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.[1]

Please note the following formatting key:

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

[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]

[1] 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."

1.1.2 "BALLOT MEASURE" MEANS A BALLOT ISSUE OR BALLOT QUESTION AS DEFINED IN SECTIONS 1-1-104(2.3) AND (2.7), C.R.S.

[Relocated from 27.1.1, with amendments]

1.1.3 "BLANK BALLOT" MEANS A BALLOT ON WHICH ~~THE VOTER~~ NO ONE HAS MADE ~~NO~~ MARKS ~~IN ANY VOTING POSITION, HAS MARKED WITH AN UNREADABLE MARKER, OR HAS 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.

[Relocated from 27.1.2, with amendments]

1.1.4 "CANCELLED STATUS" OR "CANCELLED RECORD" MEANS THAT THE COUNTY CLERK ~~AND RECORDER~~ CANCELLED THE ELECTOR'S VOTER REGISTRATION RECORD BECAUSE THE ELECTOR:

(A) ~~IS~~ WAS NOT ELIGIBLE TO VOTE;

(B) ~~IS NOT REGISTERED TO VOTE~~ FAILED TO PROPERLY COMPLETE THE REGISTRATION UNDER SECTIONS 1-2-508 AND 1-2-509(3), C.R.S.; OR

(C) ~~HAS WITHDRAWN~~ WITHDREW HIS OR HER REGISTRATION.

[Relocated from 2.20.1 b, with amendments]

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

~~*[Relocated from 41.1.1]*~~

~~1.1.6~~ 1.1.5 "Canvass workers" means workers appointed or hired by the designated election official to assist in the preparation and conduct of the canvass.

[Relocated from 41.1.2]

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

[Relocated from 11.1.1, with amendments]

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

[Relocated from 43.1.1, with amendments]

"CONTEST" WHEN 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.

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

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

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

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

[Relocated from 27.1.3, with amendments]

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

~~1.1.10~~ 1.1.9 "DESIGNATED ELECTION OFFICIAL," ~~AS USED IN RULE 11,~~ INCLUDES THE DESIGNATED ELECTION OFFICIAL'S SWORN, DEPUTIZED DESIGNEE.

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

[Relocated from 43.1.2, with amendments]

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

[Relocated from 27.1.4, with amendments]

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

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

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

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.

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.

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.

~~1.1.14~~ 1.1.13 "ELECTION OFFICIAL" MEANS THE DESIGNATED ELECTION OFFICIAL, HIS OR HER DEPUTY OR DESIGNEE, ELECTION STAFF, SECRETARY OF STATE STAFF, AND ELECTION JUDGES.

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

[Relocated from 11.1.2, with amendments]

~~1.1.14~~ 1.1.15 "ELECTION SOFTWARE" MEANS THE SOFTWARE FOR ELECTION EQUIPMENT OR COMPUTERS THAT CONTROLS ELECTION SETUP VOTE RECORDING, VOTE TABULATION, AND REPORTING.

[Relocated from 11.1.4, with amendments]

~~1.1.15~~ 1.1.16 ~~"ELECTRONIC BALLOT" MEANS A NON-PAPER BALLOT SUCH AS ON A TOUCH SCREEN OR THROUGH AUDIO FEEDBACK. AFTER A VOTER CASTS AN ELECTRONIC BALLOT, THE VOTER'S CHOICES MUST BE:~~

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

~~(B) DIGITALLY RECORDED AND COUNTED BY THE TOUCH SCREEN DEVICE, COMMONLY REFERRED TO AS A DIRECT RECORDING ELECTRONIC (DRE) DEVICE.~~

[Relocated from 11.1.6, with amendments]

~~1.1.16~~ 1.1.17 "ELECTRONIC TRANSMISSION" MEANS:

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

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

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

(B) FOR THE PURPOSE OF RETURNING A VOTED BALLOT TO THE COUNTY CLERK ~~AND RECORDER~~ FAX ~~AND~~ OR EMAIL ONLY IF THE CONDITIONS OF CRS 1-8.3-113 HAVE BEEN MET. ***[THESE RULES ARE DEFICIENT IN RESPONDING TO CRS 1-8.3-113 REQUIREMENTS.]***

~~1.1.17~~ 1.1.18 ~~"ELECTRONIC VOTING DEVICE" MEANS A DEVICE BY WHICH VOTES ARE RECORDED ELECTRONICALLY, INCLUDING A TOUCH SCREEN SYSTEM.~~

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".

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

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

[Relocated from 11.1.7, with amendments]

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

[Relocated from 11.1.8, with amendments]

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

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

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.

[Relocated from 8.6.1, with amendments]

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

[Relocated from 2.20.1 d, with amendments]

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

~~*[Relocated from 11.1.9, with amendments]*~~

~~1.1.23~~ 1.1.23 "MANUAL ENTRY COUNTY" MEANS A COUNTY THAT DOES NOT USE AN ELECTION MANAGEMENT SYSTEM TO EXPORT DATA TO THE ELECTION NIGHT RESULTS SYSTEM.

~~1.1.24 1.1.24 "MEDIA OBSERVER" MEANS AN OBSERVER WITH VALID AND CURRENT MEDIA CREDENTIALS.~~

~~*[Relocated from 8.1.3, with amendments]*~~

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

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

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

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 for example the location where ballots returned in signed sealed envelopes are counted. Note that VSPC is not defined in these rules.

[Relocated from 27.1.6, with amendments]

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

[Relocated from 3.1, with amendments]

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

[Relocated from 42.10, with amendments]

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

[Relocated from 43.1.4, with amendments]

~~1.1.29~~ 1.1.29 "SCORE" MEANS THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM AND THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST DESCRIBED IN PART 3 OF ARTICLE 2 OF TITLE 1.

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

[Relocated from 43.1.5, with amendments]

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

[Relocated from 41.1.3, with amendments]

~~1.1.31~~ 1.1.32 "TARGET AREA" MEANS~~:~~

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

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

[Relocated from 27.1.8, with amendments]

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

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

[Relocated from 43.1.6, with amendments]

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

[Relocated from 27.1.7, with amendments]

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

[Relocated from 43.1.7]

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

(A) THE TOTAL COMBINATION OF MECHANICAL, ELECTROMECHANICAL, OR ELECTRONIC EQUIPMENT (INCLUDING THE SOFTWARE, FIRMWARE, PROCEDURES, AND DOCUMENTATION REQUIRED TO PROGRAM, CONTROL, AND SUPPORT THE 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.

(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.

(2) CAST, CAPTURE AND COUNT VOTES;

(3) REPORT OR DISPLAY ELECTION RESULTS; AND

(4) COLLECT, MAINTAIN AND PRODUCE ANY AUDIT TRAIL INFORMATION; AND (5) ASCERTAIN ELIGIBILITY TO VOTE

(B) THE PRACTICES AND ASSOCIATED DOCUMENTATION USED TO:

(1) IDENTIFY SYSTEM COMPONENTS AND VERSIONS OF SUCH COMPONENTS;

(2) TEST THE SYSTEM DURING ITS DEVELOPMENT AND MAINTENANCE;

(3) MAINTAIN RECORDS OF SYSTEM ERRORS AND DEFECTS;

(4) DETERMINE SPECIFIC SYSTEM CHANGES TO BE MADE TO A SYSTEM AFTER THE INITIAL QUALIFICATION OF THE SYSTEM; AND

(5) MAKE AVAILABLE ANY MATERIALS TO THE VOTER (SUCH AS NOTICES, INSTRUCTIONS, FORMS, OR PAPER BALLOTS).

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

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

[Relocated from 11.1.3, with amendments]

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

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

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).

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.

MANNER AS IN A PRIMARY ELECTION.

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

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

[Relocated from 8.9.1 and 8.1.2, with amendments]

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

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

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…"

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.

[Relocated from 11.1.6, with amendments]

Rule 2. ~~Rules Concerning~~ Voter Registration

~~2.20.2 2.1 Effect of voter registration status designation~~

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

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

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

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

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

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

~~2.8~~ ~~2.2~~ 2.1 Submission of voter registration forms

~~2.2.1~~ 2.1.1 ~~A~~ AN APPLICANT MAY SUBMIT A properly executed voter registration form ~~may be submitted~~ to the county clerk ~~and recorder~~ in person, by mail, by fax, by online voter registration, or as ~~a scanned~~ AN EMAIL attachment. ~~to an email.~~

~~2.8.1~~ ~~2.2.2~~ 2.1.2 All ~~voter registrations~~ APPLICATIONS submitted by mail, fax, or as ~~a PDF~~ AN EMAIL attachment ~~to an email~~ ~~shall be treated as~~ ARE mail registrations. [Section 1-2-501, C.R.S.~~, Election Rule 30.3~~]

~~2.8.2~~ ~~2.2.3~~ 2.1.3 If any portion of a MAIL APPLICATION ~~voter registration submitted by "mail"~~ is illegible, the county clerk ~~and recorder~~ ~~shall~~ MUST notify the applicant of the additional information required in accordance with section 1-2-509, C.R.S.

~~2.8.3~~ ~~2.2.4~~ 2.1.4 For ~~the purpose of~~ submitting ~~voter registration~~ applications by fax, email, or online voter registration, close of business ~~shall be~~ IS 11:59pm MT.

~~2.2.5~~ 2.1.5 UNDER SECTION ~~1-5-509~~ 1-2-508, C.R.S., THE EFFECTIVE DATE OF A VOTER REGISTRATION APPLICATION RECEIVED BY THE ~~SECRETARY~~ SECRETARY OF ~~STATE~~ STATE IS THE EARLIER OF THE DATE THE APPLICATION IS RECEIVED OR THE DATE OF THE LEGIBLE POSTMARK.

~~2.2.6~~ 2.1.6 IF A COUNTY CLERK ~~AND RECORDER~~ RECEIVES A PAPER VOTER REGISTRATION APPLICATION OTHER THAN IN-PERSON BETWEEN 21 AND 7 DAYS BEFORE ELECTION DAY, THE COUNTY CLERK MUST SEND THE APPLICANT NOTIFICATION BY REGULAR MAIL, OR EMAIL IF PROVIDED, WITHIN ONE BUSINESS DAY ~~AFTER RECEIVING THE APPLICATION~~ STATING THAT THE ~~APPLICANT IS REGISTERED TO VOTE~~ APPLICATION IS RECEIVED BUT THE APPLICANT WILL NOT RECEIVE A BALLOT BY MAIL. THE NOTICE MUST STATE THAT, IF THE APPLICANT WISHES TO VOTE IN THE UPCOMING ELECTION, THE APPLICANT MUST ~~EITHER~~ REGISTER:

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

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

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

~~2.3~~2.2 FOR ~~THE~~ PURPOSES OF PRECINCT CAUCUS LISTS AND REGISTRATION LISTS FOR MUNICIPAL OR SPECIAL DISTRICT ELECTIONS, THE ELECTOR'S LENGTH OF RESIDENCY ~~REQUIREMENT~~ IS BASED UPON THE DATE PROVIDED BY THE ELECTOR ON HIS OR HER APPLICATION.

~~2.3.1~~2.2.1 THE COUNTY CLERK ~~AND RECORDER MUST~~ ENTER THE DATE PROVIDED BY THE ELECTOR IN THE REGISTRATION RECORD MAINTAINED IN ~~THE STATEWIDE VOTER REGISTRATION SYSTEM~~ SCORE. [SECTIONS 1-3-101, ~~AND~~ 31-10-201, AND 32-1-103(5), C.R.S.]

~~2.3.2~~2.2.2 IF THE ELECTOR SUBMITS AN APPLICATION AND DOES NOT INCLUDE THE DATE HE OR SHE MOVED, THE COUNTY CLERK MUST ENTER THE DATE THE APPLICATION IS RECEIVED OR POSTMARKED, WHICHEVER IS EARLIER, AS THE DATE MOVED. ~~BUT IF~~ IF THE ELECTOR SUBMITS THE APPLICATION DURING THE 22 DAYS BEFORE AN ELECTION AND DOES NOT PROVIDE THE DATE HE OR SHE MOVED, THE COUNTY CLERK MUST ENTER THE DATE MOVED AS THE 22ND DAY BEFORE THE ELECTION BASED UPON THE AFFIDAVIT.

~~2.4~~2.3 ~~IDENTIFICATION REQUIRED FROM AN APPLICANT FOR VOTER REGISTRATION~~ WHEN AN ELECTOR REGISTERS TO VOTE, THE ELECTOR MUST PROVIDE A VERIFIABLE DRIVER'S LICENSE OR STATE IDENTIFICATION CARD NUMBER, OR LAST FOUR DIGITS OF HIS OR HER SOCIAL SECURITY NUMBER. IF THE ELECTOR STATES THAT HE OR SHE DOES NOT HAVE A DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER, THE COUNTY CLERK MUST REGISTER THE ELECTOR AND MARK THE REGISTRATION RECORD " ID REQUIRED".

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

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

~~2.4.2~~2.3.1 AS USED IN SECTION 1-1-104(19.5), C.R.S., GOVERNMENT DOCUMENT MEANS ~~ANY~~ A DOCUMENT ISSUED BY A ~~LOCAL,~~ CITY, COUNTY, STATE OR FEDERAL GOVERNMENT~~, INCLUDING:~~.

(A) A GOVERNMENT DOCUMENT INCLUDES:

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

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

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

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

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

~~2.4.3~~2.3.3 AS USED IN SECTION 1-1-104(19.5)(A)(VII), C.R.S., CURRENT MEANS THAT THE DATE OF THE DOCUMENT IS WITHIN 60 DAYS OF THE DATE SUBMITTED FOR IDENTIFICATION PURPOSES UNLESS THE DOCUMENT STATES A LONGER BILLING CYCLE.

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

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

~~2.7~~ ~~2.5~~ 2.4 Treatment of applications where the ELECTOR FAILS TO PROVIDE required information ~~was not provided~~

~~2.7.1~~ ~~2.5.1~~2.4.1 If an applicant fails to check the box ~~(es)~~ answering the question ~~(s)~~, "Are you a citizen of the United States?" ~~or "Will you be 18 years of age on or before election day?"~~, the COUNTY CLERK ~~AND RECORDER~~ MUST ACCEPT AND PROCESS THE ~~form shall be accepted for registration~~ APPLICATION AS COMPLETE so long as it is otherwise complete and the affirmation at the bottom of the form is signed.

~~2.7.2~~ ~~2.5.2~~2.4.2 If an applicant ~~for voter registration~~ fails to complete the required identification portion of the form in accordance with section 1-2-204(2)(f.5) and (3)(c), C.R.S., ~~and rule 2.6.3,~~ the COUNTY CLERK MUST TREAT THE application ~~shall be treated~~ as INCOMPLETE. ~~"incomplete".; however,~~ BUT if the applicant

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

~~2.7.3~~ ~~2.5.3~~2.4.3 If an applicant ~~for voter registration~~ fails to provide a date of birth the COUNTY CLERK MUST TREAT THE application ~~shall be treated~~ as INCOMPLETE ~~"incomplete".; however,~~ BUT if the applicant submits a photocopy of ~~his/her~~ HIS OR HER driver's license or other approved form of ID ~~which~~ THAT includes the date of birth, ~~then~~ the county CLERK ~~may~~ MUST enter that information into the applicant's record and ~~consider~~ PROCESS the application AS COMPLETE ~~"complete"~~.

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

~~2.10~~ ~~2.6~~2.5 Changes to an Elector's Voter Registration Record

~~2.10.1~~ ~~2.6.1~~2.5.1 If an elector submits a change to his or her voter registration record ~~that does not contain all of~~ AND FAILS TO INCLUDE the information required by sections 1-2-216 or 1-2-219, C.R.S., the county clerk ~~and recorder~~ ~~may~~ MUST not make the requested change, unless the county clerk ~~and recorder~~ can confidently identify the voter. ~~, otherwise the~~ THE county clerk ~~and recorder~~ ~~shall~~ MUST notify the voter ~~what~~ OF THE additional information THAT is required to process the request.

~~2.10.2~~ ~~2.6.2~~2.5.2 If an elector submits a change to his or her voter registration record and writes or selects a name of an organization that is not a qualified political party or qualified political organization, or writes "none", the elector's affiliation ~~shall~~ MUST be recorded as "Unaffiliated".

~~2.10.3~~ ~~2.6.3~~2.5.3 If an elector submits a change to his or her voter registration record and leaves the affiliation section blank, THE COUNTY CLERK MUST MAKE no change ~~will be made~~ to the voter's affiliation in the registration record.

~~2.6.4~~2.5.4 WHEN THE COUNTY CLERK ~~AND RECORDER~~ PROVIDES A LIST OF ~~ACTIVE~~ ELIGIBLE ELECTORS TO A ~~MUNICIPAL~~ MUNICIPALITY OR SPECIAL DISTRICT FOR AN ELECTION NOT COORDINATED WITH THE COUNTY, THE COUNTY CLERK ~~AND RECORDER~~ MUST REQUEST THE DESIGNATED ELECTION OFFICIAL OF THE MUNICIPALITY OR SPECIAL DISTRICT PROVIDE THE VOTE HISTORY INFORMATION FOLLOWING THE ELECTION. ~~WITHIN TEN DAYS~~ AS SOON AS FEASIBLE AFTER RECEIVING THE INFORMATION, THE COUNTY CLERK MUST ~~ACTIVATE VOTER RECORDS AND~~ REMOVE THE ID REQUIRED FLAG~~S~~ IN SCORE FROM THE RECORD OF EACH PERSON WHO VOTED, AS PROVIDED IN SECTION 1-2-605(4)(B), C.R.S.

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

~~2.11~~ ~~2.7~~2.6 Changes to an elector's voter registration status.

~~2.11.1~~ ~~2.7.1~~2.6.1 An elector may update his or her inactive registration status to active status by submitting:

(a) A signed written request, by mail, fax, or PDF attachment to an email;

(b) An online voter registration application; or

(c) An in-person request ~~with identification~~.

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

~~2.11.2~~ ~~2.7.2~~2.6.2 If an elector is unable to sign, another person must witness the elector's mark. An elector may use a signature stamp because of age, disability, or other need. The stamp is treated as a signature and does not require a witness.

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

~~2.21~~ ~~2.8~~2.7 Minimum matching criteria

~~2.21.1~~ ~~2.8.1~~2.7.1 ~~A record may~~ ~~THE~~ EXCEPT AS PROVIDED IN SECTION 1-2-302.5, C.R.S., THE COUNTY CLERK ~~AND RECORDER~~ MUST not ~~be transferred, consolidated, or cancelled~~ TRANSFER, CONSOLIDATE, OR CANCEL A VOTER REGISTRATION RECORD unless the minimum matching criteria as set forth in sections 1-2-603 and 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county CLERK MUST ~~may~~ send a letter to the voter requesting confirmation of the missing or non-matching information in order to transfer, consolidate, or cancel the record.

~~2.21.2~~ ~~2.8.2~~2.7.2 ~~For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this Rule a~~ A match of the name ~~shall mean~~ MEANS a match of the full name, except that the following ~~shall be~~ ARE sufficient to establish a match:

(a) Common variations and nicknames in the first or middle name, ~~i.e.~~ E.G., Michael and Mike;

(b) Explainable and documented change of name, including last name, ~~i.e.~~ E.G., maiden name and married name; and

(c) Explainable and documented variations in suffix, except that the absence of a suffix in one of the records ~~shall~~ IS not ~~be~~ considered a variation. Examples of suffix variations that must be explained include junior in one record and III in another.

~~2.21.3~~ ~~2.8.3~~2.7.3 ~~For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this Rule a~~ A match of the prior address ~~shall mean~~ MEANS a match of the residential street address.

~~2.21.4~~ ~~2.8.4~~2.7.4 The county clerk ~~and recorder~~ may use the DMV Motor Voter database to verify prior name or residence address history for the purpose of meeting the minimum matching criteria. The COUNTY CLERK MUST SCAN AND RETAIN THE information ~~gathered must be scanned and retained~~ in the elector's record ~~in order~~ to document how the criteria ~~was~~ WERE met.

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

~~2.9~~2.8 Registration of ~~Homeless Voters~~ ELECTORS WHO HAVE NO FIXED PERMANENT HOME

~~2.9.1~~2.8.1 For the purpose of voter registration residence ~~a homeless voter may~~ AN ELECTOR WHO HAS NO FIXED PERMANENT HOME MUST identify a specific location within a precinct that the ~~voter~~ APPLICANT considers his OR HER home base.

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

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

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

~~2.9.2~~2.8.2 If the home base does not include a mailing address, THE APPLICANT ~~then the homeless voter~~ must provide a mailing address ~~pursuant to~~ IN ACCORDANCE WITH section 1-2-204(2)(f), C.R.S.

~~2.9.3~~2.8.3 A post office box or general delivery at a post office ~~shall not be deemed~~ IS NOT a home base.

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

~~2.10~~ 2.9 A COUNTY CLERK ~~AND RECORDER~~ MAY CANCEL A REGISTRATION RECORD BASED UPON INFORMATION FROM A LOCAL LAW ENFORCEMENT ~~ONLY~~ AGENCY ONLY IF:

~~2.10.1~~ 2.9.1 THE INFORMATION STATES THAT THE INDIVIDUAL IS CURRENTLY SERVING A SENTENCE OF INCARCERATION OR PAROLE FOR A FELONY CONVICTION; AND

~~2.10.2~~ 2.9.2 MINIMUM MATCHING CRITERIA OUTLINED IN RULE ~~2.6~~ 2.5 ARE MET.

~~2.16~~ ~~2.11~~ 2.10 An elector who has received notice that his or her application for registration may not be processed or whose registration was cancelled because his or her name was matched with a record bearing the same name, date of birth, and social security number in the databases provided by Colorado Department of Corrections or Colorado

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

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

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

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

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

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

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

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

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

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

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

~~2.4~~ ~~2.13~~ 2.12 ~~Confidentiality of Agency in Voter Registration.~~ VOTER REGISTRATION CONFIDENTIALITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~2.18~~ ~~2.14~~ 2.13 List Maintenance ~~Pursuant to~~ UNDER section 8 of the National Voter Registration Act of 1993

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

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

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

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

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

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

~~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 following a General Election, the county clerk ~~and recorder~~ in each county ~~shall~~ MUST cancel ~~only~~ the registrations of electors who have met the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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.

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

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.

~~2.16~~ 2.15 VOTER REGISTRATION RECORDS AND DATA

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

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

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

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

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

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

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

~~49.2.1~~ (A) The Secretary of State ~~shall be~~ IS the official custodian of the information contained in the centralized statewide registration system and the computerized statewide voter registration list created and maintained ~~pursuant to~~ UNDER section 1-2-301, C.R.S.

~~49.2.2~~ (B) ~~The~~ EACH county clerk ~~and recorder~~ ~~for each county~~ ~~shall be~~ IS the official custodian of the voter registration information only for electors within ~~that~~ HIS OR HER county.

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

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

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

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

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

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

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

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

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

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

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

2.17 SCORE NETWORK SECURITY REQUIREMENTS

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

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

(1) WPA2 OR ABOVE SECURITY MUST BE ENABLED.

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

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

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

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

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

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

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

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

Rule 3. Rules Concerning Qualified Political Organizations

~~3.2~~ 3.1 ~~The required proof of organization, which may be filed at any time after organization, shall include, but shall not be limited to:~~ A QUALIFIED POLITICAL ORGANIZATION, AS DEFINED IN RULE ~~1.1.1~~1.1, MUST FILE PROOF OF ORGANIZATION WITH THE SECRETARY OF STATE. THE PROOF MUST INCLUDE, BUT IS NOT LIMITED TO:

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

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

~~3.3~~ 3.2 A qualified political ~~organizations shall~~ ORGANIZATION MUST meet AT LEAST once ~~a~~ EACH CALENDAR year.

~~3.3.1~~ 3.2.1 DURING the meeting in the odd-numbered year, THE ORGANIZATION MUST ELECT ~~shall be held for the purpose of electing~~ a chairperson, vice-chairperson,

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

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

~~3.3.2~~ 3.2.2 The ORGANIZATION'S chairperson and ~~the~~ secretary ~~shall~~ MUST file WITH THE SECRETARY OF STATE a full and complete list, under oath, of the persons elected or appointed ~~pursuant to Rule 3.2~~ UNDER THIS RULE 3.2, together with any amendments to the ~~by-laws~~ BYLAWS adopted at the meeting.

~~3.3.3~~ 3.2.3 DURING the meeting in the even-numbered year, THE ORGANIZATION MUST SELECT ~~shall be held for the purpose of selecting~~ candidates who ~~wish to use the name of the political organization on petitions for~~ WILL ATTEMPT TO PETITION ON TO THE BALLOT FOR THE next general election.

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

~~3.4~~ 3.3 TO REMAIN IN GOOD STANDING, a qualified political organization ~~shall~~ MUST place a candidate ~~or candidates~~ on the general election ballot every two years. A WRITE-IN CANDIDATE ALONE IS NOT SUFFICIENT TO MEET THIS REQUIREMENT.

~~3.4.1~~ 3.3.1 ORGANIZATION candidates ~~wishing to represent a qualified political organization on the general election ballot shall be placed in nomination by nominating petition pursuant to~~ MUST BE NOMINATED IN ACCORDANCE WITH section 1-4-802, C.R.S.

~~3.4. 2~~3.3.2 Each petition ~~shall~~ MUST contain the name of one candidate and ~~shall have attached~~ an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form ~~shall~~ MUST be approved by the Secretary of State. ~~and will include the date of the meetings required in Rule 3.3.~~

~~3.4.3~~ 3.3.3 ~~For a candidate~~ To qualify for the ballot, ~~the~~ A candidate must have been affiliated with the qualified political organization for one year or, if the ~~political~~ organization has not ~~previously~~ been qualified FOR ONE YEAR, the candidate must have been registered as unaffiliated for one year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rule 4. COORDINATED ELECTIONS

~~6.1~~ 4.1 Participation in coordinated elections.

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

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

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

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

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

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

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

~~6.2.3 Repealed.~~

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

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

~~6.3~~ 4.3 ~~Form of election for~~ November coordinated elections.

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

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

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

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

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

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

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

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

~~6.4~~ 4.4 Form of coordinated elections held other than in November.

~~6.4.1~~ 4.4.1 For all other elections where political subdivisions hold an election on the same day, the electors or boundaries overlap and ballot issues as defined in ~~Section~~ SECTION 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping jurisdictions, the governing bodies or the designated election officials of ~~such~~ THE overlapping jurisdictions must name a coordinated election official who is responsible for assuring that the Article X, Section 20 notice is given.

~~6.4.2~~ 4.4.2 The political subdivisions may contract with the appropriate county clerk ~~and recorder~~ to be the coordinated election official.

~~6.5~~ 4.5 Determination of ballot issues and texts.

~~6.5.1~~ 4.5.1 Each political subdivision ~~shall~~ MUST prepare the list of candidates and the ballot title and text for ballot issues and ballot questions, as required by law.

