THE  
17 CANVASS UPLOAD IS COMPLETE.

**Comment [S251]:** Either use my definition of "the election" or change this to "election day" or something more appropriate.

**Comment [S252]:** Somewhere "election night" should be defined.

## 18 Rule 12. RECALL

### 19 ~~32.2~~-12.1 Signature requirements

20 ~~32.2.1~~ 12.1.1 For petitions to recall school district directors the petition must be signed  
21 by the eligible electors of the director's district equal in number to at least 40%  
22 of the ballots cast in the district in the last preceding election at which the  
23 director to be recalled was elected as indicated by the pollbook or abstract for  
24 the election. See section 1-12-105, C.R.S.

25 ~~32.2.2~~ 12.1.2 When determining the number of required valid signatures for an elected  
26 office for which electors were allowed to vote for more than one candidate in a  
27 single race, the signature requirements shall be ~~is~~ based on the number of ballots  
28 cast for that race as indicated by the ~~pollbook or~~ abstract for the election.

29 ~~32.6 12.2~~ In accordance with section 3 of article XXI of the Colorado constitution and  
30 section 1-12-117 (1), C.R.S., for partisan recall elections involving a state officer, in  
31 order to appear on the ballot a successor candidate must file a nomination petition with  
32 the Secretary of State no later than ten calendar days after the Governor sets the election  
33 date. A write-in candidate must file an affidavit of intent to run as a write-in candidate no  
34 later than the fifteenth day before the election.

35 ~~32.6 12.3~~ In accordance with section 3 of article XXI of the Colorado constitution and  
36 section 1-12-117(1), C.R.S., for partisan recall elections involving a state officer, in order

1 to appear on the ballot a successor candidate must file a nomination petition with the  
2 Secretary of State no later than ten calendar days after the Governor sets the election date.  
3 A write in candidate must file an affidavit of intent to run as a write in candidate no later  
4 than the fifteenth day before the election.

5 *[Current Rule 32.6, adopted on a temporary basis on July 22, 2013, is moved to new Rule 12.3]*

6 **Rule 13. ELECTION AND HAVA COMPLAINTS**

7 13.1 ELECTION COMPLAINT PROCEDURES

8 13.1.1 ANY PERSON WHO HAS PERSONALLY WITNESSED A VIOLATION OF TITLE 1, C.R.S.  
9 MAY FILE AN ELECTION COMPLAINT.

10 13.1.2 AN ELECTION COMPLAINT MUST INCLUDE THE APPROVED SECRETARY OF STATE'S  
11 ELECTION COMPLAINT COVER SHEET.

12 13.1.3 PROCESSING AND DOCKETING ELECTION COMPLAINTS

13 (A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ~~ELECTION~~  
14 ~~DIVISION STAFF THE SECRETARY'S DESIGNEE~~ WILL REVIEW THE COMPLAINT  
15 TO DETERMINE IF IT SATISFIES RULE ~~31.2~~-13.1.2 AND SUFFICIENTLY  
16 ALLEGES A VIOLATION.

17 (1) IF THE COMPLAINT DOES NOT MEET THE CRITERIA, ~~ELECTION DIVISION~~  
18 ~~STAFF THE SECRETARY'S DESIGNEE~~ WILL NOTIFY THE COMPLAINANT  
19 OF THE DISCREPANCY.

20 (2) IF A COMPLAINT MEETS THE CRITERIA, ~~ELECTION DIVISION STAFF THE~~  
21 ~~SECRETARY'S DESIGNEE~~ WILL ASSIGN A COMPLAINT NUMBER, NOTIFY  
22 THE COMPLAINANT, AND SEND A COPY OF THE COMPLAINT TO THE  
23 PERSON OR ENTITY ALLEGED TO HAVE COMMITTED A VIOLATION.

24 (B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE  
25 COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A  
26 WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

27 13.1.4 AMENDING AN ELECTION COMPLAINT

28 (A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER  
29 FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING  
30 COMPLAINT.

31 (B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

32 13.1.5 INVESTIGATION

33 (A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE ~~31.3.2~~-13.1.3, ~~ELECTION~~

1 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL INVESTIGATE THE  
2 COMPLAINT.