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

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

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

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

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

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

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

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

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

(1)~~.~~ Referred measures to increase taxes;

(2)~~.~~ Referred measures to retain excess revenues;

(3)~~.~~ Referred measures to increase debt;

(4)~~.~~ Other referred measures;

(5)~~.~~ Initiatives to increase taxes;

(6)~~.~~ Initiatives to retain excess revenues;

(7)~~.~~ Initiatives to increase debt;

(8)~~.~~ Other citizen petitions.

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

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

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

(1)~~.~~ Each category of referred and initiated state amendments and propositions ~~shall~~ MUST be numbered and listed on the ballot in the 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

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

(2)~~.~~ Each category of initiated local ballot issues and questions ~~shall~~ MUST 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.

(3)~~.~~ Each category of local referred ballot issues and questions ~~shall~~ MUST be designated by a letter or a number and a letter in the following 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.

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

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

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

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

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

4.6 CANDIDATE AUDIO RECORDINGS

~~10.4~~ 4.6.1 ~~Candidates whose names are listed on a ballot~~ A CANDIDATE FOR STATEWIDE OFFICE, THE GENERAL ASSEMBLY, CONGRESSIONAL OFFICE, REGENT, OR DISTRICT ATTORNEY must provide an audio recording ~~of the pronunciation~~ of ~~their~~ HIS OR HER name to the Secretary of State. ~~prior to the election for offices that are voted on by the electors of the entire state, or of a congressional district, or for the offices of members of the general assembly or district attorney or a district office of state concern.~~ THE CANDIDATE MUST RECORD HIS OR HER NAME EXACTLY AS IT APPEARS ON THE CANDIDATE ACCEPTANCE FORM, STATEMENT OF INTENT, OR DECLARATION OF INTENT TO RUN FOR RETENTION IN A JUDICIAL OFFICE, AS APPLICABLE, AND THE CANDIDATE MUST PROVIDE THE RECORDING TO THE SECRETARY OF STATE NO LATER THAN THE DEADLINE TO FILE THE CANDIDATE ACCEPTANCE FORM, STATEMENT OF INTENT, OR DECLARATION OF INTENT TO RUN FOR RETENTION IN A JUDICIAL OFFICE, AS APPLICABLE.

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

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

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

4.7 CONGRESSIONAL TERM LIMITS DECLARATION

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

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

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

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

4.8 BALLOT FORMAT AND PRINTING

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

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

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

~~10.6~~ 4.8.3 Printing primary election ballots.

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

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

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

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

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

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

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

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

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

~~10.8~~ 4.8.4 Use of unique numbers on ballots.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~6.7~~ 4.9.6 ~~Written~~ NO PERSON MAY WITHDRAW WRITTEN comments concerning ballot issues submitted to the designated election official ~~for the political subdivision shall not be withdrawn~~ after ~~the end of the business day on~~ the last Friday immediately preceding the forty-fifth day before the election.

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

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

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

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

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

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

5.2 MAIL BALLOT ELECTIONS

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

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

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

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

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

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

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

5.2.3 BALLOTS AND BALLOT PACKETS

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

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

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

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

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

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

~~12.7~~ 5.2.4 Receipt of Ballots

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

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

~~12.7.2~~ (B) Each day when ballots come in, ~~shall~~ AN ELECTION

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

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

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

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

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

~~5.2.4~~ 5.2.5 RECALL ELECTIONS. THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A WRITTEN PLAN TO THE SECRETARY OF STATE WITHIN FIVE DAYS AFTER THE DESIGNATED ELECTION OFFICIAL SETS THE DATE OF THE ELECTION. THE SECRETARY OF STATE WILL APPROVE OR DISAPPROVE THE PLAN WITHIN FIVE DAYS FROM THE DATE IT IS RECEIVED. [SECTION 1-12-111.5, C.R.S.]

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

~~5.1~~ 5.3 ~~For elections conducted on days~~ IF A DESIGNATED ELECTION OFFICIAL CONDUCTS AN ELECTION ON A DAY other than described in section 1-7-116(1), C.R.S., ~~nothing shall preclude the designated election official from mailing~~ THE DESIGNATED ELECTION OFFICIAL MAY MAIL the notice required by Article X, Section 20 of the Colorado Constitution to ~~persons~~ PEOPLE who are not eligible electors if ~~such~~ THE mailing is done at the "least cost" possible.

~~5.2~~ 5.4 If ~~there are no appropriate polling place locations~~ THE DESIGNATED ELECTION OFFICIAL FOR THE POLITICAL SUBDIVISION IS UNABLE TO ESTABLISH A ~~VOTER SERVICE AND~~ POLLING ~~CENTER~~ LOCATION within the political subdivision, ~~conducting the election, a polling place may be designated~~ THE DESIGNATED ELECTION OFFICIAL MAY DESIGNATE A ~~VOTER SERVICE AND~~ POLLING ~~CENTER~~ LOCATION outside of the political subdivision ~~in a~~ IF THE location ~~that~~ is WITHIN 10 MILES OF THE SUBDIVISION.~~convenient for the eligible electors. of such political subdivision.~~

~~5.3~~ 5.5 For elections not conducted in November and not coordinated with the county clerk ~~and recorder~~, the ballot issue or question ~~shall~~ MUST be identified by the name of the jurisdiction submitting the ballot issue or ballot question followed by a number in the case of initiatives or by a letter in the case of referred measures.

~~5.4~~ 5.6 Elections authorized ~~under~~ BY Part 1, Article 45 of Title 37, C.R.S., ~~(Water Conservancy Act),~~ ~~shall~~ MUST be conducted in accordance with Articles 1 through 13 of Title 1,

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.

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

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

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.

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

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

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

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

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

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

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

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

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

~~5.5~~ 5.7 Non-Partisan Elections: Polling ~~Place~~ LOCATION Procedures.

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

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

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

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.

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

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

~~5.5.7~~ 5.7.3 ~~Verification of Information in Provisional Ballot Affidavit.~~ The designated election official ~~shall verify the information contained in the provisional ballot affidavit pursuant to Rule 26. If the information contained in the affidavit provides adequate criteria such that the designated election official, using the Rule 26 search, can ascertain the registration of the elector, the provisional ballot shall count. If the information cannot be verified, the ballot shall be rejected. See~~ MUST FOLLOW THE PROVISIONAL BALLOT PROCEDURES CONTAINED IN ARTICLES 1 THROUGH 13 OF TITLE 1 ~~sections1-8.5-105 and 1-8.5-106~~, C.R.S., and Rule ~~26~~17.

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

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

~~ballots.~~

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

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

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

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

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

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

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

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

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

Comment [S34]: Not just election day.

Rule 6. ~~Rules Concerning~~ Election Judges

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

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

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

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

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

~~A.~~ 6.3.1 SUCCESSFULLY PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN RULE ~~28.5~~6.4. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION OFFENSE OR FRAUD IS PROHIBITED FROM ~~HANDLE~~ HANDLING VOTER REGISTRATION APPLICATIONS OR ~~CONDUCT~~ CONDUCTING VOTER REGISTRATION AND LIST MAINTENANCE ACTIVITIES.

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

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

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

RULE 7. ELECTIONS CONDUCTED BY THE COUNTY CLERK AND RECORDER

7.1 MAIL BALLOT PLANS

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

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

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

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

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

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

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

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

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

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

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

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

Comment [S35]: No requirement to vote.

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

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

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

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

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

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

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

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

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

~~10.7~~ 7.2.5 Voiding ballots due to timely changes in address or affiliation.

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

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

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

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

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

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

~~(b) In the case of an address change that results in a change of precinct, 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).

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

7.3 ABSENTEE VOTING

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

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

7.4 EMERGENCY BALLOT TRANSMISSION

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

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

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

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

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

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

7.4.3 THE ELECTRONIC TRANSMISSION MUST INCLUDE:

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

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

(C) INSTRUCTIONS FOR COMPLETING AND RETURNING THE BALLOT;

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

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.

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

(D) A NOTICE REGARDING THE BALLOT RETURN DEADLINE;

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

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

~~7.4.3~~ (G) THE BALLOT PACKET, ~~WHICH SENT BY ELECTRONIC TRANSMISSION~~ MUST BE IN TEXT FORMAT ON 8 ½" X 11" WHITE PAPER AND MUST INCLUDE:

(~~A~~ 1) AN ELECTRONIC TRANSMISSION COVERSHEET TO PROTECT VOTER PRIVACY;

(~~B~~ 2) THE BLANK BALLOT;

(~~C~~ 3) THE ELECTRONIC TRANSMISSION BALLOT INSTRUCTIONS; AND

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

~~7.4.4 THE ELECTRONIC TRANSMISSION MUST INCLUDE:~~

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

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

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

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

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

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

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

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

(A) THE NAME OF THE VOTER;

(B) THE FAX NUMBER OR EMAIL ADDRESS TO WHICH THE BALLOT WAS TRANSMITTED (AS APPLICABLE);

(C) THE UNIQUE IDENTIFICATION NUMBER OF THE BALLOT;

(D) THE DATE THE BALLOT PACKET WAS TRANSMITTED; AND

(E) THE INITIALS OF THE EMPLOYEE TRANSMITTING THE BALLOT.

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

~~42.8~~ ~~7.4.7~~ 7.4.6 ~~The designated election official shall fax the blank ballot with the instructions to the fax number provided by the elector.~~ If THE COUNTY CLERK TRANSMITS A BALLOT PACKET TO AN ELECTOR BY FAX AND the transmission is unsuccessful, the ~~designated election official shall~~ COUNTY CLERK MUST attempt to fax THE BALLOT at least two more times ~~and make reasonable effort, if possible, to ensure the transmission was successful~~.

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

~~42.9~~ ~~7.4.8~~ 7.4.7 Upon receipt of the ballot, THE COUNTY CLERK MUST VERIFY THE SIGNATURE ON THE AFFIDAVIT UNDER RULE ~~7.6~~ 7.7. ~~when the information from the 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.

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

7.5 RECEIPT AND PROCESSING OF BALLOTS

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

(a) Freestanding drop-off locations must be monitored at all times.

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

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

~~12.7.2~~ 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

them and record the number of ENVELOPES ~~ballots~~ received.

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

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

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

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

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

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

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

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

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

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

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

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

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

Comment [S46]: Envelopes not ballots.

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

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

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

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

~~10.9~~ ~~7.5.8~~ 7.5.9 ~~Tracking~~ PROVIDING FOR PRIVACY WITHIN ballot batches. ~~The county clerk must dissociate anybatch number that could trace a ballot back to the specific voter who cast it fromthe counted ballots no later than the final certification of the abstract of votescast.~~ 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.

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.

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

7.6 MISSING SIGNATURE

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

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

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

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

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

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

"Any person who knowingly violates any of the provisions of the election code relative to the casting of ballots or who aids or abets fraud in connection with any vote cast, or to be cast, or attempted to be cast ~~shall~~ WILL be punished by a fine of

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

7.7 SIGNATURE VERIFICATION PROCEDURES

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

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

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

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

~~Code 4~~ (D) ~~Differences~~ A DIFFERENCE in the individual characteristics of the signatures, such as how the "t's" are crossed, "i's" are dotted, loops are made on "y's" or "j's".

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

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

~~Code 7~~ (G) ~~'Other,'~~ ANY OTHER NOTICEABLE DISCREPANCY ~~including~~ SUCH AS misspelled names. ~~& description of discrepancy~~

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

~~29.3.1~~ (A) If it appears to the judges verifying the self-affirmation on the return envelopes that members of the same household ~~who have applied for mail in ballots or have been sent mail ballots~~ have inadvertently switched envelopes or ballots, the ballot or ballots ~~shall~~ MUST be counted and no letter 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.

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

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

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

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

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

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

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

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

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.

7.7.6 USE OF BALLOT ENVELOPE SORTERS AND SIGNATURE CAPTURE DEVICES.

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

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

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

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

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

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

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

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

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

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

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

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

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

AND SECURE NETWORK.

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

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.

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

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

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

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

7.8 VOTER SERVICE AND POLLING CENTERS

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

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

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

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

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

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

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

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

(B) THE CHECK-IN JUDGE MUST ASK EACH ELECTOR FOR AN ID PER CRS 1-1-104(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.

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

7.8.4 EXCEPT FOR VOTERS WITH DISABILITIES, THE MAXIMUM ALLOWABLE TIME IN A VOTING BOOTH IS 15 MINUTES IF THERE ARE VOTERS WAITING. THE SECRETARY OF STATE MAY ORDER ADDITIONAL TIME BASED ON THE LENGTH OF THE BALLOT. [SECTION 1-7-115, C.R.S.]

[Portions of current Rule 7.6 are included in new Rule 7.8.3.]

7.8.5 ANY ELIGIBLE ELECTOR MAY VOTE IN-PERSON AT A VOTER SERVICE AND POLLING ~~CENTER. THE ELECTION JUDGE OFFICIAL MUST VOID MARK THE ELECTOR'S MAIL 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.

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

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

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

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

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

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

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

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

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

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

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

7.10 VOTER SERVICE AND POLLING CENTER CONNECTIVITY

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

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

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

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

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

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

NOTICE
VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

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

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

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

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

I, ……..., certify that I am the individual chosen by the elector to assist the elector in casting a ballot.'

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

~~8.2~~ 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~~ ~~OBSERVE~~ACT.

~~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.~~

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.

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

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

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

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

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

[Section 1-7-108(3), C.R.S.]

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

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

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

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

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

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

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

(1) OBSERVING VOTER CHECK-IN AND REGISTRATION ACTIVITIES.

(2) WITNESSING THE SIGNATURE VERIFICATION OF MAIL BALLOT ENVELOPES AT CLOSE ENOUGH DISTANCE TO VERIFY OR CHALLENGE THE SIGNATURE.

(3) WITNESSING THE DUPLICATION OF BALLOTS TO VERIFY ACCURACY OF VOTER INTENT.

(4) OBSERVING THE TABULATION PROCESS OR DISPLAY SCREENS OF VOTING EQUIPMENT AT ANY TIME THAT THE VOTER IS NOT IN THE IMMEDIATE VOTING AREA FOR PURPOSES OF VOTING OR CASTING HIS BALLOT.

(5) WITNESSING HAND COUNT TABULATIONS AS THEY ARE BEING CONDUCTED.

(6) VISUAL ACCESS TO ALL DOCUMENTS AND MATERIALS DURING THE LAT AND POST-ELECTION AUDIT.

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

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

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

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

~~8.6.4~~ 8.4.3 ~~Watchers~~ A WATCHER may witness and verify activities described in ~~Article I~~ ARTICLE 1, Section 7, that are outside the immediate voting area, including ballot processing and counting. IF ELECTION OFFICIALS ~~OR ELECTION JUDGES~~ ARE CONDUCTING ELECTIONS ACTIVITIES IN SEPARATE ROOMS OR AREAS OF A BUILDING OR BUILDINGS, THE COUNTY CLERK ~~AND RECORDER~~ MUST ALLOW ADDITIONAL WATCHERS TO OBSERVE ~~ACTIVITIES~~ AND VERIFY EACH SEPARATE 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.

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

~~8.6.6~~ 8.4.5 ~~Watchers~~ A WATCHER may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule ~~48~~ 9, and submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule ~~31.8.7~~ 13. ~~What Watchers May Observe. Duly appointed Watchers A WATCHER may observe polling place voting, early voting ALL ACTIVITIES IN A VOTER SERVICE AND POLLING CENTER LOCATION and the processing and counting of precinct, provisional, mail, and mail in ballots. For mail ballot elections, or mail in ballot processing, watchers A WATCHER may be present at each stage of the election including the receiving and bundling of the ballots. received by the designated election official. Watchers A WATCHER may be present during provisional ballot processing but may not have access to confidential voter information.~~ A WATCHER MAY CHALLENGE INELIGIBLE PERSONS AND ASSIST IN THE CORRECTION OF DISCREPANCIES PER CRS 1-7-108.

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

~~8.7~~ 8.5 ~~Watcher oath.~~ In addition to the oath required by section 1-7-108(1), C.R.S., a watcher must affirm that he or she will not:

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

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

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

~~8.8~~ 8.6 ~~Limitations of Watchers. Watchers~~ A WATCHER may not:

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

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

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

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

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

8.6.6 USE A MOBILE PHONE TO MAKE OR RECEIVE A CALL IN ANY POLLING LOCATION OR 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.

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

Comment [S72]: Ditto

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

~~8.10~~ 8.7 ~~Official Observers Appointed by the Federal Government.~~ THE SECRETARY OF STATE MUST APPROVE Official Observers appointed by the federal government. ~~shall be approved by the Secretary of State and shall be~~ OFFICIAL OBSERVERS ARE subject to Colorado law and these rules as they apply to Watchers.~~;~~ ~~however, they need not~~ BUT AN OFFICIAL OBSERVER IS NOT REQUIRED TO be AN eligible ELECTOR ~~electors~~ in the jurisdiction ~~in which they act as Watchers~~. This Rule ~~shall~~ DOES not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State ~~shall be~~ ARE subject to the rules and regulations as prescribed by the Secretary of State. Official Observers ~~shall~~ MUST obtain A LETTER OF AUTHORITY from the Secretary of State~~, or his or her designee, duly executed letters of authority~~. The Official Observers ~~shall~~ MUST surrender ~~such~~ THE letter ~~of authority~~ to the COUNTY CLERK ~~AND RECORDER~~ ~~designated election official in the jurisdiction in which they act as Watchers~~.

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

~~8.11~~ 8.8 ~~Watchers, Official Observers and Media Observers at a Recount.~~ Watchers, Official Observers, and Media Observers may be present ~~at~~ DURING a recount. Watchers, Official Observers, and Media Observers must be qualified and sworn IN for a recount ~~in the same manner as provided~~ AS DESCRIBED in Rule ~~8.2~~ 8.1 and are subject to all other provisions related to the recount process. Any political party AND ~~OR~~ candidate involved in the recount ~~OR~~AND proponents ~~OR~~AND opponents of an issue or question involved in the recount may appoint one ~~Watcher~~ OR MORE WATCHERS to be present at any time during the recount. ~~The~~ A candidate who is subject to a recount may appoint ~~him or her self~~ HIMSELF OR HERSELF, or a member of the candidate's family by blood, ~~or~~ marriage, OR CIVIL UNION, as a watcher at a recount. ~~See sections~~ [SECTIONS 1-7-105 and 1-7-106, 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

~~8.12~~ 8.9 ~~Media Observers.~~ Media Observers ~~with valid and current media credentials~~ may ~~be present to~~ witness ~~early voting, election day voting and the processing and counting of provisional, mail and mail in ballots~~ ALL ELECTION ACTIVITIES. ~~However, at the discretion of the county clerk and recorder, Media Observers may be required~~ A COUNTY CLERK ~~AND RECORDER~~ MAY, IN HIS OR HER DISCRETION, REQUIRE A MEDIA OBSERVER to appoint ~~one member of the media as~~ a pool reporter and ~~one member as~~ a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~8.15~~ 8.12 Removal of Watchers.

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

(a) Commits or encourages fraud in connection with his or her duties;

(b) Violates any of the limitations outlined in Rule ~~8.8~~ 8.6;

(c) Violates his or her oath; or

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

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

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

~~8.16~~ 8.13 Watchers may be designated to observe ~~more than~~ one, ~~precinct or polling place~~ SOME OR ALL ~~VOTER SERVICE AND~~ POLLING ~~CENTER~~ LOCATIONS. ~~but in no event shall more than one 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.

~~8.17~~8.14 Watchers may be appointed to observe recall elections held ~~pursuant to~~ UNDER article 12, title I, C.R.S., and ~~shall~~ MUST be designated in accordance with sections 1-7-106 and 1-7-107, C.R.S. AND THIS RULE 8.

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

Rule 9. VOTING CHALLENGES

~~48.1~~9.1 UNDER SECTION 1-9-201, C.R.S., AN ELECTION ~~JUDGE~~ OFFICIAL, POLL WATCHER, OR ELIGIBLE ELECTOR OF THE PRECINCT MAY CHALLENGE AN ELECTOR'S RIGHT TO VOTE. ~~Pursuant to section 1-9-203 (7), C.R.S., a~~ A person WHOSE ELIGIBILITY IS challenged ~~on the grounds of residency shall~~ MUST be offered a regular ballot by ~~the~~ AN election ~~judge~~ OFFICIAL ~~when~~ IF the person ~~challenged~~ satisfactorily answers the APPLICABLE challenge questions specified in section 1-9-203(3)(a)-(e), C.R.S. The following demonstrate ~~when a person challenged~~ satisfactory ~~answered~~ ANSWERS TO THE CHALLENGE QUESTIONS. ~~the challenge questions and action to be taken by the election judge based on the elector's response:~~ IF THE PERSON CHALLENGED PROVIDES UNSATISFACTORY ANSWERS OR REFUSES TO ANSWER THE CHALLENGE QUESTIONS, AN ELECTION ~~JUDGE~~ OFFICIAL MUST ADVISE THE PERSON OF THEIR LIKELY INELIGIBILITY, OFFER THE PERSON A PROVISIONAL BALLOT AND IF IT IS ACCEPTED, RECORD THE ANSWERS TO THE CHALLENGE QUESTIONS ON THE PROVISIONAL BALLOT ENVELOPE.

9.2 CITIZENSHIP

A. ARE YOU A CITIZEN OF THE UNITED STATES?

SATISFACTORY ANSWER: YES.

IF THE PERSON CHALLENGED ANSWERS YES TO THIS AND SATISFACTORILY TO THE OTHER ~~TWO~~ CHALLENGE QUESTION TYPES, AN ELECTION JUDGE OFFICIAL MUST OFFER THE PERSON A REGULAR BALLOT.

UNSATISFACTORY ANSWER: NO.

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

9.3 RESIDENCY

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~~?

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

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

Comment [S76]: Rule 8 included for completeness.

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.

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.

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.

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

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".

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

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

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

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

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

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

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

~~*Offer the elector a regular ballot.*~~

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

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

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

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

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

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

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

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

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:

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."

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.

Comment [S86]: See above.

Comment [S87]: See above

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

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

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

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

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

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

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

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

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

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

9.4 AGE

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

SATISFACTORY ANSWER: YES.

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

Comment [S88]: See above

UNSATISFACTORY ANSWER: NO.

IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION ~~JUDGE~~ OFFICIAL 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 .

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

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

Rule 10. CANVASSING AND RECOUNT

~~41.1 Definitions~~

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

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

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

[Current Rule 41.1 is moved to new Rule 1]

~~41.2~~ 10.1 Appointment to the Canvass Board

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

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.

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

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

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

~~41.3~~10.2 Duties of the Canvass Board

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

~~41.3.2~~ 10.2.2 The canvass board's duties are:

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

(~~i~~1) Account and balance the election and certify the official abstract of votes;

(~~i~~2). Reconcile the number of ballots counted to the number of ballots cast; and

(~~iii~~3) Reconcile the number of ballots cast to the number of voters who voted by reviewing the reconciled detailed ballot logs and Statement of 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);

(c) In coordination with the county clerk ~~and recorder~~

REPORT THE AUDIT,AND investigate and report discrepancies found in the audit under section 1-7-514(2), C.R.S.; and

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

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

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

~~(a) Determining voter intent;~~

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

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

~~41.4~~ 10.3 Detailed Ballot Log

~~41.4.1~~ 10.3.1 The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are 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.

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

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

~~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 recout. 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 ar ...

Comment [S97]: Because of Colorado's election complexity all must be mentioned. Unfortuately "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

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AN EASILY ACCESSIBLE electronic or manual format.

~~41.5~~ 10.4 Election ~~Day~~ Tracking Process

~~41.5.1~~ 10.4.1 The designated election official must supply each polling location with a Statement of Ballots Form. ~~Combined precincts may use one form.~~ The form must include a place for the ~~judges~~ ELECTION OFFICIALS to account for the following information FOR EACH DAY VOTING TAKES PLACE, LISTED BY BALLOT STYLE:

(a) The name or number~~(s)~~ of the ~~precinct or vote center~~ POLLING LOCATION;
(b) The number of ballots AND BALLOT PACKETS provided to the polling location;
(c) The number of ballots cast WITHOUT SIGNED ENVELOPES;
(d) The number of unvoted ballots AND MAIL BALLOT PACKETS ON HAND;
(e) The number of damaged or spoiled ballots; and
(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
(M) THE NUMBER OF BALLOTS PRINTED ON DEMAND.

~~41.5.2~~ 10.4.2 The election ~~judge~~ OFFICIALS must reconcile the total number of voted ballots with the number of voters who voted.

~~41.5.3~~ 10.4.3 The election ~~judge~~ OFFICIALS must verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to the polling location.

~~41.5.4~~ 10.4.4 The election ~~judge~~ OFFICIALS must reconcile the number of people who signed ~~the pollbook~~ SIGNATURE CARDS to the total of the number of ballots cast.

~~41.5.5~~ 10.4.5 If there is a discrepancy in the numbers on the Statement of Ballots form, the ~~judge~~ ELECTION OFFICIALS must explain the discrepancy in writing (for example, the voter signed in but left the polling ~~place~~ LOCATION without voting, etc.).

~~41.5.6~~ 10.4.6 The ~~judge~~ ELECTION OFFICIALS must return the completed Statement of Ballots form to the designated election official with the other precinct supplies 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.

~~41.6~~ 10.5 Designated Election Official's Disposition of Forms

~~41.6.1~~ 10.5.1 The designated election official must review the Statement of Ballots form for completion and accuracy.

~~41.6.2~~ 10.5.2 If the designated election official or the canvass board discovers a problem with the Statement of Ballots form that cannot be easily resolved, they may 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.

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Comment [S100]: The title of this section is incorrect- "election day" is not the day election processing is done any more.

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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.

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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.

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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 ...

Comment [S106]: ditto

Comment [S107]: ditto

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Comment [S108]: ditto

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Comment [S109]: this change is required by ...

~~41.7~~ 10.6 Procedures for ~~the Day of~~ the Canvass

~~41.7.1~~ 10.6.1 The designated election official must provide ~~the following~~ information to the canvass board UPON REQUEST, BUT AT A MINIMUM INCLUDING:

(a) The name of each CONTEST ~~candidate, office~~, and votes received INCLUDING UNDER AND OVER VOTES BY VOTING METHOD, BY VOTING DEVICE AND BY PRECINCT;

~~(b) The number/ OR letter of each ballot issue or question and votes received;~~

~~(c) The number of voters who voted early;~~

(B) THE STATEMENT OF BALLOTS FORM FOR EACH DAY OF VOTING AND EACH POLLING LOCATION AND THE SIGNATURE CARDS FROM EACH POLLING LOCATION;

(~~d~~ C) The number of ~~mail-in or mail~~ ballots cast, including the number OF accepted and rejected MAIL BALLOTS BY REJECTION CODE; and

(~~e~~ D) The number of provisional ballots ~~counted~~ CAST, INCLUDING THE NUMBER ACCEPTED AND REJECTED BY REJECTION CODE.

(E) A DESCRIPTION OF ANY KNOWN ANOMALIES, DISCREPANCIES, EXCEPTIONS OR DEFECTS IN THE ELECTION.

~~41.7.2~~ 10.6.2 Any written OR ELECTRONIC documentation ~~regarding official numbers~~MAY BE ~~is~~ included as part of the canvass.

10.6.3 THE CANVASS BOARD MUST MEET TO BEGIN CONSIDERATION OF ALL OF ITS FUNCTIONS NO LATER THAN 7 DAYS AFTER ELECTION DAY.

~~41.8~~ 10.7 Official Abstract AND REPORTING TO THE SECRETARY OF STATE

~~41.8.1~~ 10.7.1 ~~The designated election official must include the number of eligible ACTIVE REGISTERED voters AND THE NUMBER OF REGISTERED VOTERS (ACTIVE AND INACTIVE) on election day on the official abstract.~~

~~41.8.2~~ 10.7.2 The canvass board must use the official abstract in a format approved by the Secretary of State.

~~41.8.3~~ 10.7.3 The official COUNTY abstract must include, by precinct~~/~~ OR ballot style ~~or vote center~~, where applicable:

(a) THE TOTAL NUMBER OF ACTIVE REGISTERED ELECTORS AT 7PM ON ELECTION DAY;

(B) THE TOTAL NUMBER OF REGISTERED ELECTORS (ACTIVE AND INACTIVE) AT 7PM ON ELECTION DAY;

(C) The statement of votes counted by race and ballot question or issue;

~~(b) The total active registered electors in the precinct and the total for the jurisdiction holding the election;~~

(c) The total number of ~~electors voting in each precinct and the total for the jurisdiction holding the election;~~ BALLOTS CAST IN THE ELECTION

~~(d) The number of voters who voted early;~~

~~(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 ...

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Comment [S112]: This makes sure the reports contain sufficient detail for understanding the ba ...

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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 electio ...

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Comment [S115]: Ditto

Comment [S116]: This is a crucial requirement for election transparency to the citizen board tha ...

Comment [S117]: Increasingly, electronic documentation is taking precedence over writte ...

Comment [S118]: "regarding official numbers' is a vague limitation apparently offering the local ...

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Comment [S119]: A requirement for the canvass board to meet in a timely manner so tha ...

Comment [S120]: Because of same day election day registration, a time is required. 7PM

Comment [S121]: Ditto

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(f) The number of ~~mail in or~~ mail ballots counted and the number rejected BY REJECTION CODE;

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

(h) The number of damaged and spoiled ballots.

10.7.4 THE STATE PORTION OF THE ABSTRACT, WHICH THE COUNTY MUST TRANSMIT TO THE SECRETARY OF STATE, MUST INCLUDE:

(A) THE TOTAL NUMBER OF ACTIVE REGISTERED ELECTORS AT 7PM ON ELECTION DAY;

(B) THE TOTAL NUMBER OF REGISTERED ELECTORS (ACTIVE AND INACTIVE) AT 7PM ON ELECTION DAY;

(C) THE STATEMENT OF VOTES COUNTED BY RACE AND BALLOT QUESTION OR ISSUE INCLUDING UNDER AND OVER VOTES;

(D) THE TOTAL NUMBER OF BALLOTS CAST IN THE ELECTION; AND

(E) THE CANVASS ENR UPLOAD REQUIRED UNDER ~~RULE~~ RULE 11.11.4.

~~41.9~~ 10.8 The COUNTY Abstract is the Official Permanent Record.

~~41.9.1~~ 10.8.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.

~~41.9.2~~ 10.8.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.

~~41.10~~ 10.9 Appointment of Canvass Workers.

10.9.1 The designated election official SUBJECT TO THE APPROVAL OF THE CANVASS BOARD may appoint canvass workers to help prepare and conduct the canvass.

~~41.11~~ 10.10 Voter History.

~~41.11.1~~ 10.10.1 After the canvass, the designated election official must give VOTE credit to each voter ~~who votes by mail, at an early voting site, or at a polling location~~.

~~41.11.2~~ 10.10.2 If the voter history records do not match the number of voters who voted at that election, the designated election official must ensure the following:

(a) Each voter received credit for voting; and

(b) All ~~pollbooks and~~ signature cards are accounted for.

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.

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Comment [S123]: Because of same day, election day registration the time is needed- 7PM

Comment [S124]:

Comment [S125R124]: Ditto

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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.

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.

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~~41.11.3~~ 10.10.3 All research concerning discrepancies must be explained ~~and~~ TO THE SATISFACTION OF THE CANVASS BOARD AND documented.

~~41.12~~ 10.11 Written Complaints.

10.11.1 The designated election official must provide the canvass board with any written complaint submitted by a registered elector about a voting device.

~~41.12.1~~ 10.11.2 If the complaint is resolved, the designated election official must provide the details of the resolution

~~41.12.2~~ 10.11.3 If the complaint is pending resolution when the board meets to conduct the canvass, the designated election official must provide a proposal for how the issue will be resolved.

~~41.13~~ 10.12 Role of Watchers.

10.12.1 Watchers appointed under section ~~1-10.5-101(1)(a)~~ 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.

~~41.14~~ 10.13 Role of the Secretary of State.

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

~~41.14.1~~ 10.13.2 The county clerk ~~and recorder~~ or the canvass board may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.

~~41.14.2~~ 10.13.3 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.

~~41.14.4~~ 10.13.4 Imperfect returns or failure to certify.

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

(b) If the canvass board fails to certify or certifies imperfect returns that have a reasonable potential to change the outcome of any race or ballot measure, the Secretary of State will conduct an investigation to identify the nature of, and advise the county clerk ~~and recorder~~ AND CANVASS BOARD in correcting, the inaccuracy.

Comment [S128]: There is no criterion for quality of this explanation, but the canvass board can properly be asked to provide it.

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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).

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[Current Rule 41 moved to new Rule 10 Amendments between the current and new rule language are shown above.]

~~14.3~~ 10.14 RECOUNT GENERALLY.

10.14.1 The purpose of a recount is to RE-TABULATE THE BALLOTS WITH BEST POSSIBLE ACCURACY AND ATTENTION TO EXPRESSIONS OF VOTER INTENT. ~~review the ballots to assure they were counted properly. Unless directed otherwise by the Secretary of State, all procedures of election night shall be followed as closely as possible 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.

10.14.2 FOR STATEWIDE OR FEDERAL RACES, BALLOT ISSUES OR BALLOT QUESTIONS, THE COUNTY CLERK ~~AND RECORDER~~ MUST COORDINATE SCHEDULING THE RECOUNT THROUGH THE SECRETARY OF STATE'S OFFICE SO THAT IT CAN ENSURE ADEQUATE OBSERVER COVERAGE.

10.15 RECOUNT COST ESTIMATES AND REIMBURSEMENTS

10.15.1 A COUNTY MUST SUBMIT A REQUEST FOR REIMBURSEMENT FOR A MANDATORY RECOUNT IN A STATEWIDE OR FEDERAL RACE USING THE SECRETARY OF STATE APPROVED FORM. THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR MEALS OR NORMAL OVERHEAD COSTS OR REGULAR EMPLOYEE COMPENSATION. THE COUNTY MUST INCLUDE ITEMIZED COSTS FOR REASONABLE EXPENDITURES, INCLUDING:

(A) MAILINGS AND NOTICES;

(B) ELECTION JUDGES, TEMPORARY STAFF, CANVASS BOARD PAY, AND OVERTIME PAY; AND

(C) COPIES AND OTHER OFFICE EXPENSES RELATED TO THE RECOUNT.

10.15.2 REQUESTED RECOUNTS

(A) THE COUNTY CLERK MUST PROVIDE AN ITEMIZED COST ESTIMATE IN ACCORDANCE WITH SECTION 1-10.5-106, C.R.S., UPON SUBMISSION OF A FORMAL REQUEST FOR A RECOUNT.

(B) IN PREPARING A COST ESTIMATE FOR A REQUESTED RECOUNT, THE COUNTY MUST USE THE SECRETARY OF STATE APPROVED FORM. THE ESTIMATE MUST INCLUDE REASONABLE ITEMIZED COSTS FOR CONDUCTING THE RECOUNT. THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR NORMAL OVERHEAD COSTS.

(C) ~~ANY OTHER COSTS AGREED TO BY THE 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.

(D) THE COUNTY CLERK MUST SUBMIT A COST ESTIMATE TO THE SECRETARY OF STATE WHEN THE CLERK PROVIDES IT TO A REQUESTING PARTY.

10.16 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND RULE 10.2.2(D), THE CANVASS BOARD'S ROLE IN CONDUCTING A RECOUNT INCLUDES BUT IS NOT LIMITED TO SELECTING BALLOTS FOR THE TEST, CONDUCTING OR MANAGING ~~OBSERVING~~ THE RECOUNTING OF BALLOTS, AND CERTIFYING THE RESULTS.

~~14.4~~ 10.17 ~~General Provisions~~ WATCHERS AND OBSERVERS

~~14.4.1~~ 10.17.1 The Secretary of State may ~~have~~ APPOINT ~~an~~ official ~~observer~~ OBSERVERS ~~at every recount location~~ IN ANY RECOUNT.

~~14.4.2 Any candidate who is subject to the recount may be present and observe the recount at any recount location or designate one Watcher to observe the recount at any recount location. Watchers must provide the election official with a certificate signed by the candidate, except that an officer of the county party may be accepted as a candidate's watcher without a certificate if no other person is designated by the candidate for that location.~~

~~14.4.3~~ 10.17.2 Each candidate~~, his or her watcher,~~ OR THE CANDIDATE'S' WATCHERS, ~~members of the~~ media OBSERVERS, and official observers ~~as defined in Rule 8.1~~, may be present ~~in the room when a~~ AND WITNESS THE recount ~~is conducted~~ IN ACCORDANCE WITH RULE 8. ~~During the recount the candidate, watcher, members of the media, and official observers may not interfere with the recount process.~~

~~14.4.4~~ 10.17.3 The recount board, candidates, AND watchers~~, members of the media, and official observers will~~ MUST take an oath.

10.17.4 COMPLAINTS. A WATCHER MAY SUBMIT A COMPLAINT IN WRITING TO THE COUNTY CLERK OR DESIGNEE. WRITTEN COMPLAINTS DURING A RECOUNT WILL BE ADDRESSED IN ACCORDANCE WITH RULE ~~4~~ 13.

10.18 TESTING RECOUNT EQUIPMENT

10.18.1 THE CANVASS BOARD MUST REVIEW THE POST-ELECTION AUDIT BEFORE SELECTING THE EQUIPMENT FOR TESTING UNDER SECTION 1-10.5-102(3), C.R.S. TO THE EXTENT FEASIBLE, THE BOARD MUST SELECT EQUIPMENT FOR TESTING 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 RECOUNT. THE PURPOSE OF THE TEST IS TO ENSURE THAT THE RESOLUTION BOARD AND TABULATION MACHINES WORKING TOGETHER ARE CAPABLE OF COUNTING SUFFICIENTLY ACCURATELY TO ENSURE A CORRECT OUTCOME OF THE ELECTION IN CONSIDERATION OF A VERY NARROW VICTORY MARGIN. ~~PROPERLY.~~ THIS MEANS THAT THE MOST DIFFICULT TO COUNT BALLOTS MUST BE COUNTED ACCURATELY.

(A) THE TEST DECK MUST INCLUDE 50 BALLOTS OR 1% OF THE TOTAL NUMBER OF BALLOTS CAST IN THE ELECTION, WHICHEVER IS GREATER, ~~EXCEPT THAT THE TOTAL NUMBER OF BALLOTS TESTED MAY NOT EXCEED THE TOTAL NUMBER OF BALLOTS TESTED IN THE LOGIC AND ACCURACY TEST BEFORE THE ELECTION.~~ THE BALLOTS MUST BE ~~MARKED~~ SELECTED TO TEST EVERY OPTION IN THE CONTEST INCLUDING ACTUAL VOTER MARKS THAT ARE DIFFICULT TO COUNT BY MACHINE. ~~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.

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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.

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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.

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Comment [S138]: This is a careful statement of purpose that lays out the reasons for the extra care to be taken with the recount.

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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 tes ...

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) ~~IN A MANDATORY RECOUNT,~~ THE CANVASS BOARD MUST SELECT ~~THE~~ BALLOTS TO BE TESTED FROM THE ~~PRE-ELECTION PUBLIC LOGIC AND ACCURACY TEST DECK.~~ BALLOTS VOTED IN THE CONTEST.

(2) ~~IN A REQUESTED RECOUNT, THE PERSON REQUESTING THE RECOUNT MAY MARK UP TO 25 BALLOTS.~~ ANY ~~OTHER~~ CANDIDATE OR COMMITTEE IN THE CONTEST ~~RACE~~ 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.~~

(B) ~~SWORN~~ELECTION JUDGES ~~OR STAFF~~ MUST HAND TALLY THE TEST BALLOTS FOR COMPARISON TO THE TABULATION RESULTS.

(C) THE TEST IS LIMITED TO THE CONTEST ~~RACE OR MEASURE~~ THAT IS RECOUNTED.

(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 ~~15~~% OF ~~THE~~ DREs RANDOMLY SELECTED WITH DICE THAT HAD VOTES CAST FOR THE CONTEST ~~RACE OR MEASURE~~ BEING RECOUNTED.

(A) ~~SWORN~~ ELECTION JUDGES ~~OR STAFF~~ MUST MANUALLY ~~VERIFY~~COMPARE THE RESULTS ON THE MACHINES SELECTED FOR THE TEST.

(B) THE TEST IS LIMITED TO THE CONTEST ~~RACE OR MEASURE~~ THAT IS RECOUNTED.

10.19 COUNTING ~~OF~~ BALLOTS

10.19.1 IN ACCORDANCE WITH SECTION 1-10.5-102(3)(B), C.R.S., IF THERE ARE NO DISCREPANCIES IN THE TEST UNDER RULE ~~14.6~~ 10.18, THE RECOUNT MUST BE CONDUCTED IN THE SAME MANNER AS THE BALLOTS WERE COUNTED IN THE ELECTION EXCEPT AS OUTLINED IN THIS RULE.

~~14.6.5~~ 10.19.2 A clear audit trail ~~shall~~ MUST be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes ~~as defined in section 1-7-505, C.R.S.~~, and the corresponding numbered seal ~~used as a replacement for the original seal, upon completion of the recount of ballots within that~~ FOR EACH transfer case or ballot box.

[Current Rule 14.6.5 is amended and moved to new Rule 10.19.2. Amendments between the current and new rule language are shown above.]

10.19.3 BALLOTS MUST BE REVIEWED FOR VOTER INTENT USING THE STANDARDS IN RULE 18.

(A) EVERY ~~BALLOT WITH AN~~ OVER-VOTE OR UNDER-VOTE IN THE RACE(S) OR MEASURE(S) SUBJECT TO THE RECOUNT MUST BE REVIEWED FOR VOTER INTENT UNDER RULE 18 ~~USING THE SAME GUIDELINES THAT WERE USED 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.

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Comment [S143]: This may require replacement of "committee" with the correct description. Recounts are not only of races.

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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.

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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".

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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 te ...

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Comment [S151]: Why only 1%? 5% is the ...

Comment [S152]:

Comment [S153]: Using dice is a way to have ...

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Comment [S154]: See above comment on ...

Comment [S155]: "verify" presumes accurac ...

Comment [S156]: "contest" is a simpler defi ...

(B) THE JUDGES CONDUCTING THE VOTER INTENT REVIEW MAY RESOLVE THE INTENT DIFFERENTLY THAN THE JUDGES IN THE ELECTION.

10.19.4 TO RECOUNT BALLOTS ON OPTICAL SCANNERS:

(A) ~~IF THE ORIGINAL COUNT METHOD WAS CENTRAL COUNT,~~ THE COUNTY MUST CREATE A NEW ELECTION DATABASE THAT BECOMES A PART OF ELECTION SETUP RECORDS.

(B) ~~IF THE ORIGINAL COUNT WAS BY PRECINCT COUNT,~~ THE COUNTY MUST ~~USE~~ FORMAT ONE OR MORE ~~BLANK~~ PROM CARTRIDGES, ROM CARTRIDGES, OR MEMORY CARDS NOT ALREADY USED IN THE ELECTION~~.~~

(C) ALL ~~PRECINCT~~ BALLOTS ~~MAY~~ MUST BE TABULATED CENTRALLY REGARDLESS OF WHETHER THE COUNTY USED PRECINCT OR CENTRAL TABULATION ~~WAS USED ON ELECTION DAY~~.

[Potions of Current Rules 14.6.9 – 14.6.12 are moved to new Rules 10.19.3 and 10.19.4]

10.19.5 ~~14.7.3Ballots for the recount shall be processed following the State of Colorado Procedures for the use of the Ballot Now Voting System in conjunction with the following procedures:~~ TO RECOUNT BALLOTS USING "BALLOT NOW":

(A) BACK UP THE OFFICIAL ELECTION DATABASE.

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

(~~b~~C) Scan and resolve all recount ballots ~~following original election procedures~~ ACCORDING TO THIS RULE ~~14~~ 10.

~~(c) Use the Audit Trail Report and Original Scan Batch Reports with notes to ensure that resolution action follows the original resolution.~~

(d) Save all recount ~~CVRs (~~Cast Vote Records~~)~~ to the MBBS ~~(Mobile Ballot Box)~~ after verifying that the number of ballots processed matches the number of ballots cast in the recount contest~~(s)~~.

(e) Open a new recount election in "Tally" and process the recount MBBS following the tabulation procedures above.

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

(g) Backup the test database and the official recount database ~~following the "Archive" procedures~~.

[Portions of current Rule 14.7.1 and 14.7.2 are moved to Rule 10.19.5. Current Rule 14.7.3 is amended and moved to new Rules 10.19.5. Amendments are

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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.

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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.

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shown above.]

10.19.6 TO RECOUNT BALLOTS BY HAND COUNT.

(A) IF THE TABULATION OF THE ORIGINAL COUNT WAS CONDUCTED BY HAND COUNT, OR THE TEST IN RULE 10.18.2 PRODUCED DISCREPANCIES, THE RECOUNT MUST BE CONDUCTED BY HAND COUNT.

~~14.5.4~~ (B) Ballots ~~shall~~ MUST be counted ~~into groups~~ IN BATCHES of 25 to ensure that the number of ballots recounted matches the number originally counted.

~~14.5.5~~ (C) Votes ~~shall~~ MUST be counted by individual hash marks in 25-count sections by two different judges.

[Current Rules 14.5.4 and 14.5.5 are amended and moved to new Rules 10.19.6(a) and (b). Amendments between the current and new rule language are shown above.]

10.19.7 FOR TABULATION OF DREs, IF THERE ARE NO DISCREPANCIES IN THE TEST UNDER RULE ~~14.6~~ 10.18.3, THE COUNTY CLERK MUST UPLOAD THE MEMORY CARDS.

10.19.8 TABULATION OF BALLOTS CAST ~~BY ONE METHOD~~ MUST BE COMPLETED THROUGH A PRECISE, CONTROLLED PROCESS THAT ENSURES EACH CONTAINER OF BALLOTS IS ~~RECOUNTED,~~ RETABULATED AND RESEALED~~, AND RETABULATED~~ BEFORE TABULATION OF THE NEXT ~~METHOD~~ CONTAINER BEGINS. ~~EXCEPT THAT, IF MAIL-IN BALLOTS WERE ORIGINALLY COUNTED WITH EARLY VOTING BALLOTS, THE RECOUNT MUST BE CONDUCTED IN THE SAME MANNER.~~

~~14.6.6~~ 10.19.9 The number of ballots counted ~~by a METHOD AND precinct~~ according to the ~~election night report shall~~ ~~FINAL~~ CERTIFIED RESULTS FOR THAT RACE OR MEASURE MUST be available during the recount for comparison purposes.

[Current Rule 14.6.6 moved to new Rule 10.19.9. Amendments between the current and new rule language are shown above.]

10.20 CANVASS AND REPORTING RESULTS

~~14.6.7~~ 10.20.1 Totals of recounted ballots ~~shall be processed, counted, and~~ MUST BE reported in summary form as follows:

(a) Sum total of votes cast for each ~~candidate, ballot issue or ballot question subject to the recount~~ RACE OR MEASURE RECOUNTED, under-votes, and over-votes ~~for all precincts~~ FOR EACH ~~LOCATION~~ TABULATION DEVICE AND BY PRECINCT;

~~(b) Sum total of votes cast for each candidate, ballot issue or ballot question subject to the recount, under votes and over votes for all mail in ballots (a combined total, not totaled by individual precincts or location, unless your 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.

~~(c) Sum total of votes cast for each candidate, ballot issue or ballot question, subject to the recount, under votes, and over votes for all early voting locations (a combined total, not totaled by individual precinct or locations, unless the voting system so allows);~~

~~(d) Determine the grand total of ballots cast in early, mail in, and precinct voting.~~

(~~E~~ B) THE TOTALS MUST BE A COMBINED TOTAL~~, NOT TOTALED~~ AND BY INDIVIDUAL 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.

[Current Rules 14.5.1 and 14.6.7 are amended and moved to new Rule 10.20.1. Amendments are shown above.]

10.20.2 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND THIS RULE 10, THE CANVASS BOARD MUST AMEND, IF NECESSARY, AND RE-SUBMIT THE ABSTRACT OF VOTES CAST.

Rule 11. ~~Rules Concerning~~ Voting Systems

11.1 Voting system access.

~~11.2.1 The county clerk and recorder shall not program or operate the voting system subject to section 1-5-607, C.R.S.~~

~~11.2.2~~ 11.1.1 ~~Any election setup materials shall be stored by the~~ THE ~~county clerk and recorder~~ DESIGNATED ELECTION OFFICIAL MUST SECURELY STORE ELECTION SETUP RECORDS ~~under security with access limited to the person or persons so authorized in writing by the county clerk and recorder.~~ NO PERSON MAY ACCESS THE RECORDS WITHOUT THE CLERK'S WRITTEN AUTHORIZATION.

~~11.2.3~~ 11.1.2 ~~Employees of the county clerk and recorder~~ THE COUNTY CLERK MUST DEPUTIZE EMPLOYEES who are authorized ~~by the county clerk and recorder~~ to prepare or maintain the voting system or election setup ~~materials shall~~ RECORDS ~~MUST be deputized by the county clerk and recorder for this specific purpose and so sworn prior to~~ 60 DAYS BEFORE the ~~first~~ election DAY. ~~of the calendar year in which they will be performing one or more of these activities.~~

~~11.2.4~~ 11.1.3 ~~The county clerk and recorder shall request an Internet Criminal History Check (ICHC) from the Colorado Bureau of Investigation (CBI) for all full-time, part-time, permanent and contract employees of the county who staff the counting center and OR who have any access to the electromechanical voting systems or electronic vote tabulating equipment. At the direction of the county clerk and recorder, an ICHC check may be conducted on election judges. The county clerk and recorder shall request the ICHC once per calendar year for such employees prior to the first election of the year.~~ IN ACCORDANCE WITH SECTION 24-72-305.6, C.R.S., ALL PERMANENT AND TEMPORARY COUNTY STAFF AND ALL VENDOR STAFF WHO HAVE ACCESS TO THE VOTING SYSTEM OR ANY VOTING OR COUNTING

Comment [S164]: Precinct reports allow comparison of similar demographies 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.

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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.

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EQUIPMENT MUST PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN ~~RULE~~ RULE 6.4.

~~11.2.5 If the ICHC indicated that the employee or contract employee has been found guilty of a crime involving breach of trust, fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or election offenses pursuant to sections 1-13-101 *et seq.*, C.R.S., the county clerk and recorder shall MUST prohibit such employee or contact employee from preparing, programming, operating, using or having any access whatsoever to electromechanical voting systems or electronic vote tabulating equipment at any time during that person's employment.~~

~~11.2.6 Vendors or their authorized representatives shall provide a criminal history check to the county clerk and recorder for any employee of the vendor who has any access to electromechanical voting systems or electronic vote tabulating equipment The vendor shall provide the criminal history check ICHC to the county clerk and recorder once per calendar year for such employees prior to the first election of the year.~~

11.2 Performance Bond.

11.2.1 ~~Effective upon the date of the adoption of this rule,~~ A voting system provider or service provider ~~that provides election setup or tabulation services to one or more counties shall~~ MUST:

(a) ~~Provide the services by~~ ~~ENTER INTO A written~~ FILE A COPY OF THE contract, STATEMENT OF WORK, PURCHASE ORDER, OR SIMILAR DOCUMENT, ~~AND FILE a copy of which shall be kept on file~~ with the county clerk ~~and recorder~~ and the Secretary of State.

(b) Post a performance bond, executed by a corporate surety licensed to transact business in the State of Colorado. The county under contractual obligation with the ~~voting system~~ provider ~~or service provider that provides election setup or tabulation services shall~~ MUST be ~~designated as~~ the NAMED beneficiary ~~of the bond; and~~. THE BOND AMOUNT MUST BE THE GREATER OF $10,000 OR THE FULL AMOUNT OF THE CONTRACT WITH THE STATE OR BENEFICIARY COUNTY AND THE BOND MUST BE ON FILE 30 DAYS BEFORE WORK STARTS.

Comment [S167]: It might not only be county.

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(c) Provide proof ~~that a~~ OF THE performance bond ~~has been posted with~~ TO the Secretary of State and the ~~office of the designated election official~~ COUNTY CLERK ~~AND RECORDER~~. ~~The amount of the bond shall be the greater of either $10,000 or the full amount of the contract with the beneficiary county.~~

~~11.3.2 Performance bonds shall be on file 30 (thirty) days prior to any work commencing under contract with the county.~~

11.2.3 The voting system provider ~~shall~~ MUST update all bond documents for each contract or election. ~~performed.~~

~~11.3.4 Copies of the performance bond for the secretary of state's office shall be sent to: Colorado Department of State, Voting Systems Specialist, 1700 Broadway, Suite 270, Denver, Colorado 80290, or to voting.systems@sos.state.co.us~~

11.3 Voting System Inventory.

11.3.1 The designated election official ~~shall~~ MUST maintain an inventory record for each electronic ~~vote tabulating~~ device used in an election. ~~Such records shall~~ THE RECORD MUST include~~, but not be IS NOT limited to,~~ the manufacturer, make, model, serial number, hardware/firmware/software version or release number, hash value documentation where applicable, date of acquisition, description of any services, repairs, maintenance, upkeep, and version upgrades, and the dates ~~of performance of such services as of the date of adoption of these rules~~ THE 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.

11.3.2 IF THE INVENTORY IS IN ELECTRONIC FORMAT, IT MUST BE EXPORTABLE TO A COMMA SEPARATED (CSV), EXCEL SPREADSHEET (XLS OR XLSX), OR ~~QUOTE OR TAB~~ QUOTE OR TAB SEPARATED (TXT) FILE BEFORE DELIVERY TO THE SECRETARY OF STATE.