3 (B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE INVESTIGATION IS  
4 REQUIRED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL  
5 BEGIN INVESTIGATING BEFORE THE RESPONSE PERIOD HAS CLOSED. IN  
6 MAKING THE DETERMINATION, THE SECRETARY WILL CONSIDER WHETHER  
7 THE ISSUE HAS THE POTENTIAL TO AFFECT AN UPCOMING ELECTION.

8 (C) DEPENDING ON THE VIOLATION ALLEGED, ~~ELECTION DIVISION STAFF~~ THE  
9 SECRETARY'S DESIGNEE MAY:

- 10 (1) REVIEW DOCUMENTS;  
11 (2) VISIT THE COUNTY;  
12 (3) CONDUCT INTERVIEWS;  
13 (4) TEST EQUIPMENT; OR  
14 (5) TAKE OTHER STEPS NECESSARY.

15 (D) WHILE AN INVESTIGATION IS ONGOING, COUNTY CLERKS ~~AND RECORDERS~~  
16 AND STAFF MUST ACCOMMODATE REQUESTS BY ~~ELECTION DIVISION STAFF~~  
17 THE SECRETARY'S DESIGNEE IN THE TIMEFRAME REQUESTED BY STAFF.

18 13.1.6 RESOLUTION OF ELECTION COMPLAINTS

19 (A) AFTER AN INVESTIGATION AND HEARING, IF APPLICABLE, ~~ELECTION~~  
20 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL:

- 21 (1) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE;  
22 (2) REFER THE COMPLAINT TO A PROSECUTING AUTHORITY UNDER  
23 ARTICLE 13 OF TITLE 1, C.R.S.; OR  
24 (3) FIND A VIOLATION, ~~AND~~ RECOMMEND A RESOLUTION, AND ~~(B)~~  
25 ~~ELECTION DIVISION STAFF WILL~~ FORWARD THE RECOMMENDATION  
26 FOR RESOLUTION TO THE SECRETARY OF STATE, WHO WILL ADOPT,  
27 AMEND, OR REJECT THE RECOMMENDATION.

28 13.1.7 THE SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION

29 13.2 HELP AMERICA VOTE ACT (HAVA) COMPLAINT PROCEDURES

30 13.2.1 ANY PERSON WHO ~~HAS BEEN PERSONALLY AGGRIEVED BY OR HAS PERSONALLY~~  
31 ~~WITNESSED~~ BELIEVES THAT A VIOLATION OF TITLE III OF ~~THE HELP AMERICA~~  
32 ~~VOTE ACT (HAVA)~~ HAS OCCURRED, IS OCCURRING, OR IS ABOUT TO OCCUR, MAY  
33 FILE A HAVA COMPLAINT WITH THE SECRETARY OF STATE.

1 13.2.2 A HAVA COMPLAINT MUST INCLUDE THE APPROVED SECRETARY OF STATE'S  
2 HAVA COMPLAINT COVER SHEET.

3 13.2.3 PROCESSING AND DOCKETING HAVA COMPLAINTS

4 (A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ~~ELECTION~~  
5 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL REVIEW THE COMPLAINT  
6 TO DETERMINE IF IT SATISFIES RULE ~~31.2~~-13.2.1 AND SUFFICIENTLY  
7 ALLEGES A VIOLATION.

8 (1) IF THE COMPLAINT DOES NOT INCLUDE A COVER SHEET ~~ELECTION~~  
9 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL NOTIFY THE  
10 COMPLAINANT OF THE DISCREPANCY.

11 ~~(2) IF A COMPLAINT DOES NOT SUFFICIENTLY ALLEGE A VIOLATION OF~~  
12 ~~TITLE III OF HAVA, ELECTION DIVISION STAFF WILL DISMISS THE~~  
13 ~~COMPLAINT WITHOUT PREJUDICE.~~

14 ~~(3) IF A COMPLAINT MEETS BOTH THE CRITERIA, ELECTION DIVISION~~  
15 ~~STAFF THE SECRETARY'S DESIGNEE~~ WILL ASSIGN A COMPLAINT  
16 NUMBER, NOTIFY THE COMPLAINANT, AND SEND A COPY OF THE  
17 COMPLAINT TO THE PERSON OR ENTITY ALLEGED TO HAVE COMMITTED  
18 A VIOLATION.