~~11.4.2~~ ~~11.4.3~~ 11.3.3 The designated election official ~~shall~~ MUST ~~furnish~~ FILE THE INVENTORY WITH the Secretary of State ~~with an extract or copy of the inventory~~ NO LATER THAN ~~10~~ TEN DAYS BEFORE THE ELECTION for use in the Logic and Accuracy Test and the Post-Election Audit Test. ~~The requirements for this extract are:~~

~~(a) Be in either electronic or paper format;~~

~~(b) Contain information regarding: make, model, serial number, type (optical scanner or DRE), AND specific location of use, and specific precincts programmed on each device or card;~~

~~(c) Inventories maintained in electronic format shall be exportable to an industry standard file type – comma separated (CSV), excel spreadsheet (XLS OR XLSX), or Quote or Tab separated (TXT) file prior to electronic delivery to the Secretary of State; and~~

~~(d) The designated election official shall send the inventory list to the Secretary of State's office not less than ten (10) days prior to an election to the attention of the Voting Systems Specialist. Inventory lists may be sent BY MAIL, E-MAIL, OR FAX. in one of three means: E-mail: voting.systems@sos.state.co.us Subject line – County Number, County Name, HARDWARE INVENTORY LIST; or Via facsimile to: 303-869-4861 attn: Secretary of State, Voting Systems Specialist; or via First Class~~

~~Mail to Colorado Department of State/Attn: Voting Systems Specialist/1700 Broadway – Suite 270/Denver, CO 80290.~~

11.4 ~~Voting System Testing. 11.5.1~~ THE CLERK MUST PERFORM A HARDWARE DIAGNOSTIC TEST, A LOGIC AND ACCURACY TEST, AND A POST-ELECTION AUDIT TEST. ~~Three types of voting system testing: shall be performed for each election within a jurisdiction. The three tests are:~~

- ~~A Hardware Diagnostic Test;~~
- ~~A Logic and Accuracy Test (LAT); and~~
- ~~A Post-Election Audit Test.~~

~~11.5.2~~ 11.4.1 Hardware Diagnostic Test

~~11.5.2.1~~ (A) The ~~county clerk and recorder shall commence~~ DESIGNATED ELECTION OFFICIAL MUST PERFORM the Hardware Diagnostic Test ~~prior to~~ BEFORE the election ON EACH DEVICE THAT THE CLERK WILL USE IN THE ELECTION, INCLUDING SPARE OR BACK UP DEVICES. THE TEST MUST INCLUDE THE FOLLOWING DEVICES AND PROVIDE THE FOLLOWING INFORMATION: ~~and allow time for each electronic voting device within the county to be tested. Each device being used in the election, including units identified as spare or backup units, shall be tested to verify that mechanical components are working correctly. This test shall include, but not be limited to, the following tests:~~

~~(a)~~ (1) All input and output devices;

~~(b)~~ (2) Communications ports;

~~(c)~~ (3) System printers;

~~(d)~~ (4) System modems when applicable;

~~(e)~~ (5) System screen displays;

~~(f)~~ (6) Boot performance and initializations;

~~(g)~~ (7) Firmware loads;

~~(h)~~ (8) Software loads;

~~(i)~~ (9) Display of firmware OR software hash value (MD5 or SHA-1) when possible;

~~(j)~~ (10) Confirmation that screen displays are functioning; and

~~(k)~~ (11) Date, time and calibration of systems.

~~11.5.2.2~~ (B) THE ~~CLERK~~ DESIGNATED ELECTION OFFICIAL MUST SEAL each device ~~tested shall be sealed~~ upon the successful completion of the test AND RETAIN documentation of the seal information and all records ~~from testing must be maintained for each device~~ IN ACCORDANCE WITH SECTION 1-7-802, C.R.S.

~~11.5.3~~ 11.4.2 Logic and Accuracy Test. ~~The designated election official shall conduct a Logic and Accuracy Test according to the following requirements.~~

~~11.5.3.1~~ (A) The designated election official ~~shall~~ MUST create a Testing Board ~~consisting~~ of ~~at least two persons~~ AT LEAST ONE REGISTERED ELECTOR ~~AFFILIATED WITH THE~~ ~~FROM~~ REPRESENTING EACH OF THE MAJOR POLITICAL PARTIES, AS DEFINED IN SECTION 1-1-104(22), C.R.S., ~~AND one REGISTERED ELECTOR from each OTHER major political party,~~ IF APPOINTED BY THAT PARTY. ~~TESTING BOARD MEMBERS MUST BE REGISTERED TO VOTE IN THE COUNTY.~~

~~11.5.3.2~~ (B) ~~Prior to the commencement of voting,~~ The designated election official ~~shall~~ MUST conduct the public Logic and Accuracy Test AT LEAST ONE WEEK BEFORE VOTING BEGINS AND ISSUE A PRIOR PUBLIC NOTICE OF THE SCHEDULE.

~~11.5.3.3~~ (C) The DESIGNATED ELECTION OFFICIAL MUST ENSURE THAT THE Logic and Accuracy Test ~~shall be~~ IS open to ~~representatives of the press and~~ THE MEDIA AND the public to the extent allowable ~~and pursuant to~~ IN ACCORDANCE WITH section 1-7-509(2)(b), C.R.S. The designated election official may limit the number of representatives from each group ~~to accommodate for~~ BECAUSE OF space limitations ~~and~~ OR other considerations.

~~11.5.3.4~~ (D) ~~Testing Board Test Ballots – In preparation for the Logic and Accuracy Test,~~ The designated election official ~~shall~~ MUST provide ~~to each member of the Testing Board,~~ at least ~~twenty five (25)~~ 25 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.

~~11.5.3.5~~ (E) ~~The members of the~~ Testing Board MEMBERS ~~shall~~ MUST secretly vote~~their~~ ~~position~~ BALLOTS IN ACCORDANCE WITH ~~THE~~ HOW THEY BELIEVE VOTERS WILL FOLLOW INSTRUCTIONS PRINTED ON THE BALLOTS and retain a record of the tally. ~~of their test votes~~. ~~The test ballots shall MUST have a known predetermined outcome by the members of the Testing Board's secret vote and tally.~~ Of the ~~twenty five~~ AT LEAST 25 test ballots, two ~~shall~~ MUST be tested as audio ballots where applicable.

~~11.5.3.6~~ (F) ~~County Test Ballots – In preparation for the Logic and Accuracy 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.

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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

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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).

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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.

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Comment [S177]: This specifies enough to make the test ballots meaningful for the election quality and not simply a test of special test ballots.

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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.

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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~~.

~~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~~.

~~11.5.3.8~~ (H) Conducting the Test.

~~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.

~~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:~~

Comment [S181]: "Race" is not defined and not appropriate here.

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Comment [S182]: Future tense needed.

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Comment [S183]: "Type of ballot" is not clear. "voting method " may also not be clear but is closer. Voting device is clear.

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Comment [S184]: "audio presentation of the ballot" gets away from attempting to define audio as "the" ballot- this is getting dangerously close to that.

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Comment [S185]: With central count, vote tabulation is too late for this deadline. Perhaps a date linked to election day would be better.

~~(1) All county test ballots shall be counted on at least one, but not more than three, mail in ballot vote counting devices and have the predetermined total verified to the machine total.~~

~~(2) All Testing Board Member test ballots shall be counted individually with reports generated to verify the machine count to the predetermined hand tally.~~

~~(b) Precinct Count Ballots (Optical Scan and DRE):~~

~~(1) The Testing Board shall randomly select 20% but not more than 10 ballots representing unique precincts from the Testing Board's test ballots.~~

~~(2) In the event a selected precinct contains a combination of DRE and Optical Scan voting devices, the Testing Board shall decide on the percentage of ballots to be counted on each type of device used for that precinct.~~

~~(3) The precinct specific county test ballots will be added to the testing board test ballots to be counted on the specific precinct device. The testing board shall manually verify the ballots to be counted prior to any machine count.~~

~~(4) The Testing Board shall verify the manual count to the voting device count.~~

~~(c)~~ (A) ~~Vote Center Count Ballots~~ – Optical ~~Scan~~ SCANNERS:

(1) ~~All testing board~~ THE TESTING BOARD ~~test ballots shall~~ MUST ~~be counted~~ COUNT TEST BALLOTS on at least one~~, but not more than 5 FIVE voting devices, WHICH MUST REPRESENT AT LEAST ONE DEVICE USED AT A VOTER SERVICE AND POLLING CENTER, AND ONE CENTRAL COUNT DEVICE. IF THE COUNTY WILL USE A~~ SCANNER TO BE USED, IN EACH VOTER SERVICE AND POLLING CENTER, ~~AT LEAST ONE MUST BE INCLUDED IN THE TEST. designated for Vote Center Counting and have the predetermined total verified to the machine~~ AND AT LEAST ONE SCANNER TO BE USED FOR COUNTING BALLOTS VOTED OUTSIDE A POLLING LOCATION ~~total.~~

(2) THE TESTING BOARD MUST USE DICE TO RANDOMLY SELECT THE 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.

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Comment [S188]: Specificity for what "randomly" means.

~~(2)~~ (3) ~~All~~ THE TESTING BOARD MUST COUNT THE BOARD'S AND THE COUNTY'S test ~~ballots~~ BALLOT BATCHES ~~shall be counted individually~~ SEPARATELY AND GENERATE REPORTS ~~with reports generated~~ ~~to verify~~ THAT DETERMINE IF the machine count IS IDENTICAL to the predetermined tally. ~~of the test ballots.~~

~~(3) The testing board shall randomly select the machines to be tested.~~

~~(d)~~ (B) ~~Vote Center Count Ballots~~ DREs:

(1) ~~All testing board~~ THE TESTING BOARD MUST COUNT ~~THE~~ AT LEAST 25 test ballot VOTE PATTERNs ~~shall be counted~~ on at least one~~, but not more than 5 FIVE~~ DRE~~s~~. ~~designated for Vote Center Counting and have the predetermined total~~ TO BE USED IN EACH POLLING LOCATION ~~verified to the machine total.~~

(2)THE TESTING BOARD MUST USE DICE TO RANDOMLY SELECT THE MACHINES TO TEST.

(3) THE TESTING BOARD MUST IDENTIFY AND TEST TWO HAVA COMPLIANT ASSISTIVE DEVICS WITH ~~BALLOTS AS~~ VOTE PATTERNS USING AUDIO PRESENTATIONS OF THE BALLOT.~~S.~~

~~(2)~~ (4) ~~All~~ THE TESTING BOARD MUST COUNT THE BOARD'S AND THE COUNTY'S test ~~ballots~~ BALLOT VOTE PATTERNS ~~BATCHES~~ ~~shall be counted individually~~ SEPARATELY AND GENERATE REPORTS ~~with reports generated~~ to ~~verify~~ DETERMINE IF ~~THAT~~ the machine count IS IDENTICAL to the predetermined tally ~~of the test ballots~~. FOR DREs WITH VVPAT DEVICES, THE TESTING BOARD MUST MANUALLY COUNT THE PAPER RECORD TO ~~VERIFY~~ DETERMINE IF ~~THAT~~ THE PRE-DETERMINED TOTALS OF THE TESTING BOARD AND COUNTY TEST BALLOT BATCHES MATCH THE VVPAT HAND TABULATED TOTAL.

~~(3) The testing board shall randomly select the machines to be tested.~~

~~(e) Early Voting and Provisional Ballots Counted on Optical Scan Devices:~~

~~(1) All test ballots shall be counted on at least one, but not more than five, optical scan devices designated for Early Voting or Provisional Ballot Counting and have the predetermined total verified to the machine total.~~

Comment [S189]: "verify" presumes accuracy, "determine if" is more appropriate.

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.

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Comment [S192]: If DRE are used at any location, one per each location is to be tested.

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Comment [S193]: Specifies what "randomly" means.

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Comment [S194]: These changes better specify the testing of two HAVA compliant devices using audio.

Comment [S195]: Vote patterns is correct in place of ballot.

Comment [S196]: As commented above

Comment [S197]: Ditto

Comment [S198]: To be clear, hand counted (and one hopes not by barcode.)

~~(2) All test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the test ballots.~~

~~(f) Early Voting and Provisional Ballots Counted on DREs:~~

~~(1) All test ballots shall be counted on at least one, but not more than five, DREs designated for Early Voting or Provisional Ballot Counting and have the predetermined total verified to the machine total.~~

~~(2) All Testing Board Member test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the Testing Board test ballots.~~

~~11.5.3.8.5 DREs equipped with V-VPAT devices shall be manually verified (by hand) to determine that the pre-determined total of the testing board ballots, matches the V-VPAT total, which in turn matches the machine total.~~

~~11.5.3.8.6 At least two of the testing board ballots shall be identified as Audio Ballots to be tested as such, and included with the count.~~

~~11.5.3.8.7~~ (5) THE DESIGNATED ELECTION OFFICIAL MUST KEEP all test materials, when not in use, ~~shall be kept~~ in a ~~metal~~ DURABLE, SECURE box with ~~individual~~ seals for ~~each member of~~ the Testing Board. The designated election official may affix his or her own seal in addition to those of the Testing Board. The designated election official ~~shall~~ MUST be the custodian of the box or boxes but ~~shall~~ MAY not open ~~and/~~or use the test materials outside of the TESTING BOARD'S presence EXCEPT TO FULFILL A RECORDS REQUEST. ~~of the Testing Board.~~

(6) AFTER TESTING, THE TESTING BOARD MUST WATCH THE DESIGNATED ELECTION OFFICIAL RESET AND PLACE A SEAL ON EACH ~~VOTING~~ DEVICE TESTED.

~~11.5.3.8.8~~ (7) The Testing Board and the designated election official ~~shall~~ MUST sign a written statement attesting to the qualification OF THE ELECTION SETUP RECORDS TO FUNCTION CORRECTLY ON EACH SELECTED AND PRESUMABLY REPRESENTATIVE DEVICE. THIS REPORT SHALL INCUDE ~~of each device that wassuccessfully 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.

~~11.5.3.8.9 Upon completion of the testing, the Testing Board shall witness the resetting and sealing of each tested voting device.~~

~~11.5.4~~ 11.4.3 Post-Election Audit

~~11.5.4.1~~ (A) ~~Within forty eight (48)~~ NO LATER THAN 48 hours ~~of~~ AFTER the close of polls on election night, the Secretary of State ~~shall~~ MUST notify the designated election official which COMBINATION OF voting devices and ~~which~~ CONTESTS ~~race or races~~ on the ballots ~~have been selected for auditing purposes~~ WILL BE AUDITED (CRS 1-7-514) based on the submitted hardware inventory list referred to in Rule ~~11.4.2~~ 11.3.

~~11.5.4.2~~ (B) The ~~selection of~~ SECRETARY OF STATE WILL RANDOMLY SELECT ~~equipment will be based on a random selection of~~ five ~~(5)~~ percent of ~~precinct COUNT~~ BALLOT SCANNERS ~~scanner based voting~~ USED FOR IN-PERSON VOTING ~~equipment, at least one central count scanner/vote center, and~~ five ~~(5)~~ percent of ~~Direct Record Electronic (DRE)~~ DRE voting devices AND AT LEAST ONE SCANNER USED FOR BALLOTS RETURNED IN SIGNED ENVELOPES.

(1) IF FOR IN-PERSON VOTING ~~IF~~ THE COUNTY USED A SCANNER IN ~~EACH~~A VOTER SERVICE AND POLLING CENTER, AT LEAST ONE SUCH SCANNER MUST BE INCLUDED IN THE AUDIT.

(2) IF THE SECRETARY OF STATE RECEIVES CREDIBLE REPORTS OF EQUIPMENT MALFUNCTION, THE SECRETARY MAY SELECT 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).

~~11.5.4.3~~ (C) ~~Pursuant to~~ IN ACCORDANCE WITH section 1-7-514, C.R.S., THE SECRETARY OF STATE MAY only SELECT devices used in the election. ~~shall be selected for the audit.~~

(D) THE SECRETARY OF STATE MUST RANDOMLY SELECT ~~AT LEAST TWO~~A SUFFICIENT NUMBER OF ~~RACES~~ CONTESTS PER DEVICE FOR ~~VERIFICATION~~ AUDIT TO ENSURE THAT EACH ~~RACE~~CONTEST ~~OR MEASURE~~ ON THE BALLOT IS AUDITED IN ACCORDANCE WITH SECTION 1-7-514, C.R.S.

11.5.4.4 For optical scanners used for any function of counting ballots VOTED IN PERSON ~~except for Central Count/vote center as defined herein, the designated~~ election officials shall manually COUNT ~~verify~~ all of the PAPER ballots that were counted on the randomly selected device(s) AND COMPARE RESULTS with the election summary report that was generated from the device(s) at the close of the polls. ~~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.~~

~~11.5.4.5~~ (E) For optical scanners ~~used for the purpose of counting ballots in a~~ USED TO COUNT BALLOTS REMOVED FROM RETURNED ENVELOPES ~~Central Count/vote center environment as defined herein,~~ the ~~designated~~ election officials ~~shall~~ MUST ~~randomly select EITHER OF~~

Comment [S205]: To be accurate.
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Comment [S206]: Not just races
Comment [S207]: Citation.
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Comment [S208]: Make sure to include all ...
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Comment [S209]: A definition like this is ...
Comment [S210]: Ditto
Comment [S211]: This paragraph ought not ...
Comment [S212]: At minimum audit one ...
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Comment [S213]: CRS calls for the canvass ...
Comment [S214]: 4 edits here: two contest ...
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Comment [S215]: Reinstate this paragraph... ...
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~~THE FOLLOWING AMOUNTS~~ BASED UPON THE TOTAL NUMBER OF BALLOTS COUNTED ON THE SELECTED DEVICE:

(1) IF ~~LESS~~ FEWER THAN 500 BALLOTS WERE COUNTED, THEN ALL ~~MINIMUM OF 20 PERCENT~~ OF THE BALLOTS COUNTED ON THE DEVICE MUST BE AUDITED USING THE METHOD OF RULE 11.5.4.4.

(2) IF 500 OR MORE BALLOTS WERE COUNTED ON THE SELECTED DEVICE, THEN ~~A MINIMUM~~ IF ELECTION NIGHT SUBTALLIES ARE AVAILABLE FOR SEPARATE MEMORY CARDS EACH REPRESENTING A SUBSET OF THE BALLOTS COUNTED BY THE DEVICE, THEN SUFFICIENT MEMORY CARDS SHALL BE RANDOMLY SELECTED USING DICE TO AUDIT 3% OF ALL THE BALLOTS REMOVED FROM RETURNED ENVELOPES CONTAINING THE CONTEST COUNTED IN THE ELECTION AND THEN PAPER BALLOTS REPRESENTING THE CONTENTS OF SELECTED MEMORY CARDS SHALL BE MANUALLY COUNTED FOR THE CONTESTS TO BE AUDITED AND RESULTS COMPARED WITH THE ELECTION NIGHT SUBTALLIES FOR EACH SELECTED MEMORY CARD; OR (3) IF SEPARATE MEMORY CARDS WERE NOT USED, THEN ~~OF 100 BALLOTS PLUS~~ five ~~(5)~~ percent OF ~~THE DIFFERENCE BETWEEN~~ THE NUMBER OF BALLOTS REMOVED FROM RETURN ENVELOPES COUNTED CONTAINING THE CONTEST IN THE ELECTION SHALL BE RANDOMLY SELECTED AND ~~AND 500, but not more than 500. five hundred (500) ballots of all the ballots counted on the specific audited device. If the amount of ballots is less than five hundred (500) on the audited device, then a minimum of twenty percent (20%) of the ballots counted on the device will be manually verified.~~

~~(F)~~ The ~~DESIGNATED~~ ELECTION OFFICIALS MUST RESET THE public counter for ~~that~~ THE voting device ~~shall be reset~~ to zero and RECOUNT the ballots. ~~shall be recounted on the voting device.~~

~~(G)~~ IN ALL THREE CASES, ~~A~~ THE ~~DESIGNATED~~ ELECTION OFFICIALS MUST MANUALLY ~~COMPARE VERIFY~~ THE HAND COUNT TOTALS WITH ~~THE new report will be generated from~~ the electronic count~~. of the~~ AND THE CANVASS BOARD AND COUNTY CLERK MUST REPORT INITIAL, INTERIM AND FINAL RESULTS OF THIS COMPARISON PER CRS 1-7-514 ~~ballots and shall be manually verified.~~

~~(H)~~ The DESIGNATED ELECTION OFFICIAL MUST SEAL THE ballots and a copy of the report ~~shall be sealed~~ in a separate container. ~~and secured with the remainder of the official election records for the election. 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.~~

~~11.5.4.6~~ (I) For ~~Direct Record Electronic Devices (DREs)~~ DREs ~~that do not meet the requirements of section 1-5-802, C.R.S.~~ WITHOUT A VVPAT, ~~used for any function of counting ballots in an election,~~ the ~~designated~~ election officials ~~will~~ MUST manually ~~verify~~ COMPARE the VOTE TOTALS ~~image~~ of all the ballots ~~contained~~ in the ~~Ballot Log or Ballot Audit~~ 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.~~

~~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

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Comment [S216]: This text separates the three situations- a simple small number of ballots in central count; a clerk who is using the subtally 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.

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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.

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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).

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Comment [S219]: The third case- more than 500 ballots on a device used to count mail ballots ...

Comment [S220]: There has never been a statutory basis for this cap and it severely negativ ...

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Comment [S221]: Broadening the control away from the DEO over the audit but probably not ...

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Comment [S222]: Manual counting and comparison required- not just "verify".

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Comment [S223]: Specific reference to the election audit report that is required by statute o ...

Comment [S224]: Comparing the vote totals is a better description.

Comment [S225]: Terminology problem here. This terminology deserves a definition and ...

Comment [S226]: Unnecessary word "along"

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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 prior to conducting the audit.

~~11.5.4.7~~ (J) For ~~Direct Electronic Devices (DREs)~~ DREs ~~that~~ WITH A VVPAT ~~do meet the requirement of section 1-5-802, C.R.S., used for any function of counting ballots in an election, after the close of the polls~~, the ~~designated~~ election officials ~~will~~ MUST manually ~~verify~~ COMPARE A MANUAL COUNT OF ~~all of~~ the ENTIRE ~~voter verified paper~~ VVPAT record ~~produced~~ with the report generated AT THE CLOSE OF POLLS for that specific device. ~~which contains the election summary report. The Secretary of State shall randomly select a minimum of two races on each 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.~~

~~11.5.4.7.1~~ (1) 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 prior to conducting the audit.

~~11.5.4.8~~ (K) AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE the ~~actions of the~~ random audit. ~~as identified in this section are to be observed by at least two members of the canvass board.~~ The designated election official may ~~appoint additional deputized clerks to~~ assist WITH ~~in the functions of~~ the audit.

~~11.5.4.9~~ (L) If there are discrepancies in the audit, the Canvass Board or the designated election ~~official's deputized clerks shall~~ OFFICIAL MUST:

~~11.5.4.9.1~~ (1) ~~First, manually verify the results as many times as necessary to~~ Confirm that there is no ~~discrepancy~~ ERROR OR FAILURE TO CAPTURE VOTER INTENT in the manual count;

~~11.5.4.9.2~~ (2) ~~Second,~~ Take any ~~additional~~ steps ~~as~~ necessary to check for AND CAPTURE voter INTENT ~~error~~, which ~~shall~~ MUST include but IS not ~~be~~ limited to A SEARCH FOR: overvotes, stray marks on the ballot, or other voter intent indicia; and

~~11.5.4.9.3~~ (3) ~~Third, review the situation and~~ Take ANY action ~~as~~ necessary in accordance with the Canvass Board's powers as ~~set forth~~ DESCRIBED in ~~part 1 of Article 10 of~~ Title 1, Colorado Revised Statutes INCLUDING REPORTS OF AUDIT AND INVESTIGATIONS.

~~11.5.4.10~~ (M) ~~At all times relevant to the Post Election~~ DURING THE audit, the 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.

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Comment [S229]: This makes the comparison clear, as with the previous similar language.

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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.

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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.

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Board ~~shall~~ MUST ~~take every precaution necessary to~~ protect the CONSTITIUTIONAL ANONYMITY ~~confidentiality~~ of ~~the~~ CAST VOTER INTENT ON ALL ballots. ~~cast by the electors~~.

~~11.5.4.11~~ (N) ~~Upon completion of~~ AFTER the audit, the designated election official ~~shall~~ MUST promptly report the results ~~of the audit~~ to the Secretary of State's Office by 5:00 PM ON THE LAST DAY TO CANVASS. ~~The report shall MUST be submitted following the completion of the audit and up to and including 5:00 pm on the last day of the canvass.~~ The report ~~shall~~ MUST contain:

~~(a)~~ (1) The make, model, and serial number of the voting ~~device~~ DEVICES ~~that was~~ audited~~.~~;

~~(b)~~ (2) The number of ballots originally counted by ~~the~~ EACH device ~~or~~AND the number of ballots audited as identified in paragraph ~~(d)~~ (4) of this section;

~~(c)~~ (3) The VOTE TALLY ~~count~~ of the specific CONTESTS ~~race or races~~ ~~as provided~~ on the summary report printed at the close of polls or the report generated for the audit INCLUDING UNDER AND OVER VOTES;

~~(d)~~ (4) The VOTE TALLY ~~count~~ of the specific ~~race~~ ~~RACES~~CONTESTS as manually ~~verified~~COUNTED INCLUDING UNDER AND OVERVOTES;

~~(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; and

~~(f)~~ (6) The ~~signature~~ CANVASS BOARD MEMBERS' AND DESIGNATED ELECTION OFFICIAL'S SIGNATURES. ~~of the canvass board and the designated election official~~.

~~11.5.4.12~~ (o) The DESIGNATED ELECTION OFFICIAL MAY SEND THE report ~~may be sent~~ by REGULAR MAIL, E-MAIL, OR FAX. ~~any of the following three methods: E-mail: voting.systems@sos.state.co.us; Subject line = County Number, County Name, POST-ELECTION AUDIT; or via facsimile to: 303-869-4861 attn: Secretary of State, Voting Systems Specialist; or via First Class Mail: to Colorado Department of State/ Attn: Voting Systems Specialist/1700 Broadway Suite 270/Denver, CO 80290.~~

[Rule 11.6 is relocated to Rule 20.2.10]

~~11.6 Procedures for Voter Verifiable Paper Audit Trail (V-VPAT)~~

~~11.6.1 Security~~

~~11.6.1.1 The V-VPAT record is considered an official record of the election, pursuant to section 1-5-802. All security procedures related to election ballots shall apply to V-VPAT records.~~

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Comment [S235]: There is no definition of this term "cast'. Confidentiality is not called for and will in fact hide failures to protect anonymity.

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.

Comment [S237]: "vote tally" is more technically correct. Count of contests could be taken to mean what it says ie. one or two, etc

Comment [S238]: "races" is not defined and incorrect.

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Comment [S239]: Inclusion of under and over makes the audit much more effective.

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.

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Comment [S242]: Ditto the previous three comments.

Comment [S243]: It makes sense for the rules not to ignore this part of statute.

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Comment [S244]: Presumably redundant when DEO is on canvass board as required.

~~11.6.1.2 The housing unit for any V-VPAT record to be used in the election shall be sealed and secured prior to any votes being cast for the election. Documentation of the seal number(s) must be maintained and noted prior to voting, and at the conclusion of voting.~~

~~(a) Election Judges shall attest to the V-VPAT record having no votes included on the paper record prior to the start of voting, and prior to the installation or replacement of a new V-VPAT record.~~

~~11.6.1.3 If a DRE with V-VPAT is used during early voting, the seal number(s) must be recorded at the beginning and end of each voting day.~~

~~11.6.1.4 At the Close of the polls, the V-VPAT records will be transferred to the central office in the same manner as any paper ballots. In the absence of paper ballots, the V-VPAT records will be transferred to the central office in the same manner as any memory cards containing electronic ballots.~~

~~11.6.2 Anonymity~~

~~11.6.2.1 The Election Official shall put measures in place to protect the anonymity of voters choosing to vote on DREs during the voting periods. These measures shall include:~~

~~(a) Encouraging poll workers to personally vote on DREs when possible to ensure more than one vote will be cast on the device.~~

~~(b) Appropriate marking in Poll Book or other voting list indicating voters choice to vote on DRE with the words: "Voted DRE", or similar in place of paper ballot information. No record shall be kept indicating the order in which people voted on the DRE, or which V-VPAT record is associated with the voter.~~

~~(c) When more than one DRE is available at a voting location, the voter shall be given the choice as to which DRE they would like to vote on, to the extent practical.~~

~~(d) Encouraging or allowing any and all voters the opportunity to vote on a DRE if desired.~~

~~11.6.2.2 Any report or export (electronic or paper based) generated from an Electronic Pollbook shall remove the date/time stamp from the record and not use this field as a sort method. Any assignment of Record IDs, Key ID, or Serial Number stored in the database of votes shall be randomly assigned.~~

~~11.6.2.3 Any Pollbook, electronic, paper or otherwise shall not be exposed to the same people at the same place who have exposure to the V-VPAT records.~~

~~11.6.2.4 The examination of the V-VPAT record shall always be done by at least two witnesses.~~

~~11.6.3 Storage~~

~~11.6.3.1 The storage of the V-VPAT records must be consistent with storage of Paper Ballots pursuant to section 1-7-802.~~

~~11.6.3.2 Individual spools containing V-VPAT records must contain the following catalog information affixed to the spool:~~

~~(a) Date and Name of Election;~~

~~(b) Name of Voting Location;~~

~~(c) Date(s) and Time(s) of Voting;~~

~~(d) Machine Serial Number of DRE Associated with the Record; and~~

~~(e) Number of spools associated with this machine for this election (i.e. "Spool 1 of 1", or "Spool 1 of 2", etc.).~~

~~11.6.3.3 Light sensitive storage containers shall be used for the 25 month storage period to ensure the integrity of the V-VPAT paper record. Containers shall be sealed, with record of the seal numbers maintained on file and signed by two elections officials.~~

~~11.6.3.4 A master catalog shall be maintained for the election containing the complete total number of V-VPAT spools used in the election.~~

~~11.7~~ 11.5 ~~Escrow of County Election Setup~~. THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT ELECTION SETUP RECORDS TO THE SOS BY REGULAR MAIL NO LATER THAN 5:00 PM ON THE SEVENTH DAY BEFORE VOTE TABULATION BEGINS.~~AN ELECTION~~.

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.

~~11.7.1 No later than 5:00pm on the seventh (7th) day prior to any election, the designated election official shall deposit a copy of the election setup records with the Secretary of State's office by mail~~.

~~11.7.2~~ 11.5.1 Jurisdictions that ~~have contracted~~ CONTRACT with either a ~~Software Service Bureau or a Vendor of Electronic Vote Counting Equipment~~ SOFTWARE SERVICE BUREAU OR AN ~~VENDOR OF~~ ELECTRONIC VOTE COUNTING EQUIPMENT VENDOR may choose to have the VENDOR DELIVER THE ~~necessary~~ election setup records. ~~delivered to the Secretary of State's office within the specified time frame.~~

~~11.7.3~~ 11.5.2 Election ~~Setup Records~~ SETUP RECORDS ~~shall~~ MUST be ~~contained within~~ IN an electronic media format that is native to the jurisdiction's specific ballot creation and tabulation system. Acceptable media formats ~~range from Tape, Diskette, Cartridge, CD-ROM, DVD-ROM, Floppy, External Hard Drive, or Flash Media~~ INCLUDE TAPE, DISKETTE, CARTRIDGE, CD-ROM, DVD-ROM, FLOPPY, EXTERNAL HARD DRIVE, OR FLASH MEDIA.

~~11.7.14 All copies of electronic media shall be sent to:~~

~~Colorado Secretary of State~~
~~Attn: Voting Systems Specialist~~
~~1700 Broadway – Suite 270~~
~~Denver, CO 80290~~

~~11.7.5~~ 11.5.3 ~~Jurisdictions will~~ THE DESIGNATED ELECTION OFFICIAL MUST include a point of contact and method of contact (phone, fax, e-mail, etc.). ~~to inform the jurisdiction that the Secretary of State's office has received the election setup records.~~

~~11.7.6~~ 11.5.4 Within 24 hours of receipt of the election setup ~~files~~ RECORDS, the Secretary of ~~State or his or her designee~~ STATE'S OFFICE will contact the jurisdiction to confirm receipt. ~~of the escrow files.~~

~~11.7.7~~ 11.5.5 The Secretary of State's office will store the ELECTION setup ~~files~~ RECORDS in a secured, fire proof, limited-access location. ~~or container.~~

~~11.7.8 11.5.6 All parties shall MUST treat as confidential all escrowed materials and any other related information that comes into their possession, control, or custody. pursuant to this rule.~~

[Rule 11.8 is amended and moved to New Rule 45.12]

~~11.8 Escrow of Voting System Software by Voting System Provider~~

~~11.8.1 Voting System Providers must place in escrow a copy of the election software and supporting documentation being certified with either the Secretary of State or an independent escrow agent approved by the Secretary of State. *See* section 1-7-511, C.R.S.~~

~~11.8.2 Within ten days of the Voting System provider receiving notification of examination of voting equipment as part of the certification process, the Voting System Provider shall arrange for the completion of escrow requirements as indicated by this rule.~~

~~11.8.3 Voting System Provider shall sign a sworn affidavit that the election software in escrow is the same as the election software used in its voting systems in this state. An annual update of the affidavit will be on file in a secured location with the Secretary of State's office.~~

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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.

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~~11.8.4 A complete copy of the certified election software including any and all subsystems of the certified software shall be maintained in escrow.~~

~~11.8.5 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.~~

~~11.8.6 In addition to the requirements listed below, the Voting System Provider must include a cover/instructions sheet for any escrow material to include the Voting System Provider Name, Address and pertinent contact information, Software Version, Hardware Version, Firmware Revision Number and other uniquely identifying numbers of the software submitted for certification.~~

~~11.8.7 Election Software Source Code, maintained in escrow, shall contain internal documentation such that a person reasonably proficient in the use of the programming language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the Source Code should it be removed from escrow for any reason.~~

~~11.8.8 System documentation shall include instructions for converting the escrowed Source Code into Object Code, organized and configured to produce an executable system, if warranted.~~

~~11.8.9 System documentation shall include technical architecture design, analysis, detail design, testing and an installation and configuration guide.~~

~~11.8.10 A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk and recorder shall be on file with the Secretary of State.~~

~~11.8.11 All parties shall treat as confidential the terms of this Section including all escrow materials and any other related information that comes into their possession, control or custody pursuant to this section.~~

~~11.8.12 Copies of Electronic media and supporting documentation for Escrow within the Secretary of State shall be sent to:~~

~~Colorado Secretary of State~~
~~Attn: Voting Systems Specialist~~
~~1700 Broadway – Suite 270~~
~~Denver, CO 80290~~

~~11.8.13 Any cost of using an alternative third party escrow agent shall be borne by the Voting System provider.~~

11.6 THE DESIGNATED ELECTION OFFICIAL MUST RETAIN ALL TESTING RECORDS AND DOCUMENTATION FOR 25 MONTHS.

11.7 METHODS OF SUBMISSION ARE:

11.7.1 BY REGULAR MAIL TO:

COLORADO SECRETARY OF STATE
ATTN: VOTING SYSTEMS
1700 BROADWAY – SUITE 200
DENVER, CO 80290

11.7.2 BY EMAIL TO:

VOTING.SYSTEMS@SOS.STATE.CO.US

11.7.3 BY FAX TO:

303-869-4861

11.8 RULES CONCERNING ACCESSIBLE VOTING SYSTEMS

~~34.2~~ 11.8.2 ~~No~~ A political subdivision ~~shall~~ MAY NOT purchase or lease ~~direct recording electronic DRE voting systems or other~~ voting systems ~~equipped~~ for ~~individuals~~ USE BY PEOPLE with disabilities ~~at each polling place~~ unless ~~such voting system(s)~~ THEY are ~~fully~~ certified ~~pursuant to standards and guidelines recommended by the National Institute of Standards and Testing (NIST) and adopted by the U.S. Election Assistance Commission (EAC)~~ IN ACCORDANCE WITH THE 2002 VOTING SYSTEM STANDARDS PROMULGATED BY THE FEDERAL ELECTION COMMISSION.

Comment [S249]: I doubt this makes sense at this point, although I think it is consistent with current statute.

[Rule 34 is amended and moved to New Rule 11.9. (Amendments are shown above]

11.9 RULES CONCERNING NOTICE OF VOTING SYSTEM MALFUNCTION

~~36.1~~ 11.9.1 A vendor or ~~the political subdivision~~ DESIGNATED ELECTION OFFICIAL ~~if no private vendor supports their system~~ must ~~give notice to~~ NOTIFY the Secretary of State within 24 hours of a REPORTED OR ACTUAL malfunction of its voting~~/election~~ system ~~(including, but not limited to, software, firmware, hardware, or other equipment) in preparation for and on an election held in this state~~. THE NOTICE MUST INCLUDE A DESCRIPTION, DATE, AND THE NAMES OF THOSE WHO WITNESSED THE MALFUNCTION, AS WELL AS THE PROCEDURES FOLLOWED ~~PRIOR TO~~ BEFORE THE MALFUNCTION, AND ANY ERROR MESSAGES DISPLAYED. The notice may be verbal, but ~~must also be in~~ A writing MUST FOLLOW.

~~36.2 Following the notice, the Secretary of State shall determine whether further information on the malfunction is required. At the request of the Secretary of State, a vendor (or the political subdivision, if no private vendor supports their system) must submit a report to the Secretary of State's office detailing the reprogramming (or any other actions) necessary to correct a voting system malfunction in preparation for and on an election held using the vendor's system. The report shall address whether permanent changes are necessary to prevent similar malfunctions in the future. If the malfunction requires a programming or election setup change to the database or other parts of the voting system, the~~

~~designated election official shall submit an updated electronic copy of the election system database to the Secretary of State's office as set forth in Rule 11.~~

11.9.2 IF THE SECRETARY OF STATE REQUIRES ADDITIONAL INFORMATION THE VENDOR OR THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A REPORT TO THE SECRETARY OF STATE'S OFFICE DETAILING THE REPROGRAMMING OR ANY OTHER ACTIONS NECESSARY TO CORRECT A VOTING SYSTEM MALFUNCTION.

(A) THE REPORT MUST ADDRESS WHETHER PERMANENT CHANGES ARE NECESSARY TO PREVENT SIMILAR MALFUNCTIONS IN THE FUTURE.

(B) IF THE MALFUNCTION REQUIRES A PROGRAMMING OR ELECTION SETUP CHANGE TO THE DATABASE OR OTHER PARTS OF THE VOTING SYSTEM, THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT AN UPDATED ELECTION SETUP RECORD TO THE SECRETARY OF STATE'S OFFICE AS SET FORTH IN RULE 11.8.

~~36.3~~ (C) The report ~~shall~~ MUST be submitted within 30 days after the date of the request by the Secretary of State. ~~Notwithstanding the foregoing, if~~ IF an election is scheduled within 60 days of the date of request by the Secretary of State, the Secretary of State may set an emergency deadline for filing the report. ~~The request may be verbal, but must also be in writing.~~

~~36.4~~ (D) Failure to submit a report within the required period ~~shall~~ IS ~~be~~ grounds to decertify the system.

~~36.5~~ (E) The political subdivision holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.

~~36.6~~ (F) A copy of this report will be ~~attached to the system's most recent certification~~ on file in the Secretary of State's office.

~~36.7~~ (G) The Secretary of State's office will distribute a copy of this report to all counties using the voting system in question.

[Rule 36 is amended and moved to New Rule 11.10. Amendments are shown above]

11.10 PURCHASES AND CONTRACTS

11.10.1 IN ACCORDANCE WITH SECTION 1-5-623(3), C.R.S., A POLITICAL SUBDIVISION MAY NOT PURCHASE, LEASE, TRANSFER, OR RECEIVE ~~A NEW~~ A~~N~~ ~~ELECTRONIC~~ ~~VOTING~~ DEVICE BY WHICH VOTES ARE CAPTURED AND RECORDED ELECTRONICALLY INCLUDING A TOUCH SCREEN OR SYSTEM OR ANY RELATED COMPONENT OF A DEVICE OR SYSTEM WITHOUT APPROVAL FROM THE SECRETARY OF STATE.

~~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~~

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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.

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~~are IS eligible for purchase, lease, or rent for use by jurisdictions within the State of Colorado providing IF the contract contains the following items:~~

~~(a) The voting system is certified for use within the state;~~

~~(b)~~ (A) The contract contains training and maintenance costs ~~for the jurisdiction~~; and

~~(c)~~ (B) ~~The contract identifies components contained in the certified~~ THE voting system COMPONENTS and ~~appears complete with all~~ accessories ~~necessary~~ APPEAR COMPLETE AND CAPABLE OF ~~for~~ successfully conducting an election ~~within the laws and rules of the State of~~ IN Colorado.

~~45.12.2~~ 11.10.3 The Secretary of State ~~shall~~ WILL maintain ~~on file~~ a list of all components used and purchased ~~for use~~. The list ~~shall~~ WILL include, at ~~a~~ minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices and name of the voting systems that ~~was~~ WERE purchased.

[Rule 45.12 is amended and moved to New Rule 11.10. Amendments are shown above]

11.11 ELECTION NIGHT REPORTING (ENR). THE COUNTY MUST REPORT ELECTION NIGHT RESULTS FOR ALL PRIMARY, GENERAL, COORDINATED AND RECALL ELECTIONS.

11.11.1 A DATA ENTRY COUNTY MUST PROGRAM THE ELECTION TO SUPPORT THE EXPORTING OF ELECTION NIGHT RESULTS IN ACCORDANCE WITH THE FOLLOWING ENR VENDOR'S DATA UPLOAD REQUIREMENTS:

(A) LIST CONTEST NAMES AND CANDIDATE NAMES EXACTLY AS PROVIDED ON THE CERTIFIED LIST.

(B) PROVIDE CONTEST NAMES IN ALL UPPERCASE LETTERS.

(C) FOR COUNTIES THAT USE THE ES&S AND PREMIER VOTING SYSTEMS, ARRANGE THE CONTESTS IN THE ORDER PRESCRIBED BY SECTION 1-5-403(5), C.R.S.

(D) CAPITALIZE CANDIDATE NAMES (E.G., JOHN A. SMITH).

(E) PRESENT A PRECINCT NAME AS A TEN-DIGIT PRECINCT NUMBER.

(F) FOR COUNTIES THAT USE THE HART VOTING SYSTEMS, USE THE "SPLIT_NAME" FIELD SPLIT PRECINCT NAMING PURPOSES.

(G) CREATE A "PROVISIONAL" PRECINCT.

(H) USE ONLY THE PARTY CODES CERTIFIED BY THE SECRETARY OF STATE.

(I) DO NOT INCLUDE THE PARTY NAME OR CODE IN THE CANDIDATE NAME FIELD.

11.11.2 NO LATER THAN EIGHT DAYS BEFORE THE ELECTION, A COUNTY MUST SEND THE FOLLOWING INFORMATION TO THE SECRETARY OF STATE, AT THE ADDRESS IN RULE 11.8:

(A) A DATA ENTRY COUNTY MUST EMAIL A SAMPLE OR "ZERO" FILE.

(B) A MANUAL ENTRY COUNTY MUST SEND A LIST OF ALL BALLOT CONTENT ~~CONTESTS TITLES, CANDIDATES, AND PARTY AFFILIATION.~~

11.11.3 THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS AND UPLOAD THEM TO THE ENR SYSTEM A MINIMUM OF THREE TIMES ON ELECTION NIGHT:

(A) AFTER THE CLOSE OF POLLS BUT NO LATER THAN 7:30 PM.

(B) AT OR AROUND 9:00 PM.

(C) ~~AT THE CONCLUSION OF TABULATION, THE~~ THE COUNTY MUST INDICATE THAT ~~ELECTION NIGHT~~ REPORTING IS COMPLETE IN THE ENR SYSTEM FOR ELECTION DAY AFTER THE COUNTY UPLOADS THE LAST RESULTS ON ELECTION NIGHT.

11.11.4 AFTER CANVASS THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS, AND CHECK THE APPROPRIATE BOX IN THE ENR SYSTEM TO INDICATE THAT THE CANVASS UPLOAD IS COMPLETE.

Comment [S251]: Eitheruse my definition of "the election" or change this to "election day" or something more appropriate.

Comment [S252]: Somewhere "election night" should be defined.

Rule 12. RECALL

~~32.2~~ 12.1 Signature requirements

~~32.2.1~~ 12.1.1 For petitions to recall school district directors the petition must be signed by the eligible electors of the director's district equal in number to at least 40% of the ballots cast in the district in the last preceding election at which the director to be recalled was elected as indicated by the pollbook or abstract for the election. See section 1-12-105, C.R.S.

~~32.2.2~~ 12.1.2 When determining the number of required valid signatures for an elected office for which electors were allowed to vote for more than one candidate in a single race, the signature requirements ~~shall be~~ IS based on the number of ballots cast for that race as indicated by the ~~pollbook or~~ abstract for the election.

~~32.6 12.2 In accordance with section 3 of article XXI of the Colorado constitution and section 1-12-117 (1), C.R.S., for partisan recall elections involving a state officer, in order to appear on the ballot a successor candidate must file a nomination petition with the Secretary of State no later than ten calendar days after the Governor sets the election date. A write-in candidate must file an affidavit of intent to run as a write-in candidate no later than the fifteenth day before the election.~~

~~32.6 12.3 In accordance with section 3 of article XXI of the Colorado constitution and section 1-12-117(1), C.R.S., for partisan recall elections involving a state officer, in order~~

~~to appear on the ballot a successor candidate must file a nomination petition with the Secretary of State no later than ten calendar days after the Governor sets the election date. A write-in candidate must file an affidavit of intent to run as a write-in candidate no later than the fifteenth day before the election.~~

[Current Rule 32.6, adopted on a temporary basis on July 22, 2013.is moved to new Rule 12.3]

Rule 13. ELECTION AND HAVA COMPLAINTS

13.1 ELECTION COMPLAINT PROCEDURES

13.1.1 ANY PERSON WHO HAS PERSONALLY WITNESSED A VIOLATION OF TITLE 1, C.R.S. MAY FILE AN ELECTION COMPLAINT.

13.1.2 AN ELECTION COMPLAINT MUST INCLUDE THE APPROVED SECRETARY OF STATE'S ELECTION COMPLAINT COVER SHEET.

13.1.3 PROCESSING AND DOCKETING ELECTION COMPLAINTS

(A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL REVIEW THE COMPLAINT TO DETERMINE IF IT SATISFIES RULE ~~31.2~~ 13.1.2 AND SUFFICIENTLY ALLEGES A VIOLATION.

(1) IF THE COMPLAINT DOES NOT MEET THE CRITERIA, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL NOTIFY THE COMPLAINANT OF THE DISCREPANCY.

(2) IF A COMPLAINT MEETS THE CRITERIA, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL ASSIGN A COMPLAINT NUMBER, NOTIFY THE COMPLAINANT, AND SEND A COPY OF THE COMPLAINT TO THE PERSON OR ENTITY ALLEGED TO HAVE COMMITTED A VIOLATION.

(B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

13.1.4 AMENDING AN ELECTION COMPLAINT

(A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING COMPLAINT.

(B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

13.1.5 INVESTIGATION

(A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE ~~31.3.2~~ 13.1.3, ~~ELECTION~~

~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL INVESTIGATE THE COMPLAINT.

(B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE INVESTIGATION IS REQUIRED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL BEGIN INVESTIGATING BEFORE THE RESPONSE PERIOD HAS CLOSED. IN MAKING THE DETERMINATION, THE SECRETARY WILL CONSIDER WHETHER THE ISSUE HAS THE POTENTIAL TO AFFECT AN UPCOMING ELECTION.

(C) DEPENDING ON THE VIOLATION ALLEGED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE MAY:

(1) REVIEW DOCUMENTS;

(2) VISIT THE COUNTY;

(3) CONDUCT INTERVIEWS;

(4) TEST EQUIPMENT; OR

(5) TAKE OTHER STEPS NECESSARY.

(D) WHILE AN INVESTIGATION IS ONGOING, COUNTY CLERKS ~~AND RECORDERS~~ AND STAFF MUST ACCOMMODATE REQUESTS BY ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE IN THE TIMEFRAME REQUESTED BY STAFF.

13.1.6 RESOLUTION OF ELECTION COMPLAINTS

(A) AFTER AN INVESTIGATION AND HEARING, IF APPLICABLE, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL:

(1) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE;

(2) REFER THE COMPLAINT TO A PROSECUTING AUTHORITY UNDER ARTICLE 13 OF TITLE 1, C.R.S.; OR

(3) FIND A VIOLATION, ~~AND~~ RECOMMEND A RESOLUTION, AND ~~(B) ELECTION DIVISION STAFF WILL~~ FORWARD THE RECOMMENDATION FOR RESOLUTION TO THE SECRETARY OF STATE, WHO WILL ADOPT, AMEND, OR REJECT THE RECOMMENDATION.

13.1.7 THE SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION

13.2 HELP AMERICA VOTE ACT (HAVA) COMPLAINT PROCEDURES

13.2.1 ANY PERSON WHO ~~HAS BEEN PERSONALLY AGGRIEVED BY OR HAS PERSONALLY WITNESSED~~ BELIEVES THAT A VIOLATION OF TITLE III OF ~~THE HELP AMERICA VOTE ACT (~~HAVA~~)~~ HAS OCCURRED, IS OCCURRING, OR IS ABOUT TO OCCUR, MAY FILE A HAVA COMPLAINT WITH THE SECRETARY OF STATE.

13.2.2 A HAVA COMPLAINT MUST INCLUDE THE APPROVED SECRETARY OF STATE'S HAVA COMPLAINT COVER SHEET.

13.2.3 PROCESSING AND DOCKETING HAVA COMPLAINTS

(A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL REVIEW THE COMPLAINT TO DETERMINE IF IT SATISFIES RULE ~~31.2~~ 13.2.1 AND SUFFICIENTLY ALLEGES A VIOLATION.

(1) IF THE COMPLAINT DOES NOT INCLUDE A COVER SHEET ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL NOTIFY THE COMPLAINANT OF THE DISCREPANCY.

~~(2) IF A COMPLAINT DOES NOT SUFFICIENTLY ALLEGE A VIOLATION OF TITLE III OF HAVA, ELECTION DIVISION STAFF WILL DISMISS THE COMPLAINT WITHOUT PREJUDICE.~~

(~~3~~ 2) IF A COMPLAINT MEETS ~~BOTH~~ THE CRITERIA, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL ASSIGN A COMPLAINT NUMBER, NOTIFY THE COMPLAINANT, AND SEND A COPY OF THE COMPLAINT TO THE PERSON OR ENTITY ALLEGED TO HAVE COMMITTED A VIOLATION.

(B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

13.2.4 AMENDING A HAVA COMPLAINT

(A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING COMPLAINT.

(B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

13.2.5 INVESTIGATION

(A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE ~~31.3.2~~ 13.2.3, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL INVESTIGATE THE COMPLAINT.

(B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE INVESTIGATION IS REQUIRED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL BEGIN INVESTIGATING BEFORE THE RESPONSE PERIOD HAS CLOSED. IN MAKING THE DETERMINATION, THE SECRETARY WILL CONSIDER WHETHER THE ISSUE HAS THE POTENTIAL TO AFFECT AN UPCOMING ELECTION.

(C) DEPENDING ON THE VIOLATION ALLEGED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE MAY:

(1) REVIEW DOCUMENTS;

(2) VISIT THE COUNTY;

(3) CONDUCT INTERVIEWS;

(4) TEST EQUIPMENT; OR

(5) TAKE OTHER STEPS NECESSARY.

(D) WHILE AN INVESTIGATION IS ONGOING, COUNTY CLERKS ~~AND RECORDERS AND~~ STAFF MUST ACCOMMODATE REQUESTS BY ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE IN THE TIMEFRAME REQUESTED BY STAFF.

13.2.6 HEARING AND RESOLUTION OF HAVA COMPLAINTS

(A) IF THE COMPLAINANT REQUESTS, THE SECRETARY OF STATE OR HIS OR HER DESIGNEE WILL HOLD A HEARING.

(B) AFTER THE INVESTIGATION AND HEARING, IF ANY, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL:

(1) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE;

(2) REFER THE COMPLAINT TO A PROSECUTING AUTHORITY UNDER ARTICLE 13 OF TITLE 1, C.R.S.;

(3) FIND A VIOLATION, ~~AND~~ RECOMMEND A RESOLUTION, ~~(C) ELECTION DIVISION STAFF WILL~~ FORWARD THE RECOMMENDATION FOR RESOLUTION TO THE SECRETARY OF STATE, WHO WILL ADOPT, AMEND, OR REJECT THE RECOMMENDATION.

13.2.7 THE SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION.

[Current Rule 31 is repealed and complaint rules are moved to new Rule 13 as shown above.]

Rule 14. ~~Rules Regulating~~ Voter Registration Drives

~~44.1~~ 14.1 Statement of Intent

~~44.1.1~~ 14.1.1 In accordance with ~~section 1-2-701, C.R.S., *et seq.*~~ PART 7, ARTICLE 2 OF TITLE 1, C.R.S., the organizer of a Voter Registration Drive ("VRD") ~~shall~~ MUST file a Statement of Intent AND TRAINING ACKNOWLEDGMENT FORM with the Secretary of State to conduct a voter registration drive. ~~on a form prescribed by the Secretary of State.~~ The ~~Statement of Intent shall~~ STATEMENT OF INTENT AND TRAINING ACKNOWLEDGMENT FORM MUST include the following information:

(a) The name of the group conducting the VRD, and the name and contact information of the individual organizing the VRD;

(b) The name of the agent (who is required to be a Colorado resident) and the contact information for that agent, if different from the person organizing the VRD;

(c) A statement specifying that the VRD intends to operate within the State of Colorado;

(d) A notice that the VRD number expires at the end of the calendar year; and

(e) A signature line requiring the organizer's signature.

~~44.1.2~~ 14.1.2 ~~Any amendments to the Statement of Intent shall be filed in writing~~ A VRD ORGANIZER MUST FILE AMENDMENTS TO THE STATEMENT OF INTENT AND TRAINING ACKNOWLEDGMENT FORM with the Secretary of State no later than three business days after the change(s) occurs. Amendments may be made by fax, email, mail or in person.

~~44.1.3~~ 14.1.3 The Secretary of State ~~shall~~ WILL immediately attempt to verify the information provided in the Statement of Intent AND TRAINING ACKNOWLEDGMENT FORM prior to issuing a number to the VRD organizer. The Secretary of State may deny a number to the ~~voter registration drive~~ VRD organizer if the information provided on the Statement of Intent cannot be verified.

~~44.1.4~~ 14.1.4 ~~The last day for a VRD to file a Statement of Intent AND TRAINING ACKNOWLEDGMENT FORM with the Secretary of State shall be IS THE 22ND days before the A COORDINATED, PRIMARY, OR General Election in a given calendar year.~~

~~44.2~~ 14.2 Training

~~44.2.1~~ 14.2.1 ~~In order to be issued~~ TO RECEIVE a VRD number, the organizer VRD ~~shall~~ MUST successfully complete the online training and test provided by the Secretary of State, and submit a Statement of Intent ~~along with a~~ AND Training Acknowledgment form to the Secretary of State.

~~44.2.2~~ 14.2.2 ~~In addition to training for the organizer, the Secretary of State shall make available information for the organizer to train individual circulators. Organizers shall provide training to all circulators. Organizers shall obtain and maintain on file RETAIN signed attestations from each circulator that he or she will adhere to all the requirements of the Secretary of State election rules and the Colorado Revised Statutes pertaining to elections, and that they are aware of the penalties associated with the mishandling of voter registration application forms. The organizers shall furnish the circulator attestations to the secretary of state SECRETARY OF STATE upon request.~~ BEGINNING JANUARY 1, 2014, A CIRCULATOR

MUST SUCCESSFULLY COMPLETE THE ONLINE TRAINING AND TEST PROVIDED BY THE SECRETARY OF STATE.

(A) THE SECRETARY OF STATE WILL ISSUE A COMPLETION CERTIFICATE WHEN THE CIRCULATOR COMPLETES THE TRAINING AND TEST.

(B) A COMPLETION CERTIFICATE IS VALID UNTIL THE END OF THE CALENDAR YEAR IN WHICH IT WAS ISSUED.

(C) A CIRCULATOR MUST PRESENT THE COMPLETION CERTIFICATE TO THE VRD ORGANIZER BEFORE CIRCULATING WITH THE ~~VOTER REGISTRATION DRIVE~~ VRD.

(D) A VRD CIRCULATOR MAY PRESENT THE COMPLETION CERTIFICATE TO MORE THAN ONE VRD ORGANIZER.

(E) THE TRAINING MUST BE OFFERED IN BOTH ENGLISH AND SPANISH.

~~44.2.3~~ 14.2.3 The mandatory training provided by the Secretary of State ~~shall~~ will include~~, but not be limited to~~:

(a) The use of the VRD Application;

(b) Information on where to obtain the VRD Application;

(c) Information on how to ensure that a VRD Application is filled out completely; including which fields are optional and which are required~~, and how to fill out the circulator portion of the Application~~;

(d) Notice of statutory deadlines relating to Voter Registration Applications and VRDs;

(e) The requirements for ~~when and where~~ DELIVERING the COMPLETED Voter Registration Applications ~~must be turned in~~;

(f) Penalties for violating statutory prohibitions including fraud, intimidation, mishandling Applications, failing to turn in Applications and other penalties relevant to VRDs;

(g) The handling and treatment of confidential information on the Voter Registration Applications; and

(h) Notice that circulators ~~shall not~~ CANNOT be paid per Voter Registration Application, but if compensated, ~~shall~~ THEY MUST be paid by the hour or day.

~~44.2.4~~ 14.2.4 The training ~~shall be~~ IS provided online~~.~~, BUT ~~IF If~~ a VRD organizer OR CIRCULATOR ~~prefers, he or she~~ may schedule a time to view the training at the ~~office of the~~ Secretary of State'S OFFICE.

Comment [S253]: Contrary to other testimony I believe this is reasonable if the training Is created in English and Spanish

Comment [S254]: Spanish training required as an option to the circulator.

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~~44.2.5~~ 14.2.5 After completing the training, the VRD organizer must complete the training test and answer the questions 100% correctly before THE SECRETARY OF STATE WILL ISSUE a VRD number ~~will be issued~~.

~~44.2.6~~ 14.2.6 After completing the training and test, the VRD organizer ~~shall~~ MUST sign a STATEMENT OF INTENT AND TRAINING ACKNOWLEDGMENT ~~Training Acknowledgement~~ FORM confirming that the training and test have been completed and that he or she ~~has been~~ ~~duly~~ WAS informed of rules, laws and penalties relating to voter ~~regisration~~ REGISTRATION drives.

~~44.2.7~~ 14.2.7 A ~~Voter Registration Drive~~ VRD organizer must complete the training and test every calendar year in which he or she intends to conduct a VRD.

~~44.3~~ 14.3 Number Assigned

~~44.3.1~~ 14.3.1 After successful completion of the required training and test, and submission of the ~~required forms~~ STATEMENT OF INTENT AND TRAINING ACKNOWLEDGMENT FORM, the Secretary of State ~~shall~~ WILL assign a unique number to the VRD. After issuing a unique number to the VRD, the Secretary of State ~~shall~~ WILL:

(a) Advise the VRD organizer of their unique number;

(b) Notify the county clerks within 24 hours after each VRD number has been issued by the Secretary of State; and

(c) Post the agent and the name of the group conducting the drive on the Secretary of State website.

~~44.3.2~~ 14.3.2 All assigned VRD numbers are valid through December 31 of the year that the number is assigned.

~~44.4~~ 14.4 Voter Registration Drive Voter Application Forms

~~44.4.1~~ 14.4.1 The Secretary of State ~~shall~~ WILL approve a standard Colorado Voter Registration DRIVE Application Form ~~to be used by the VRD that shall include a tear-off receipt~~. ~~(a)~~ The VRD may also use the National Mail Voter Registration Form. ~~Because the National Mail Voter Registration Form. does not include a tear-off receipt, the applicant and VRD are afforded greater protection when the standard Colorado form is used~~.

~~44.4.2~~ 14.4.2 ~~The Secretary of State and county clerks shall make available the official, approved Colorado Voter Registration Drive Application Forms to the VRD organizer~~ A VRD ORGANIZER CAN OBTAIN COLORADO VOTER REGISTRATION DRIVE APPLICATION FORMS FROM COUNTY CLERKS ~~AND RECORDERS~~ AND THE SECRETARY OF STATE.

~~44.4.3~~ 14.4.3 The organizer ~~shall be~~ IS responsible for placing the VRD number on the application form ~~and the receipt portion of the standard Colorado form~~.

~~44.4.4 The person circulating the Voter Registration Application Forms shall ensure that the tear-off receipt on the standard Colorado Application is completed and given to the applicant. The person circulating the voter application forms shall advise the applicant that the receipt may be needed when he or she votes.~~

~~44.4.5~~ 14.4.4 The VRD organizer MUST RECEIVE A VRD NUMBER BEFORE HE OR SHE CAN ~~is not eligible to~~ receive the approved Colorado Voter Registration ~~drive~~ DRIVE Application Forms. ~~until the organizer has completed training, signed the statement of intent, completed and signed the Acknowledgement, and been assigned a number.~~

~~44.4.6~~ 14.4.5 Any voter registration drive that provides a voter registration application on its website or a link to such voter registration form must direct the applicant to return the completed form directly to the county clerk ~~and recorder~~ of the applicant's legal residence. No ~~voter registration drive~~ VRD may provide a voter registration form on its website or a link to such voter registration form which instructs or directs, in any way, the applicant to return the completed form to anyone or any group other than directly to the county clerk ~~and recorder~~ of the applicant's legal residence or, in the case of overseas electors or UOCAVA electors, the county clerk ~~and recorder~~ or the Secretary of State.

~~44.5 Repealed.~~

~~44.6~~ 14.5 Voter Registration Drive Complaints and fines

~~44.6.1~~ 14.5.1 Any person, including the Secretary of State, who believes a VRD organizer or circulator has not complied with the requirements of section 1-2-701 et seq., C.R.S., or this Rule ~~44~~ 14 may file a written complaint with the Secretary of State.

~~44.6.2~~ 14.5.2 A written complaint filed with the Secretary of State ~~shall~~ MUST contain the following information:

~~a.~~ (A) The complainant's name;

~~b.~~ (B) The complainant's full residence address and mailing address (if different from residence);

~~c.~~ (C) A description of the alleged violation, which may include a reference to the particular statute or rule;

~~d.~~ (D) The name and assigned number of the VRD, if known;

~~e.~~ (E) The date and location of the alleged violation, if known; and

~~f.~~ (F) Other applicable or relevant information

~~44.6.3 Repealed.~~

~~44.6.4~~ 14.5.3 The Secretary of State ~~shall~~ WILL review all complaints submitted in writing and conduct such investigations as may be necessary and appropriate. If the Secretary of State determines that a violation has occurred, the Secretary of State ~~shall~~ WILL impose a fine in accordance with section 1-2-703, C.R.S., and notify the VRD organizer of:

~~44.6.4.1~~ (A) The date and factual basis of each act with which the VRD organizer is being charged;

~~44.6.4.2~~ (B) The particular provision of the statute violated; and

~~44.6.4.3~~ (C) The amount of the fine imposed.

~~44.6.5~~ 14.5.4 Notification of violation ~~shall~~ WILL be sent by certified or registered mail, return receipt requested, to the last known address of the VRD organizer.

~~44.6.6~~ 14.5.5 The VRD organizer may appeal a fine and ~~shall have~~ HAS ~~thirty (30)~~ 30 days following receipt of notification to submit a written response setting forth the reason(s) that the VRD organizer is appealing the fine. The VRD organizer may request, within the ~~thirty (30)~~ 30 days, a hearing with the ~~secretary~~ SECRETARY of ~~state~~ STATE to dispute the fine.

~~44.6.7~~ 14.5.6 Within ~~thirty (30)~~ 30 days after receipt of the written response, or hearing procedures, the ~~secretary~~ SECRETARY of ~~state~~ STATE ~~shall~~ WILL issue an order affirming or dismissing the imposed fine.

[Current Rule 44 is amended and moved to new Rule 14. Amendments between the current and new rule language are shown below.]

Rule 15. ~~Rules Concerning~~ Preparation, Filing, and Verification of Statewide Initiative Petitions

15.1 PETITION ENTITY license, registration, ~~and~~ filing, AND CIRCULATION. ~~procedures~~.

15.1.1 ~~In accordance with section 1-40-135, C.R.S.,~~ ~~any person or issue committee~~ A PETITION ENTITY that intends to ~~compensate~~ PAY petition circulators must obtain a petition entity license, PAY A FEE, and register with the Secretary of State ~~prior to compensating any circulator~~ BEFORE CIRCULATING PETITIONS. THE LICENSE APPLICATION MUST INCLUDE:

~~15.1.2 To apply for a license the designated agent of a petition entity must pay a fee and submit a signed application including:~~

~~a.~~ (A) The PETITION ENTITY'S name, address, telephone number, and email address; ~~of the petition entity;~~

~~b.~~ (B) The DESIGNATED AGENT'S name AND; ~~of the designated agent;~~

~~c. An affirmation that the entity will not pay any circulator more than 20% of his or her compensation on a per signature or per petition basis; and~~

~~d.~~ (C) An affirmation that ~~at least one representative of the entity~~ THE DESIGNATED AGENT has read and understands ~~Colorado petition laws as outlined in~~ article 40 OF title 1, C.R.S., and has completed the SECRETARY OF STATE'S circulator training program. ~~provided by the Secretary of State.~~

~~15.1.3~~ 15.1.2 BEFORE COMPENSATING A CIRCULATOR, ~~To register with the Secretary of State,~~ the designated agent ~~of a licensed petition entity~~ must REGISTER WITH THE SECRETARY OF STATE BY SUBMITTING ~~submit~~ a signed ~~registration~~ form ~~in accordance with section 1-40-135(5)(a), C.R.S., and provide~~ THAT INCLUDES a list of the PROPOSED INITIATIVES ~~initiative numbers that~~ the petition entity will circulate.

~~15.1.4 A registration form must be submitted for each new initiative petition that will be circulated prior to compensating any circulator for that petition.~~

~~15.1.5~~ 15.1.3 ~~A petition entity license expires if the~~ IF A petition entity fails to register ~~at least one~~ A proposed ~~measure~~ INITIATIVE over any two-year period, THE LICENSE EXPIRES. The Secretary of State will notify a petition entity that its license has expired within 30 days ~~from~~ AFTER the date of expiration.

~~15.1.6~~ 15.1.4 A petition entity ~~whose license has expired~~ may renew ~~its~~ AN EXPIRED license WITHOUT A FEE by submitting a NEW license application. ~~in accordance with Rule 15.1.2. No fee is required to submit an application to renew an expired license.~~

~~15.1.7 Determinations regarding the denial of an application or revocation of a license will be made, or the resolution of alleged violations involving petition entities shall be addressed, in accordance with the requirements of section 1-40-135, C.R.S.~~

~~15.1.8 At the time the petition is filed, the proponents shall file with the Secretary of State a copy of the list of circulators and a copy of the list of notaries required by section 1-40-111(4), C.R.S., as well as the campaign finance disclosure report required by section 1-40-121(1), C.R.S.~~

15.2 Petition representatives.

15.2.1 ~~No petition shall be accepted which lists proponents other than the two identified as petition representatives pursuant to section 1-40-104, C.R.S.~~ A PETITION

SECTION MUST LIST THE NAMES OF THE TWO PROPONENTS OR THE NAMES OF THE TWO DESIGNATED REPRESENTATIVES, AS DEFINED IN 1-40-104, C.R.S.

15.2.2 THE TERM "PERSON RESPONSIBLE," AS USED IN ~~For the purposes of~~ section 1-40-118(2.5)(a), C.R.S., ~~the "person responsible" includes but is not necessarily limited to any~~ MEANS A person ~~or entity~~ who circulates a petition, or causes a petition to be circulated, and who commits, authorizes, or knowingly permits fraud as defined in sections 1-40-111(3)(a) and 1-40-135(2)(c), C.R.S., ~~resulting in the collection of~~ THAT RESULTS IN invalid signatures or petition sections.

15.3 Petition circulation.

15.3.1 ~~Proponents may begin circulating a petition for signatures at any time~~ PETITION CIRCULATION MAY BEGIN after the TITLE BOARD'S final decision ~~of the title board~~, including disposition of any REHEARING motion, ~~for rehearing or the expiration of~~ ~~AND~~ AFTER the time for filing a REHEARING motion, ~~for rehearing~~, and after the Secretary of State has approved the PETITION format. ~~of the petition as provided in section 1-40-113(1), C.R.S., whether or not an appeal is filed with the Supreme Court pursuant to section 1-40-107(2).~~ If an appeal is filed with the Supreme Court, the six-month period specified in section 1-40-108(1), C.R.S., ~~shall begin~~ BEGINS on the date ~~that the first signature is affixed to~~ the petition IS FIRST SIGNED or on the date ~~that~~ the SUPREME COURT'S decision ~~of the Supreme Court~~ becomes final, whichever ~~date occurs~~ IS first. Signatures ~~shall be counted only if affixed to the petition during the period provided in this rule~~ GATHERED OUTSIDE OF THIS PERIOD ARE INVALID.

15.3.2 The petition circulator ~~shall~~ MUST provide ~~his or her~~ A permanent residence address ~~as defined in paragraph (a) of this rule~~ on the circulator affidavit. ~~In addition to providing his or her permanent residence address,~~ If the circulator is not a permanent COLORADO resident, ~~of Colorado as described in section 1-2-102(1)(a)(i), C.R.S., and paragraph a of this rule,~~ the circulator ~~shall~~ MUST also provide the address in Colorado where he or she is temporarily living. ~~as of the date the affidavit is signed.~~

~~a.~~ (A) For purposes of Article 40 of Title 1, C.R.S., and this rule, a circulator's permanent "residence" or "domicile" means his or her principal or primary home or place of abode in which a circulator's habitation is fixed and to which the circulator, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A permanent "residence" or "domicile" is a permanent building or part of a building and may include a house, condominium, apartment, room in house, or mobile home. Except as provided in paragraph (b) of this rule, ~~no~~ A vacant lot, business address, or post office box ~~shall be considered~~ IS NOT a permanent "residence" or "domicile". (Sections 1-2-102(1)(a)(i) and 1-40-121(1)(b), C.R.S.)

~~b.~~ (B) ~~For the purposes of petition circulator residence address,~~ A homeless circulator ~~shall~~ MUST provide the address or location where he or she is living ~~as of~~ the date the affidavit is signed. The circulator must provide a physical location; a post office box may not be provided.

~~c.~~ (C) For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator's permanent residence address that does not comply with this Rule 15.3.2 is ~~considered~~ a "false address".

15.4 ~~Only one filing of a petition or an addendum is allowed.~~ PROPONENTS MAY FILE A PETITION OR ADDENDUM ONLY ONCE, AND~~. After a petition or an addendum is filed, the petition or the addendum~~ may not ~~be supplemented with~~ SUPPLEMENT additional signatures AFTER FILING THE PETITION OR ADDENDUM, EVEN IF THE ADDITIONAL SIGNATURES ARE OFFERED BEFORE THE DEADLINE TO SUBMIT THE ORIGINAL PETITION OR ADDENDUM. ~~If additional signatures are submitted after the original filing, such signatures shall not be counted, even if such signatures are submitted within the time permitted by law for the filing of the original petition or addendum.~~

~~17.1~~ 15.5 ~~General procedures concerning verification of petitions.~~ PETITION RECEIPT BY SECRETARY OF STATE.

~~17.1.1~~ 15.5.1 ~~No petition shall be accepted which~~ EXCEPT AS SPECIFIED IN RULE 15.2.1, THE SECRETARY OF STATE WILL NOT ACCEPT A PETITION THAT lists proponents other than those authorized by law.

~~17.1.2~~ 15.5.2 ~~When the petitions are received, each section shall be date-stamped and consecutively numbered with a four-digit number.~~ UPON RECEIPT OF A PETITION, SECRETARY OF STATE STAFF WILL ~~DATE-STAMP AND~~ CONSECUTIVELY NUMBER PETITION SECTIONS ~~WITH A FOUR-DIGIT NUMBER~~. ~~The number may be printed by a printer, hand-stamped with a manual stamp, or handwritten.~~

~~17.1.3 Each petition shall be either an individual sheet for signatures or multiple sheets that are stapled together.~~

~~17.1.4~~ 15.5.3 STAFF WILL INSPECT each PETITION section ~~shall be checked~~ for evidence of disassembly. If it appears that the section was disassembled, THE SECRETARY OF STATE WILL REJECT all ~~entries~~ SIGNATURES in the section. ~~shall be rejected.~~

~~17.1.5~~ 15.5.4 STAFF WILL CONSECUTIVELY NUMBER EACH LINE ~~the lines~~ on each petition section. ~~shall be consecutively numbered.~~ FOR PURPOSES OF THIS RULE, "LINE" MEANS the block of information ~~which consists of~~ THAT CONTAINS the ~~printed~~ last name, first name, middle initial, county, signing date, street address, city, and signature OF A PETITION SIGNER. ~~is considered a line.~~

~~17.1.6~~ 15.5.5 If the number of ~~entries~~ LINES is less than the ~~total~~ number of signatures required to certify the measure to the ballot, THE SECRETARY OF STATE WILL ISSUE a statement of insufficiency. ~~shall be issued.~~

~~17.1.7~~ 15.5.6 STAFF WILL COUNT each line with writing ~~shall be counted~~ on each petition SECTION. FOR PURPOSES OF THIS RULE, AN "ENTRY" MEANS A COUNTED LINE WITH WRITING. ~~and shall be considered an entry.~~ AT THE BOTTOM OF EACH PAGE, STAFF WILL WRITE the number of entries ~~for each~~ ON THAT page ~~of the section shall be written on the page~~ and, ON THE FACE OF EACH PETITION SECTION, STAFF WILL WRITE the total NUMBER entries for ~~the~~ THAT section. ~~shall be written on the face of the petition section.~~

~~a.~~(A) STAFF WILL NOT COUNT BLANK OR COMPLETELY CROSSED-OUT LINES. ~~A line that has WITH no writing or marks on it OR A LINE WITH COMPLETELY-CROSSED-OUT WRITING ON IT AS AN ENTRY. shall not be considered an entry.~~

~~b. A line that has writing on it but is completely crossed out shall not be considered an entry.~~

~~c.~~(B) STAFF WILL COUNT a line ~~which has~~ WITH INCOMPLETE writing, A PARTIAL CROSS OUT, OR WITH WHAT APPEARS ON ITS FACE TO BE AN INVALID SIGNATURE AS AN ENTRY. ~~on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.~~

~~17.1.8~~ 15.5.7 ~~Additional signatures submitted after the original filing of an initiative petition or addendum, or candidate petition shall be rejected, even if such signatures are submitted to the designated election official within the time permitted by law for the original filing.~~ THE SECRETARY OF STATE WILL NOT ACCEPT OR COUNT ADDITIONAL SIGNATURES AFTER PROPONENTS FILE THE ORIGINAL PETITION OR ADDENDUM.

~~17.2~~ 15.6 ~~Checking the circulator's~~ CIRCULATOR affidavit.

15.6.1 ~~17.2.1 The circulator's affidavit shall be checked for each entry. If the affidavit is not attached and completed, all entries in the section shall be rejected.~~ IF A PETITION SECTION DOES NOT HAVE A COMPLETED CIRCULATOR AFFIDAVIT, THE SECRETARY OF STATE WILL REJECT THE ENTIRE SECTION.

15.6.2 ~~17.2.2 The notary clause at the end of the affidavit shall be checked for each entry. If any information is missing, or if the date on the notary clause is not the same date as the circulator signed the affidavit, all entries in the section shall be rejected.~~ IF A PETITION SECTION DOES NOT HAVE A COMPLETED NOTARY CLAUSE, OR IF THE DATE OF THE NOTARY CLAUSE DIFFERS FROM THE DATE THE CIRCULATOR SIGNED THE AFFIDAVIT, THE SECRETARY OF STATE WILL REJECT THE ENTIRE SECTION.

~~17.2.3~~ 15.6.3 ~~The circulator's affidavit shall be checked to assure it has been completed in accordance with the statutory requirements listed below. If the affidavit was not completed in accordance with the requirements listed below, all entries in the section shall be rejected.~~

~~a. For candidate petitions, the circulator's affidavit shall be completed in accordance with section 1-4-905(1) and (2), C.R.S.~~

~~b. For initiative petitions, the circulator's affidavit shall be completed in accordance with section 1-40-111(2), C.R.S.~~

~~15.5~~ 15.7 PETITION verification. ~~by Random Sample.~~

~~15.5.1~~ 15.7.1 ~~Each petition section shall be verified according to the procedures set forth in Rule 17.1.~~ VERIFICATION BY RANDOM SAMPLE.

~~15.5.2~~ 15.7.2 Preliminary count and RANDOM NUMBER generation. ~~of random numbers.~~

~~a.~~(A) After COUNTING the entries ~~have been counted for~~ ON each petition section, ~~a data entry clerk shall enter the following data into the database;~~ SECRETARY OF STATE STAFF WILL ENTER the petition identification number, the petition section number, the page number and the number of entries on the page INTO THE DATABASE.

~~b.~~(B) STAFF WILL THEN CREATE a record ~~shall then be created~~ for each entry ~~which record shall contain~~ THAT CONTAINS the petition identification number, petition section number, page number, and the entry number. STAFF WILL TALLY the total number of entries. ~~submitted for the petition shall be tallied.~~

~~c.~~(C) If the number of entries is less than the total number of signatures required to certify the measure to the ballot, THE SECRETARY OF STATE WILL ISSUE a statement of insufficiency. ~~shall be issued.~~

~~d. A series of random numbers shall be generated by the database which is the greater of four thousand (4,000) signatures or five percent (5%) of the total number of entries.~~

~~15.5.3 Verification of Selected Entries~~

~~a. The random numbers selected shall be matched with the appropriate petition section, page number, and entry number.~~

~~b. Each entry generated shall be checked for validity in accordance with Rule 17.1.~~

~~c. Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry that is accepted.~~

15.7.3 RANDOM SAMPLE. THE DATABASE WILL GENERATE A SERIES OF RANDOM NUMBERS EQUAL TO 4,000 SIGNATURES OR FIVE PERCENT OF THE TOTAL NUMBER OF SIGNATURES, WHICHEVER IS GREATER. STAFF WILL CHECK THE VALIDITY OF THE

RANDOM SIGNATURES IN ACCORDANCE WITH THIS RULE. STAFF WILL MAINTAIN A MASTER RECORD OF EACH ACCEPTED ~~SIGNATURE~~ AND REJECTED ENTRY, ~~AS WELL AS A RECORD OF EACH REJECTED SIGNATURE~~ ALONG WITH THE REASON CODE FOR ~~THE REJECTION~~ EACH REJECTED ENTRY.

~~15.5.4~~ ~~15.7.4 Checking the circulator's affidavit. The circulator's affidavit shall be checked for each entry in accordance with Rule 17.2~~. ~~STAFF WILL VERIFY THAT THE CIRCULATOR'S AFFIDAVIT MEETS THE STANDARDS OF THIS RULE 17 15. If the affidavit is not attached and completed, all entries in the section shall be rejected.~~

~~15.5.5 Checking individual signatures. Each individual signature shall be checked in accordance with Rule 17.3.~~

~~15.5.6~~ ~~15.7.5 Computation of total accepted signatures.~~

~~a.(A) STAFF WILL KEEP a tally shall be made of the number of accepted signatures and the number of rejected signatures.~~

~~b.(B) The Secretary of State shall WILL determine the range of signatures by multiplying the constitutionally required number of signatures by 0.90 to compute DETERMINE ninety percent (90%) of the required signatures and by 1.10 to compute DETERMINE one hundred and ten percent (110%) of the required signatures. This number shall be calculated after the general election at which the Secretary of State was elected.~~

~~c.(C) After completing a petition, the number of signatures checked shall then be divided into the number of accepted signatures. This number will be the percentage of accepted signatures which were submitted. STAFF WILL THEN DIVIDE THE NUMBER OF ACCEPTED SIGNATURES BY THE TOTAL NUMBER OF SIGNATURES SUBMITTED TO DETERMINE THE PERCENTAGE OF ACCEPTED SIGNATURES.~~

~~d.(D) The percentage calculated in paragraph c of this Rule 15.5.6 shall then be multiplied by the total number of entries which were previously tallied. This number will be the number of presumed valid signatures which were submitted. STAFF WILL THEN MULTIPLY THE PERCENTAGE OF ACCEPTED SIGNATURES BY THE TOTAL NUMBER OF SIGNATURES SUBMITTED TO DETERMINE THE NUMBER OF SIGNATURES PRESUMED TO BE VALID.~~

~~e.(E) If the number generated is:~~

~~(I) Ninety percent (90%) or less of the constitutionally required number of signatures as calculated in paragraph b of this Rule 15.5.6, then the Secretary of State shall WILL issue a statement of insufficiency. If the number generated is~~

~~(II) One hundred and ten percent (110%) or more of the constitutionally required number OF SIGNATURES, then the Secretary of State shall WILL issue a statement of sufficiency.~~

~~(III) MORE THAN NINETY PERCENT BUT LESS THAN ONE HUNDRED TEN PERCENT OF THE REQUIRED NUMBER OF SIGNATURES, THE SECRETARY OF STATE'S STAFF WILL REVIEW EVERY SIGNATURE TO DETERMINE SUFFICIENCY.~~

~~f. If the number generated is more than ninety percent (90%) but less than one hundred and ten percent (110%) of the required number, the Secretary of State shall order that each signature on the petition be verified to determine whether the issue or question should be certified to the ballot.~~

~~17.3~~ 15.8 ~~Checking~~ VERIFYING individual signatures.

~~17.3.1~~ 15.8.1 STAFF WILL CHECK each individual entry ~~shall be checked~~ against the INFORMATION CONTAINED IN SCORE. ~~master voter registration files to assure that the elector was an eligible elector in the political subdivision at the time the petition was signed.~~

~~17.3.2~~ 15.8.2 ~~Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry that is accepted.~~ STAFF WILL CREATE AND MAINTAIN A MASTER RECORD OF EACH ACCEPTED AND REJECTED ENTRY, ALONG WITH THE REASON CODE FOR EACH REJECTED ENTRY.

~~17.3.3~~ 15.8.3 ~~If the information on the current voter registration file does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration file at the time the entry was signed.~~ IF AN ENTRY DOES NOT MATCH THE SIGNOR'S CURRENT INFORMATION IN SCORE, STAFF MUST CHECK THE SIGNOR'S INFORMATION IN SCORE AS OF THE DATE THE SIGNOR SIGNED THE PETITION.

~~17.3.4~~ 15.8.4 ~~Name of eligible elector. To be accepted, the name on the entry must be in a form similar to that found on the voter registration record. Signatures that are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration file, or if applicable, the county assessors' list, the entry shall be rejected.~~ SECRETARY OF STATE STAFF WILL REJECT THE ENTRY IF:

(A) THE NAME ON THE ENTRY IS NOT IN SCORE;

(B) THE MIDDLE INITIAL OR MIDDLE NAME ON THE ENTRY DOES NOT MATCH THE MIDDLE INITIAL OR MIDDLE NAME IN SCORE;

(C) THE ADDRESS ON THE ENTRY DOES NOT MATCH THE ADDRESS IN SCORE;

(D) THE ADDRESS ON THE ENTRY IS A POST OFFICE BOX;

(E) THE ENTRY IS INCOMPLETE;

(F) THE SIGNER COMPLETED THE ENTRY BEFORE THE DESIGNATED ELECTION OFFICIAL APPROVED THE PETITION FORMAT;

(G) THE SIGNER WAS NOT AN ELIGIBLE ELECTOR AT THE TIME HE OR SHE COMPLETED THE ENTRY;

(H) THE SIGNER COMPLETED THE ENTRY AFTER THE DATE ON THE CIRCULATOR AFFIDAVIT;

(I) EVIDENCE EXISTS THAT SOME OTHER PERSON ASSISTED THE SIGNER IN COMPLETING THE ENTRY BUT NO STATEMENT OF ASSISTANCE ACCOMPANIES THE ENTRY;

(J) THE NAME AND SIGNATURE ON THE ENTRY IS ILLEGIBLE AND CANNOT BE VERIFIED IN SCORE;

(K) THE ENTRY IS A DUPLICATE OF A PREVIOUSLY ACCEPTED ENTRY ON THE SAME PETITION; OR

(L) FOR A CANDIDATE PETITION WHERE AN ELECTOR MAY SIGN ONLY ONE PETITION FOR THE SAME OFFICE, THE ENTRY IS A DUPLICATE OF A PREVIOUSLY ACCEPTED ENTRY ON ANOTHER PETITION FOR THE SAME OFFICE.

15.8.6 SECRETARY OF STATE STAFF WILL ACCEPT THE ENTRY IF:

(A) THE NAME ON AN ENTRY MATCHES OR IS SUBSTANTIALLY SIMILAR TO THE INFORMATION IN SCORE, OR IF THE SIGNATURE ON AN ENTRY IS A COMMON VARIANT OF THE NAME;

(B) A MIDDLE INITIAL OR MIDDLE NAME IS PRESENT ON THE ENTRY BUT NOT IN SCORE, OR PRESENT IN SCORE BUT NOT ON THE ENTRY;

(C) A SUFFIX IS PRESENT ON THE ENTRY BUT NOT IN SCORE, OR PRESENT IN SCORE BUT NOT ON THE ENTRY; OR

(D) THE ADDRESS ON THE ENTRY IS MISSING AN APARTMENT LETTER OR NUMBER OR A STREET DIRECTION.

~~17.4 Final Tally. After all of the sections have been checked, a final tally of all valid signatures shall be prepared and the statement of sufficiency or insufficiency issued.~~

~~19.1~~ 15.9 ~~Cure of petitions deemed insufficient.~~ CURING INSUFFICIENT PETITIONS.

~~19.2~~ 15.9.1 If ~~the~~ PETITION proponents submit additional signatures within the

permitted time, ~~all signatures submitted in the addendum shall be checked using the process delineated in Rule 16 and Rule 17~~ SECRETARY OF STATE STAFF WILL VERIFY THE ADDITIONAL SIGNATURES IN ACCORDANCE WITH THIS RULE 15.

~~19.3~~ 15.9.2 If THE SECRETARY OF STATE FOUND THE ORIGINAL SUBMISSION INSUFFICIENT BASED ON THE RANDOM SAMPLE VERIFICATION, STAFF WILL ADD the number of ADDITIONAL valid signatures~~, in the addendum~~ ~~when added~~ to the number of PROJECTED valid signatures ~~given in the statement of insufficiency,~~ IN THE ORIGINAL SUBMISSION.

(A) IF THE NEW PROJECTED NUMBER OF VALID SIGNATURES equals 110% or more of the required signatures, THE SECRETARY OF STATE WILL ISSUE a statement of sufficiency. ~~shall be issued.~~

(B) IF THE NEW PROJECTED NUMBER OF VALID SIGNATURES ~~19.4 15.9.3 If the number of ADDITIONAL valid signatures, in the addendum when added to the number of valid signatures given in the statement of insufficiency,~~ equals more than 90% but less than 110% of the required signatures, ~~and IF the initial check was by random sample, all of the previously submitted entries shall be checked SECRETARY OF STATE~~ STAFF WILL VERIFY ALL PREVIOUSLY SUBMITTED SIGNATURES. STAFF WILL ADD the total NUMBER of valid signatures in the original petition ~~shall then be added~~ to the number of ADDITIONAL valid signatures submitted in the addendum IN ORDER TO DETERMINE SUFFICIENCY.

~~19.5 15.9.4~~ 15.9.3 If the initial ~~check~~ VERIFICATION was of every ~~entry~~ SIGNATURE, ~~then~~ STAFF WILL ADD THE NUMBER OF ADDITIONAL VALID SIGNATURES TO THE NUMBER OF VALID SIGNATURES IN THE ORIGINAL SUBMISSION IN ORDER TO DETERMINE SUFFICIENCY. ~~the total of valid signatures shall be added to the number of valid signatures submitted in the addendum.~~

~~19.6 15.9.5~~ 15.9.4 ~~The designated election official shall then~~ STAFF WILL issue a new statement of insufficiency or sufficiency ~~which~~ THAT reports the total number of valid signatures submitted.

[Current Rule 19 is amended and moved to Rule 15.9. Amendments between the current and new rule language are shown above.]

15.10 PETITION PROTESTS.

~~20.1~~ 15.10.1 A PETITION protest ~~shall~~ MUST specifically state the reasons for ~~the challenge to~~ CHALLENGING the determination of sufficiency or insufficiency.

~~20.1.1~~ (A) A protest ~~that alleges~~ ALLEGING THE VIOLATION OF A specific ~~statutes or rules~~ STATUTE OR RULE ~~were improperly applied shall clearly state the specific requirements that were improperly applied~~ MUST CITE THE STATUTE OR RULE AND SPECIFICALLY STATE THE VIOLATION.

~~20.1.2~~ (B) A protest ~~that alleges that entries were improperly accepted or rejected shall clearly identify the specific individual entries at issue and the reason the entries were improperly accepted or rejected~~ ALLEGING THE IMPROPER ACCEPTANCE OR REJECTION OF INDIVIDUAL ENTRIES MUST CITE THE ENTRY AND PETITION SECTION NUMBER AND SPECIFICALLY STATE WHY THE ENTRY SHOULD BE ACCEPTED OR REJECTED, AS APPLICABLE.

~~20.2 The protest shall be deemed insufficient for each entry or class of entries challenged where the individual entry is not listed or the reason for the challenge is not given.~~

~~20.3 Where a petition verified by random sample is protested, proponents and opponents may protest the process by which the numbers used in the calculations were generated.~~

~~20.4 Individual entries which were not checked by the Secretary of State may not be challenged as sufficient or insufficient.~~

[Current Rule 20 is amended and moved to new Rule 15.10. Amendments between the current and new rule language are shown above.]

15.11 REFERENDUM PETITIONS.

~~23.1~~ 15.11.1 ~~Applicability.~~ This Rule ~~23~~ applies to statewide referendum petitions ~~pursuant to~~ UNDER article V, section 1 (3) of the Colorado Constitution.

~~23.2 Relationship to statutory and constitutional provisions.~~

~~23.2.1 The purpose of this Rule 23 is to administer and interpret, but not supersede, the provisions of Article V, Section 1, Colorado Constitution, and Article 40 of Title 1, Colorado Revised Statutes which apply to referendum petitions.~~

~~23.2.2 Where there is an irreconcilable conflict between this Rule 23 and any such statutory or constitutional provision, then such statutory or constitutional provision prevails.~~

~~23.3 Applicability of initiative statutes.~~

~~23.3.1~~ 15.11.2 Except where this Rule ~~23~~ STATES otherwise, ~~provides, or where the context otherwise requires,~~ any statutory or constitutional provision that applies specifically to initiative petitions ~~shall~~ also ~~apply~~ APPLIES to referendum petitions.

~~23.3.2~~ 15.11.3 The following procedural steps that apply to initiative petitions do not apply to referendum petitions:

(a) Review and comment by legislative staff on the text of proposed initiated constitutional amendments and initiated laws, pursuant to Article V, Section

1 (5), Colorado Constitution, and section 1-40-105, C.R.S.

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

~~23.4 Approval of referendum petition form.~~

~~23.4.1 No referendum petition shall be printed, published, or otherwise circulated unless the form and the master original to be used for printing or reproduction have been approved by the Secretary of State. Section 1-40-113(1), C.R.S.~~

~~23.4.2~~ 15.11.4 PROPONENTS MAY SUBMIT a referendum petition ~~may be submitted~~ to the Secretary of State for approval at any time after the GENERAL ASSEMBLY HAS PASSED THE bill. ~~has been presented to the governor for approval or disapproval.~~ The Secretary of State ~~shall~~ WILL not issue final approval of the referendum petition form until the bill has become law pursuant to article IV, section 11 of the Colorado Constitution.

~~23.4.3~~ 15.11.5 Each referendum petition section ~~shall~~ MUST consist of the following, in the order listed: ~~Sections 1-40-113(1), and 1-40-102(6), C.R.S.~~

(a) The warning as specified in Section 1-40-110, C.R.S.

(b) The heading "Referendum Petition," followed by the demand upon the Secretary of State in substantially the following form, in which the underlined material is only for example:

"To: The Honorable _____, Secretary of State of the State of Colorado

We, the undersigned electors of the State of Colorado, do hereby respectfully petition, order, and demand that Sections 1 to 12, inclusive (being the entire Act), of House Bill No. 02-1010, by Representatives Abel, Baker, and Cain, and Senators Smith, Thomas, and Jones, entitled "Concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation", passed by the Sixty-third General Assembly of the State of Colorado, at its regular session in the year 2002,shall be submitted to the voters for their adoption or rejection at the next biennial regular general election, to be held on Tuesday, the 5th day of November, 2002, and each of the signers of this petition says:

I sign this petition in my own proper person only, and I am a registered elector of the State of Colorado, my residence address and the date of my signing this petition are correctly written immediately after my name, and I do hereby designate the following persons to represent me in all matters affecting this petition:"

(c) The name and mailing address of two persons who are designated to represent the signers thereof in all matters. ~~affecting the same.~~

(d) The ballot title and submission clause. ~~in the form required by this Rule 23.~~

(e) The text of the Act, or the ~~item(s)~~ ITEM, ~~section(s)~~ SECTION, or ~~part(s)~~ PART of the Act, on which the referendum is demanded. ~~*See* sections 1-40-110; 1-40-102(6).~~

(f) Succeeding pages that each contain the warning, the ballot title, and submission clause, and ruled lines numbered consecutively for ~~electors'~~ signatures.

(g) A final page that contains the circulator's affidavit required by section 1-40-111(2), C.R.S.

~~23.4.4~~ 15.11.6 ~~Each~~ A referendum petition section ~~shall~~ MUST include only the matters required by Article 40, Title 1, C.R.S., and this Rule ~~23~~, and no extraneous material. ~~Section 1-40-113(1), C.R.S.~~

[Current Rule 23 is amended and moved to new Rule 15.11. Amendments between the current and new rule language are shown above.]

~~23.5 Ballot Title and Submission Clause.~~

~~23.5.1~~ 15.11.7 The ballot title ~~shall~~ MUST consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:

"An Act <u>concerning registration requirements for motor vehicles</u>, <u>and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation</u>, being <u>House</u> Bill No. <u>02-1010</u>."

~~23.5.2~~ 15.11.8 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause ~~shall~~ MUST consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

"Shall Section <u>3</u> (<u>concerning definition of terms</u>) and Section <u>4</u> (<u>eliminating licensing requirements for motor vehicle dealers</u>) of the following Act of the General Assembly be approved:" The material in parentheses shall correctly and fairly summarize the subject or the effect of the portion of the Act referenced.

~~23.6~~ 15.11.9 ~~Election.~~ If a referendum petition is timely filed with the Secretary of State with a sufficient number of valid signatures, it ~~shall be voted upon~~ WILL APPEAR ON THE BALLOT at the next general election that occurs at least three

months after the referendum petition is filed with the Secretary of State.

[Rules 15, 17, 19, 20, and 23 are amended and relocated to Rule 15.]

Rule 16. MILITARY AND OVERSEAS VOTERS (UOCAVA)

~~25.1~~ 16.1 General rules concerning voting by military and overseas electors.

~~25.1.1~~ 16.1.1 For the purposes of this Rule ~~25~~ 16, elector means a covered voter as defined in section 1-8.3-102(2), C.R.S.

~~25.1.2~~ 16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule ~~25~~ 16, each county clerk'S ~~and recorder~~ office ~~shall~~ MUST have a dedicated fax machine for the purpose of fax ballot transmission.

~~25.1.3~~ 16.1.3 In accordance with section 1-8.3-109, C.R.S., a ~~mail in~~ ballot application submitted by an elector ~~shall be~~ IS effective through the next regularly scheduled General Election, unless the elector SPECIFIES OTHERWISE ~~makes an election-specific or permanent mail-in request~~.

~~25.1.4~~ 16.1.4 ~~Mail-in ballot application APPLICATION and replacement ballot request deadlines. (a)~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ELECTOR MAY SUBMIT AN APPLICATION FOR REGISTRATION AND BALLOT REQUEST WITH HIS OR HER VOTED BALLOT AS LONG AS THE BALLOT IS TIMELY SUBMITTED AND RECEIVED UNDER SECTIONS 1-8.3-111 AND 1-8.3-113, C.R.S.~~, AND RULE 25.1.6.~~

~~(B) An application for a mail-in ballot must be received no later than the close of business the Friday immediately preceding the election, except that if the AN elector WHO wishes to receive the A ballot by mail MUST SUBMIT A REQUEST NO LATER THAN THE SEVENTH DAY BEFORE THE ELECTION the application must be received no later than the seventh day before the election.~~

~~(b) A request for a replacement ballot must be received by 5:00 p.m. MT on election day. A request for replacement ballot includes a request for an electronically transmitted ballot by an elector who has already been issued a ballot by regular mail.~~

~~25.1.5~~ 16.1.5 Use of a Federal Write-in Absentee Ballot (FWAB) as an application for registration or ballot request. ~~(a) In accordance with section 1-8.3-107, C.R.S.~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, if an unregistered elector submits a FWAB by the ~~close of registration~~ DEADLINE SET FORTH IN SECTIONS 1-8.3-111 AND 1-8.3-113, C.R.S., ~~AND RULE 25.1.6.,~~ the FWAB ~~shall be considered a~~ IS A timely application for registration and ~~mail-in~~ ballot request.

~~(b) In accordance with section 1-8.3-108(4), C.R.S., if a registered elector submits a FWAB no later than the Friday before the election, the FWAB shall be considered a timely application for mail-in ballot.~~

~~25.1.6~~ 16.1.6 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., all ballots cast must be voted and mailed or electronically transmitted no later than 7:00 p.m. MT on election day, and received by the county clerk and recorder or the Secretary of State no later than the close of business on the eighth day after election day.

~~25.1.7~~ 16.1.7 Ballots received by the Secretary of State

(a) If the Secretary of State timely receives a ballot ~~in accordance with this~~ UNDER SECTION 1-8.3-113, C.R.S., AND Rule ~~25~~ 16, the Secretary of State will immediately notify the appropriate county clerk ~~and recorder~~ and forward the ballot by ~~overnight mail, fax, or courier~~ BY THE MOST EFFICIENT MEANS AVAILABLE no later than the next business day.

(b) To ensure voter secrecy, any county ~~notified that the Secretary of State has~~ WITH UOCAVA OR PROVISIONAL VOTERS OR SIGNATURE DEFICIENT BALLOT RETURN ENVELOPES ~~received a ballot~~, ~~shall~~ MUST retain a minimum of ten voted ballots PER BALLOT STYLE to be counted with LATE ARRIVING BALLOTS. ~~the ballot received by the State.~~

~~25.1.8~~ 16.1.8 The county clerk ~~and recorder~~ ~~shall~~ MUST send a minimum of one correspondence AT LEAST 65 DAYS ~~prior to~~ BEFORE the Primary Election DAY to each elector whose record is marked "Inactive" ~~and whose ballot request has expired. Such shall~~ THE correspondence may be sent by email or mail and, at a minimum, ~~shall~~ MUST notify the electors of:

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

(b) The upcoming federal elections;

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

(d) ~~Any other information the county clerk and recorder deems appropriate.~~

~~25.1.9~~ 16.1.9 ~~Reporting. No later than 60 days after a General Election, the county clerk and recorder shall provide a must report to the Secretary of State in the approved format, which shall summarize in detail the ballots transmitted and returned by military and overseas electors.~~ NO LATER THAN ~~4~~45 DAYS BEFORE AN ELECTION, THE COUNTY CLERK ~~AND RECORDER~~ MUST REPORT TO THE SECRETARY OF STATE THE NUMBER BALLOTS TRANSMITTED TO MILITARY AND OVERSEAS ELECTORS BY THE 45-DAY DEADLINE.

16.1.10 FAILURE TO MEET THE 45-DAY BALLOT TRANSMISSION DEADLINE IN SECTION 1-8.3-110, C.R.S.

(A) IF A COUNTY FAILS TO MEET THE 45-DAY BALLOT TRANSMISSION DEADLINE PROVIDED FOR ANY STATE OR FEDERAL ELECTION, THE COUNTY CLERK MUST IMMEDIATELY REPORT THE FAILURE AND REASON FOR THE FAILURE TO THE SECRETARY OF STATE.

Comment [S255]: This issue is not pertaining only to UOCAVA and therefore may need to be placed also elsewhere in the rules.

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Comment [S256]: This seems unworkable. By the time the SOS knows about a late arriving ballot, the county may have finished tabulation of all but fewer than ten, so the county must hold back ten voted ballots for every ballot style in order to serve this function.

Comment [S257]: This time period should be specified

Comment [S258]: "election day" not election.

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Comment [S259]: Here is an open door for non-uniformity… shouldn't it be closed?

Comment [S260]: To allow a few hours to make the list and send it.

(B) THE COUNTY CLERK MUST PROVIDE A PLAN TO THE SECRETARY OF STATE FOR COMPLYING WITH THE DEADLINE IN THE NEXT STATE OR FEDERAL ELECTION.

(A) THE COUNTY MUST SUBMIT THE PLAN TO THE SECRETARY OF STATE NO LATER THAN 60 DAYS BEFORE THE TRANSMISSION DEADLINE.

(2) THE COUNTY MUST PROVIDE A WEEKLY PROGRESS REPORT ON IMPLEMENTING THE PLAN TO THE SECRETARY OF STATE BEGINNING 50 DAYS BEFORE THE TRANSMISSION DEADLINE.

(C) THE COUNTY CLERK MUST PROVIDE A DAILY PROGRESS REPORT TO THE SECRETARY OF STATE BEGINNING FIVE DAYS BEFORE THE TRANSMISSION DEADLINE.

~~25.2~~ 16.2 Electronic ~~ballot~~ transmission ~~(receipt and return)~~ ~~of ballots to military and overseas electors.~~

~~25.2.2~~ 16.2.1 ~~Electronic Transmission (receipt and return) of ballots to military and overseas electors (a)~~ In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., an elector may request to receive and return his or her ballot by electronic transmission.

~~(i) Subject to the deadlines in Rule 25.1.4, a request for electronic ballot transmission may be made on the federal postcard, state voter registration, mail in ballot, online voter registration, or any other application.~~

~~(ii)~~ (A) An elector who requests fax transmission ~~shall~~ MUST provide a fax number, including the international country code and local area, province, or city code, ~~(~~if applicable,~~)~~ where the ballot is to be faxed.

~~(iii)~~ (B) An elector who requests email transmission ~~shall~~ MUST provide a complete email address where the ballot is to be transmitted. In accordance with section 1-8.3-115, C.R.S., no election official may disclose the email address to the public.

~~(b)~~ (C) An elector who chooses to receive his or her ~~unvoted~~ BLANK ballot by online ballot delivery may return his or her ballot by fax or email OR BY RETURN OF THE BALLOT AND SELF AFFIRMATION ENCLOSED IN A SEALED ENVELOPE.

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

[Current Rule 25.2.1 is moved to Rule 1.]

~~25.2.5~~ ~~16.2.3~~ 16.2.2 The electronic transmission ~~ballot instructions shall~~ MUST include:

(a) The county clerk's ~~and recorder's~~ contact information including mailing

Comment [S261]: This has the unfortunate property of making these electors special-unreachable by campaigns. A solution for this should be found.

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address, email address, phone, and fax number;

(b) A notice that the ballot may not be duplicated for any other elector;

(c) Instructions for completing and returning the ballot;

(d) A notice regarding the ballot return deadline;

(e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk ~~and recorder~~; and

(f) Any other information deemed necessary by the Secretary of State or the ~~designated election official~~ COUNTY CLERK.

~~25.2.4 16.2.2~~ (G) The ballot packet, ~~sent by electronic transmission shall~~ WHICH MUST be in text format on 8 ½" x 11" white paper and ~~shall~~ MUST include:

(~~a~~ 1) An electronic transmission coversheet to protect voter privacy;

(~~b~~ 2) The blank ballot;

(~~c~~ 3) The electronic transmission ballot instructions; and

(~~d~~ 4) The self-affirmation required by section 1-8.3-114, C.R.S., and Rule 16.2.3.

~~25.2.5 16.2.3 The electronic transmission ballot instructions shall MUST include:~~

~~(a) The county clerk and recorder's contact information including mailing address, email address, phone, and fax number;~~

~~(b) A notice that the ballot may not be duplicated for any other elector;~~

~~(c) Instructions for completing and returning the ballot;~~

~~(d) A notice regarding the ballot return deadline;~~

~~(e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk and recorder; and~~

~~(f) Any other information deemed necessary by the Secretary of State or the designated election official COUNTY CLERK AND RECORDER.~~

~~25.2.6 16.2.4~~ 16.2.3 The self-affirmation ~~shall~~ MUST include the standard oath required by the Uniformed and Overseas Citizen Voting Act (42 U.S.C sec. 1973ff(b)(7) and 1(a)(5)), the elector's name, date of birth, signature, and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot. (Section 1-

8.3-114, C.R.S.)

~~25.2.7~~ ~~16.2.5~~ 16.2.4 Any ballot transmitted to an elector by electronic transmission ~~shall~~ MUST contain a unique identification number for tracking and auditing purposes. THIS NUMBER MUST NOT BE ABLE TO BE LINKED IN ANY WAY TO THE DUPLICATE BALLOT CREATED FOR VOTER PRIVACY.

~~25.2.8~~ ~~25.2.6~~ 16.2.5 If the county clerk ~~and recorder~~ transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk ~~and recorder~~ ~~shall~~ MUST attempt to fax the ballot at least two more times.

~~25.2.9~~ ~~16.2.7~~ 16.2.6 The county clerk and recorder ~~shall~~ MUST maintain a log of each ballot sent by electronic transmission. ~~, which the~~ THE county CLERK ~~AND RECORDER~~ ~~shall~~ MUST maintain THE LOG as an election record along with any other email or fax records. The log ~~shall~~ MUST include:

(a) The name of the elector;

(b) The fax number or email address to which the ballot packet was transmitted (as applicable);

(c) The unique identification number of the ballot;

(d) The date the ballot packet was transmitted; and

(e) The initials of the employee transmitting the ballot.

~~25.2.10~~ ~~16.2.8~~ 16.2.7 Upon receipt of A voted ballot sent by electronic transmission, the county clerk ~~and recorder~~ ~~shall~~ MUST verify the elector's signature in accordance with Rule ~~29~~ 7.7. ~~, and upon verification the ballot shall be duplicated for counting.~~ AFTER THE AFFIDAVIT HAS BEEN VERIFIED, A BIPARTISAN TEAM OF JUDGES MUST DUPLICATE THE BALLOT. DUPLICATING JUDGES MUST NOT REVEAL HOW THE ELECTOR ~~HAS CAST HIS OR HER BALLOT~~ VOTED.

~~13.20~~ ~~16.2.9~~ 16.2.8 A military or overseas elector whose registration record is inactive ~~or whose ballot request has lapsed~~ may download an application and ballot using the electronic ballot delivery system.

~~13.20.1~~ (A) The elector must submit the ballot and application in accordance with the deadlines AND RESTRICTIONS ON RETURN METHODS AND DECLARATIONS REQUIRED in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted. ***[OTHER RULES ARE REQUIRED TO REGULATE THE RETURN OF UOCAVA BALLOTS BY ELECTRONIC TRANSMISSION, AND BALLOTS FOR WHICH THE TRANSMITTAL DATE IS UNCERTTAIN ACCORDING TO CRS 1-8.3.113. I AM NOT THE PERSON TO BE WRITING THESE RULES.]***

~~13.20.2~~ (B) Every county must use the approved electronic delivery system to implement this rule, except that a county may obtain a waiver. The Secretary will consider the following factors in approving or denying a request for waiver:

~~(a)~~ (I) Number of military or overseas electors registered to vote in the

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Comment [S262]: Here for the first time we see the word employee instead of election judge or election official. Perhaps this should be changed. What oversight is provided over this part of the election?

Comment [S263]: Here is the county clerk verifying the signature. This process should be examined as it relates to the handling of all other signature checks and made as similar as possible as well as considering voter privacy. This signature check must be3 subject to oversight as other signature checks are.

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Comment [S264]: How is electronic ballot delivery system defined and tested and documented and overseen in operation. This is a system that escapes the other checks and balances provided in these rules. This is of great concern.

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Comment [S265]: Crs 1-8.3-113 expectes the SOS rules to spell out these limitations but as we can see it does not do so. This is very disappointing. There are two areas of major concern, one is the statement about using electronic methods only when another more secure method is not available. This is the place in rules this restriction should have been spelled out. The other problem is in paragraph (3) as follows:
"(3) If, at the time of completing a ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was timely submitted, the ballot shall not be rejected as late."

As I pointed out to legislators and Bob Carey of FVAP at the time, (and he agreed) this is an unworkable statute as it allows an infinitely long time to return the ballot. And these rules provide no method for the declaration to be made as far as I can see.

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county;

~~(b)~~ (II) Historical data regarding the number of military and overseas electors who have registered and voted in the county; and

~~(c)~~ (III) Staff or other resource limitations.

[Current Rule 25 is amended and moved to new Rule 16. Current Rule 13.20 is amended and moved to new Rule 16.2.9. Amendments between the current and new rule language are shown above.]

Rule 17. PROVISIONAL VOTING

17.1 PROVISIONAL VOTING IN THE VOTER SERVICE AND POLLING CENTER

17.1.1 THE COUNTY CLERK ~~AND RECORDER~~ MUST USE THE APPROVED PROVISIONAL BALLOT AFFIDAVIT FORM. THE FORM SHALL BE CONSTRUCTED IN THE FORM OF AN ENVELOPE OR ATTACHED TO AN ENVELOPE TO ENCLOSE A STANDARD BALLOT.

17.1.2 IF A VOTER SERVICE AND POLLING CENTER LOSES CONNECTIVITY TO SCORE, THE JUDGES MUST ISSUE PROVISIONAL AFFIDAVITS WITH BALLOTS UNTIL THE COUNTY RESTORES CONNECTIVITY.

~~26.3.3~~ 17.1.3 The word "provisional" ~~shall~~ MUST be marked on the provisional ballot REMOVABLE STUB and on the ~~pollbook or~~ signature card, ~~PROVISIONAL BALLOT LOG~~ IF APPLICABLE, next to the elector's name. BEFORE COUNTING, THE STUB SHALL BE REMOVED TO PROTECT THE PRIVACY OF THE VOTER.

[Current Rule 26.3.3 is amended and moved to new Rule 17.1.3. Amendments between the current and new rule language are shown above.]

~~26.4~~ 17.2 Verification of Provisional Ballots

17.2.1 THE COUNTY CLERK ~~AND RECORDER~~ MUST PROCESS AND TABULATE ALL ~~REGULAR~~ MAIL AND IN-PERSON BALLOTS BEFORE PROCESSING PROVISIONAL BALLOTS.

~~26.12~~ 17.2.2 The county ~~clerk and recorder~~ must process all ~~pollbooks or~~ signature cards in ~~the statewide voter registration database SYSTEM~~ SCORE before processing provisional ballots.

[Current Rule 26.12 is moved to new Rules 17.2.]

~~26.4.2~~ 17.2.3 Verification of an elector's eligibility to have his or her provisional ballot counted ~~shall be IS limited to~~MUST INCLUDE the following sources:

(a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement or on parole;

(b) The State of Colorado Statewide Voter Registration Database SCORE; AND

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Comment [S266]: This protects the anonymity of the ballot contained within the affidavit.

Comment [S267]: It Is the affidavit that is unique to the provisional voter, not the ballot.

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Comment [S268]: This is the way to solve anonymity of the provisional ballot- once it is to be counted the privacy violating "provisional" mark is removed with the stub.

Comment [S269]: See above comment.

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Comment [S270]: I am unclear if "mail" and "in-person" ballots have definitions that clearly separate them or include them with UOCAVA and emergency ballots. Are provisional ballots not "in-person" ballots too?

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Comment [S271]: See the following comment.

~~(c) The DMV Motor Voter database (Note: Possession of a driver's license is not conclusive proof of voter registration; elector must have registered to vote through the DMV); and~~

(~~d~~ C) The information provided on the provisional ballot envelope, including the affidavit.

~~26.4.3~~ 17.2.4 When verifying provisional ballots, the designated election official ~~shall~~ MUST check ~~the State of Colorado Statewide voter registration database~~ SCORE to determine whether the elector has already voted in the election. IN CASE THE ELECTORS'S IDENTITY CANNOT BE FOUND IN SCORE, THE FOLLOWING STEPS SHALL BE TAKEN AND SOURCES OF INFORMATION CONSULTED TO ESTABLISH THAT A FAIR AND SUBSTANTIAL EFFORT HAS BEEN MADE:~~.~~

[Current Rules 26.4.2 and 26.4.3 are amended and moved to new Rules 17.2.3 and 17.2.4. Amendments between the current and new rule language are shown above.]

~~26.4.5~~ 17.2.5 If during verification it appears that the elector's record was cancelled or consolidated as a duplicate in error, the ballot ~~shall~~ MUST be counted so long as the elector has not cast aNOTHER ballot in the election, the affidavit is complete, and the elector is otherwise eligible. THE COUNTY CLERK ~~AND RECORDER~~ MUST REINSTATE OR UNCONSOLIDATE THE elector's record AND UPDATE THE ELECTOR'S RECORD BEFORE MARKING THE ELECTOR'S PROVISIONAL BALLOT AS ACCEPTED OR REJECTED IN ~~THE STATEWIDE VOTER REGISTRATION SYSTEM~~ SCORE AND BEFORE LINKING IT TO THE ELECTOR'S RECORD ~~shall be reinstated or unconsolidated~~.

~~26.4.6~~ 17.2.6 When the ~~designated election official has received~~ COUNTY CLERK RECEIVES both a ~~mail in~~ MAIL ballot and a provisional ballot from an elector, but there is a discrepancy between the signature on the returned ~~mail in~~ MAIL ballot envelope and the elector's signature stored in the statewide voter registration system SCORE, the discrepancy must be resolved. Before the COUNTY CLERK MAY VERIFY THE provisional ballot AFFIDAVIT may be ~~counted~~ VERIFIED, the elector must affirm that the signature on the ~~mail in~~ MAIL ballot envelope is not his or her signature. Sections 1-8.5-105(4) and (5), C.R.S.

[Current Rules 26.4.5 and 26.4.6 are amended and moved to new Rules 17.2.5 and 17.2.6. Amendments between the current and new rule language are shown above.]

~~26.4.9~~ 17.2.7 If ~~An~~ AN elector ~~whose voter registration record is tagged ID required~~ casts a provisional ballot without providing valid identification, the COUNTY CLERK MUST VERIFY AND COUNT THE PROVISIONAL ballot ~~shall MUST be verified and counted~~ as follows:

(a) The COUNTY CLERK ~~AND RECORDER~~ MUST SEND THE elector ~~shall be sent~~ a letter within three days after the ballot is cast, and no later than ~~three~~ TWO days after election day, explaining that he/ OR she ~~has not provided~~ MUST PROVIDE the required identification. Nothing in this rule ~~shall be construed to prohibit the designated election official~~ PROHIBITS THE COUNTY CLERK from calling the elector; however, a phone call ~~shall~~ DOES not substitute for notification to the elector in writing. IF THE ~~DESIGNATED ELECTION~~

Comment [S272]: This is a bizarre limitation and creates a huge dependence on the presumed accuracy of SCORE that is in no way justified. It also insults the citizen whose eligibility is being questioned, who apparently has the burden of providing all the necessary information on the provisional affidavit at the time it is created. If this limitation is to remain, then a bold face warning must be put on the provisional affidavit as to the effect of this limitation and the necessity for the elector to place all necessary claims and information on to the provisional affidavit. Note that under current rules, even the results of challenge questions are not written onto the provisional affidavit. This is unreasonable and unfair to the citizens who are given provisional ballots (under what I now believe is the a-priori assumption that they will not count.)

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Comment [S273]: One of the easiest mistakes to make in provisional processing is to fail to find an eligible voter in SCORE by failing to look hard enough. Rules must state exactly what the minimum level of effort and number of independent attempts must be made by separate officials to find each provisional elector.

Comment [S274]: What does "cast" mean to a provisional elector? Have they not "cast" the ballot when signing the provisional affidavit?

Comment [S275]: Will the rule above prevent the use of state records of signature or local signature cards to determine the signature match?

Comment [S276]: In answer to my above question, here we see tha the provisional elector has "cast" the ballot by using an affidavit.

~~OFFICIAL~~ COUNTY CLERK CALLS ANY ELECTOR HE OR SHE MUST CALL ALL ELECTORS WHOSE AFFIDAVITS ARE UNSIGNED.

Comment [S277]: Making this a county clerk role is another example of centralized non-citizen control of the election.

(b) If the elector provides a copy of valid identification within eight days after election day, the COUNTY CLERK MUST COUNT THE ballot ~~shall MUST be counted~~ so long as the elector has not cast another ballot in the election, the affidavit is complete, and the elector is otherwise eligible.

[Current Rule 26.4.9 is amended and moved to new Rule 17.2.7. Amendments between the current and new rule language are shown above.]

~~26.5.1~~ 17.2.8 If the information contained in the provisional ballot ~~envelope and~~ affidavit provides adequate criteria so that the ~~designated election official~~ COUNTY CLERK is able to confirm ~~under election Rule 26~~ that the elector is eligible to cast a ballot, the provisional ballot ~~shall~~ MUST count.

[Current Rule 26.5.1 is amended and moved to new Rule 17.2.8. Amendments between the current and new rule language are shown above.]

~~26.5.3~~ 17.2.9 Acceptance Codes (~~Any provisional ballot given an acceptance code shall have all~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST COUNT ALL races ~~counted unless otherwise indicated~~.)

AOK Reviewed and confirmed voter's eligibility.

ALC ELECTOR VOTED A PROVISIONAL BALLOT BECAUSE THE VOTER SERVICE AND POLLING CENTER LOST CONNECTIVITY. ELECTOR'S ELIGIBILITY IS CONFIRMED.

~~26.5.4~~ 17.2.10 Rejection Codes (~~Any~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT COUNT A ballot given a rejection code ~~shall not be counted~~):

RNS (Rejection not signed) Provisional Ballot Affidavit not signed.

RIN (Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.

REE (Rejection envelope empty) Provisional ballot envelope is empty.

RAB (Rejection voter voted ~~mail in~~ MAIL ballot) Designated election official has confirmed that voter voted a ~~mail in~~ MAIL ballot.

RED (Rejection based upon ballot cast ~~on election day~~ IN PERSON) Voter voted ANOTHER BALLOT in a ~~polling place~~ VOTER SERVICE CENTER OR POLLING CENTER.

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RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.

RFE (Rejection felon not eligible to vote) Individual was convicted of a felony and is either serving a sentence of confinement or detention or is on parole.

RWC (Rejection elector not A RESIDENT OF THE ~~DISTRICT~~, ~~registered in~~ county, or ~~A RESIDENT OF~~ THE State of Colorado) Non-county or non-state VOTER IS NOT A ~~STATE~~ resident; therefore voter THE INDIVIDUAL DOES NOT RESIDE WITHIN THE ~~DISTRICT,~~ COUNTY, OR STATE, AS APPLICABLE, AND IS not eligible to vote in the county where the provisional ballot was voted.

RID (Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter ~~who registered by mail or through a voter registration drive,~~ is tagged ~~as id~~ ID deficient, and did not provide ~~id~~ ID at the time of voting.

[Current Rules 26.5.3 and 26.5.4 are amended and moved to new Rules 17.2.9 and 17.2.10. Amendments between the current and new rule language are shown above.]

~~26.6~~ 17.3 The provisional ballot log required by section 1-8.5-110(4), C.R.S., may be prepared by the ~~designated election official~~ COUNTY CLERK in handwritten or computer-generated form. THE LOG IS A PUBLIC RECORD.

~~26.7~~ 17.4 Recount procedures for provisional ballots ~~shall be~~ ARE the same as the recount procedures for other ballots PURSUANT TO RULE 10 AND as directed by the Secretary of State~~.~~ EXCEPT THAT PROVISIONAL BALLOTS ACCEPTED FOR COUNTING SHALL NOT RETAIN THE MARK "PROVISIONAL" AND ANY SUCH MARK MUST BE REMOVED BY DUPLICATION BEFORE A RECOUNT IS CONDUCTED.

[Current Rules 26.6 and 26.7 are amended and moved to new Rules 17.3 and 17.4. Amendments between the current and new rule language are shown above.]

~~26.11~~ 17.5 Processing provisional ballot affidavits in the ~~statewide voter registration database~~ SCORE. Before closing an election, the county clerk ~~and recorder~~ must:

~~26.11.1~~ 17.5.1 Enter all provisional ballot affidavits into the SCORE provisional module ~~of the statewide voter registration database~~.

~~26.11.2~~ 17.5.2 PROCESS ALL VOTER REGISTRATION UPDATES.

17.5.3 Link all provisional ballot affidavits to the appropriate elector's record.

[Current Rule 26.11 is amended and moved to new Rule 17.5. Amendments between the current and new rule language are shown above.]

17.6 PUBLIC ACCESS TO PROVISIONAL BALLOT INFORMATION

17.6.1 THE LIST OF VOTERS WHO CAST A PROVISIONAL BALLOT AND THE ACCEPT/REJECT CODE FOR THE BALLOT IS AVAILABLE FOR PUBLIC INSPECTION.

17.6.2 IN ACCORDANCE WITH SECTION 24-72-204(8), C.R.S., THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT RELEASE AN ORIGINAL OR COPY OF THE ELECTOR'S:

Comment [S278]: This looks highly problematic. If it is one of many districts on the ballot that the voter resides outside of, that is not grounds for not counting the ballot at least for all districts that do include the permanent residence address. It is arguable that the 1303 law allows a Colorado elector to vote in any election. Apparently the federal only status np longer exists. Is it someone's presumption that any mismatch of ballot style to voter permanent address in SCORE means that the entire ballot does not count? This is highly problematic because voters like myself on the border of three counties will appear at the wrong county to vote (RWC). So this represents another inconvenience for voters who want to "vote anywhere".

Comment [S279]: This apparently needs to be mentioned here.

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Comment [S280]: The recount rule should be mentioned

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Comment [S281]: This is essentiual to protect voter privacy via ballot anonymity.

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(A) MONTH AND DAY OF DATE OF BIRTH;

(B) DRIVER'S LICENSE OR DEPARTMENT OF REVENUE IDENTIFICATION NUMBER;

(C) SOCIAL SECURITY NUMBER; ~~OR~~

(D) EMAIL ADDRESS; OR

(E) SIGNATURE.

17.6.3 IF A VOTER HAS REQUESTED CONFIDENTIALITY UNDER SECTION 24-72-204(3.5), C.R.S., THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT RELEASE THE ELECTOR'S ADDRESS OR TELEPHONE NUMBER.

17.6.4 IF A VOTER HAS REQUESTED CONFIDENTIALITY UNDER SECTION 24-30-2101, C.R.S., THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT RELEASE THE PROVISIONAL BALLOT AFFIDAVIT.

~~26.13~~ 17.7 Voter Access to Provisional Ballot Information

~~26.13.1~~ 17.7.1 The Secretary of State will provide a provisional ballot lookup on the Secretary's website.

~~26.13.2~~ 17.7.2 The county clerk ~~and recorder~~ must number the provisional ballot envelope or affidavit stock using the standard numbering convention approved by the Secretary of State.

18~~26.13.3~~ 17.7.3 An elector may access the system during the 20 DAYS PRIOR AND 45 days following the election.

[Section 1-8.5-111, C.R.S.]

[Current Rule 26.13 is amended and moved to new Rule 17.7. Amendments between the current and new rule language are shown above.]

[Current Rule 26 is amended and moved to new Rule 17. Amendments between the current and new rule language are shown above.]

Rule 18. UNIFORM BALLOT COUNTING STANDARDS

~~27.2~~ 18.1 ~~Multiple Page Ballots.~~ In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who ~~has returned~~ RETURNS at least one page of a multiple page printed ballot will be considered to have voted and the COUNTY CLERK ~~AND RECORDER~~ MUST COUNT THE votes on the submitted PAGES ~~page(s) shall be counted~~. ~~Any~~ THE COUNTY CLERK MUST NOT COUNT VOTES ON additional ~~page~~ PAGES returned at a later time ~~shall not be counted~~. ~~but shall be~~ THE COUNTY CLERK MUST appropriately ~~marked~~ MARK, set aside, and ~~preserved~~

Comment [S282]: Provisional ballots may be used at any time VSPC polling is underway, and electors deserve a chance to test their access before they attempt to vote.

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Comment [S283]: To adhere to this rule, stubs must be on all pages of the ballot and the stub numberts must be checked on removal of the secrecy sleeve from the envelope. This is however a best practice and should be enshrined in the SOS election rules. But it isn't. Please add the requirement to verify the stub number against the envelope identity when envelopes are opened. How are these uncounted ballot pages to be marked and stored once they are out of the envelope? What does appropriately mark mean? Does that mark render the ballot uncountable in a recount or after an investigation? This rule needs to be fleshed out.

PRESERVE THE BALLOTS as ~~other~~ election ~~materials~~ RECORDS in accordance with section 1-7-802, C.R.S.

~~27.3~~ 18.2 Uniform Counting Standards for hand-counted Paper Ballots

~~27.3.1~~ 18.2.1 ~~Pursuant to~~ IN ACCORDANCE WITH section 1-7-309, C.R.S., AND RULE ~~27.7~~ 18.6, judges counting ballots ~~on election day~~ ~~shall~~ MUST ~~take into consideration~~ CONSIDER the intent of the voter ~~in accordance with Rule 27.7~~.

~~27.3.2~~ 18.2.2 If a RACE OR BALLOT MEASURE IS OVERVOTED ~~ballot contains markings for more than the maximum votes allowed in a candidate race or for a ballot measure~~, THE JUDGES MUST NOT ~~no vote shall~~ count ANY VOTE for that race or ballot measure.

~~27.3.3~~ 18.2.3 If a ~~candidate~~ race or ballot measure contains no markings by the voter, no tally will be made for that race or ballot measure. ~~, but~~ BUT all other candidate races or ballot measures properly marked by the voter on the ballot ~~shall~~ MUST be counted.

~~27.3.4~~ 18.2.4 A ballot which has no markings for any candidate races or ballot measures ~~shall~~ MUST be tallied as a blank ballot, but the voter ~~shall~~ MUST be given credit for voting.

~~27.4~~ 18.3 Uniform Counting Standards for Optical Scan Ballots

~~27.4.1~~ 18.3.1 ~~Precinct~~ Optical Scan Procedures AT A VOTER SERVICE AND POLLING CENTER

(a) Voters whose ballots are rejected or sorted by ~~the precinct counter~~ A VOTER SERVICE AND POLLING CENTER SCANNER as ~~a~~ blank or overvoted ~~ballot~~ ~~shall~~ MUST be given the opportunity to correct their ballot.

(b) Ballots sorted to a write-in bin ~~shall~~ MUST be tallied at the conclusion of the voting and delivered to the DESIGNATED ELECTION OFFICIAL ~~central counting center~~ in a secure container BY SECURE METHODS INVOLVING MEMBERS OF OPPOSING PARTIES.

~~27.4.2~~ 18.3.2 Central Count Optical Scan Procedures

(a) ~~A~~ JUDGES SHOULD COMPLETE A visual inspection of every ballot ~~should be completed~~ for the limited purpose of separating damaged ballots into a unique batch AND ALSO DUPLICATING ANY THAT REVEAL VOTER IDENTITY.AS WELL AS ANY MARK ON A BALLOT THAT CLEARLY REPRESENTS VOTER INTENT THAT THE VOTING SYSTEM WILL NOT CAPTURE..

(b) JUDGES MUST RESOLVE, AND WHERE APPLICABLE, DUPLICATE, ~~Every~~ EVERY damaged ballot and all ballots sorted by the optical scan machine ~~shall be resolved, and where applicable duplicated,~~ in accordance with this rule.

(c) A resolution board, consisting of a BI-PARTISAN team~~(s)~~ of ~~one (1) Republican and one (1) Democrat~~ TWO ELECTION JUDGES for partisan

Comment [S284]: No, there are multiple days on which ballots are counted starting from 15 days before election day and running until certification.

Comment [S285]: "race or ballot measure" could be replaced by contest as I have defined it.

Comment [S286]: Ditto

Comment [S287]: Are "blank ballots" to be separately accounted for and reported? Apparently so.

Comment [S288]: Its not the ballot that is overvoted but one or more contests.

Comment [S289]: This "central counting center is undefined and therefore dangerous to deliver to.

Comment [S290]: Secure container is not enough. This has little to do with voter intent except that the voting system may not have any other record of this voter intent as a back up- therefore security is extra important.

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Comment [S291]: Some ballots might be inserted into the scanner even as damaged, but that must not be the case with the non-anonymous ballots. Also ballots containing indications of voter intent that cannot by design be captured by the voting system must be duplicated.

elections or two ~~(2)~~ qualified election judges for nonpartisan elections, ~~shall~~ MUST resolve all ballots sorted by the central count optical scan equipment AND THOSE REQUIRING DUPLICATION TO PROTECT VOTER PRIVACY AND ACHIEVE BALLOT ANONYMITY.

(1) The board ~~shall~~ MUST be observed by AT LEAST two WATCHERS AS ~~(2)~~ witnesses, who in any partisan election ~~shall~~ MUST INCLUDE ~~be~~ representatives of each major political party~~,~~. THE WITNESSES ~~who~~ may not handle or process ballots.

(2) ~~All persons engaged in the counting and processing of ballots shall~~ IN ADDITION TO ELECTION ~~JUDGES~~ OFFICIALS, ALL WITNESSES MUST be deputized or take an oath to faithfully perform their duties.

(3) The resolution board ~~shall~~ MUST maintain a log for each step of verification, duplication, and counting.

(d) Sequence of Resolution Procedures

(1) ~~A~~ THE RESOLUTION BOARD MUST RUN A ~~zero tape, or similar~~ report, ~~shall be run~~ ~~indicating no~~ TO DETERMINE IF ANY votes ARE REPORTED cast or counted before the counting begins.

EXCEPT FOR BALLOTS IDEPOSITED IN THE SCANNER BY THE VOTER,AT A POLLING LOCATION

(2) ~~Official ballots shall be processed through~~ THE BOARD MUST REVIEW ALL BALLOTS WITH OVERVOTES, BLANK BALLOTS, AND WRITE-IN BALLOTS SORTED BY the optical scanner~~, with sorted overvotes, blank ballots, and write-in ballots viewed and resolved by the resolution board~~. Ballots sorted by the optical scan equipment ~~shall be~~ ARE subject to review by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option ~~shall~~ MUST not be utilized.

(3) A voter's intent ~~shall~~ MUST be reviewed for every ballot that requires resolution.

(4) All ballots ~~which are~~ sorted by the optical scanner and resolved by the resolution board by duplication ~~are to be indicated as such~~ MUST BE MARKED AS DUPLICATED.

(5) The resolution board ~~shall~~ MUST maintain an official audit log for all ballots resolved setting forth the precinct number, duplicate ballot number ~~(~~where applicable~~)~~, SPECIFIC reason ~~(with specificity)~~ that the ballot was resolved, date of resolution, and the initials of the members of the duplication board responsible for resolving the ballot.

(6) The ~~precinct judge's ballot reconciliation~~STATEMENT OF BALLOTS formS ~~is~~ MUST BE compared to the number of scanned ballots for the ~~precinct.~~BATCH BY POLLING OR COUNTING LOCATION.

Comment [S292]: These ballots are not to be sorted the equipment until after duplication.

Comment [S293]: Only two is too restrictive especially if there are three major parties.

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Comment [S294]: "be" is a bit overly restrictive.

Comment [S295]: If witnesses are distinct from "watchers" then more rules must be promulgated for them. I would use the phrase "watchers" and get the advantage of all the watcher rules and statutes. Otherwise there is no way for witnesses to be selected.

Comment [S296]: Somehow we have to separate the ballots for in-person voting with the ballots in central count, without having clear definitional distinction.

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Comment [S297]: Updated to new terminology and recognizing that there is no precinct judge or precinct location, still the reconciliation can be done for the source of the ballots being tabulated and resolved.

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(7) EACH DAY After the final BATCH ~~precinct~~ has been tallied, the total write-in votes ~~shall~~ MUST be indicated on the ~~final~~ DAILY summary along with the seal numbers for each sealed box of scanned ballots.

(e) Resolution of damaged ballots

(1) THE RESOLUTION BOARD MUST DUPLICATE ~~Damaged ballots~~ DAMAGED or defective ballots ~~shall be duplicated~~ utilizing the ballot duplication procedures ~~as provided~~ in Rule ~~27.6~~ 18.5

(2) THE RESOLUTION BOARD MUST EXAMINE ~~Blank~~ ~~BLANK ballots~~ SORTED AS NOT VOTED ~~shall be examined by the resolution board~~ to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures ~~as set forth~~ in Rule ~~27.6~~ 18.5. If a ballot is truly blank, THE BOARD MUST ~~SEND~~ RESCAN ~~it shall be sent back for the resolution pass through the scanner, and~~ the ballot ~~MUST BE~~ AND TABULATE IT ~~tabulated~~ ~~with no races or ballot measures voted.~~

(3) THE RESOLUTION BOARD MUST INSPECT AND RESOLVE ~~Overvoted~~ ALL OVERVOTES ON ~~D~~ ballots ~~shall be inspected by the resolution board and resolved~~ in accordance with Rule ~~27.7~~ 18.6.

(4) Write-in votes sorted by the optical scan equipment on election day ~~shall~~ MUST be delivered to the RESOLUTION BOARD ~~assigned write-in board~~ for hand counting.

(i) During the initial ballot count, UNLESS VOTER INTENT IS CLEARLY SPELLED OUT ~~in order to be counted,~~ the oval must HAVE BEEN darkened or the arrow connected ~~according~~ WITH REASONABLE ADHERENCE to the appropriate voting instructions. THE COUNTY MAY COUNT ONLY ~~Only~~ votes for legally qualified write-in candidates ~~shall MAY be counted~~.

(ii) If, following the initial