19 (B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE  
20 COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A  
21 WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

22 13.2.4 AMENDING A HAVA COMPLAINT

23 (A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER  
24 FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING  
25 COMPLAINT.

26 (B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

27 13.2.5 INVESTIGATION

28 (A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE ~~31.3.2~~-13.2.3, ~~ELECTION~~  
29 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL INVESTIGATE THE  
30 COMPLAINT.

31 (B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE INVESTIGATION IS  
32 REQUIRED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL  
33 BEGIN INVESTIGATING BEFORE THE RESPONSE PERIOD HAS CLOSED. IN  
34 MAKING THE DETERMINATION, THE SECRETARY WILL CONSIDER WHETHER  
35 THE ISSUE HAS THE POTENTIAL TO AFFECT AN UPCOMING ELECTION.

- 1 (C) DEPENDING ON THE VIOLATION ALLEGED, ~~ELECTION DIVISION STAFF THE~~  
2 ~~SECRETARY'S DESIGNEE~~ MAY:
- 3 (1) REVIEW DOCUMENTS;  
4 (2) VISIT THE COUNTY;  
5 (3) CONDUCT INTERVIEWS;  
6 (4) TEST EQUIPMENT; OR  
7 (5) TAKE OTHER STEPS NECESSARY.
- 8 (D) WHILE AN INVESTIGATION IS ONGOING, COUNTY CLERKS ~~AND RECORDERS~~  
9 ~~AND STAFF~~ MUST ACCOMMODATE REQUESTS BY ~~ELECTION DIVISION STAFF~~  
10 ~~THE SECRETARY'S DESIGNEE~~ IN THE TIMEFRAME REQUESTED BY STAFF.

11 13.2.6 HEARING AND RESOLUTION OF HAVA COMPLAINTS

- 12 (A) IF THE COMPLAINANT REQUESTS, THE SECRETARY OF STATE OR HIS OR HER  
13 DESIGNEE WILL HOLD A HEARING.
- 14 (B) AFTER THE INVESTIGATION AND HEARING, IF ANY, ~~ELECTION DIVISION~~  
15 ~~STAFF THE SECRETARY'S DESIGNEE~~ WILL:
- 16 (1) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE;  
17 (2) REFER THE COMPLAINT TO A PROSECUTING AUTHORITY UNDER  
18 ARTICLE 13 OF TITLE 1, C.R.S.;
- 19 (3) FIND A VIOLATION, ~~AND~~ RECOMMEND A RESOLUTION, ~~(c)~~  
20 ~~ELECTION DIVISION STAFF WILL~~ FORWARD THE RECOMMENDATION  
21 FOR RESOLUTION TO THE SECRETARY OF STATE, WHO WILL ADOPT,  
22 AMEND, OR REJECT THE RECOMMENDATION.

23 13.2.7 THE SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION.

24 *[Current Rule 31 is repealed and complaint rules are moved to new Rule 13 as shown above.]*

25 **Rule 14. ~~Rules Regulating~~ Voter Registration Drives**

26 ~~44.1~~ 14.1 Statement of Intent

27 ~~44.1.1~~ 14.1.1 In accordance with ~~section 1-2-701, C.R.S., et seq.~~ PART 7, ARTICLE 2 OF  
28 ~~TITLE 1, C.R.S.~~, the organizer of a Voter Registration Drive ("VRD") shall MUST  
29 file a Statement of Intent AND TRAINING ACKNOWLEDGMENT FORM with the  
30 Secretary of State to conduct a voter registration drive. ~~on a form prescribed by~~  
31 ~~the Secretary of State.~~ The ~~Statement of Intent shall~~ STATEMENT OF INTENT AND  
32 TRAINING ACKNOWLEDGMENT FORM MUST include the following information: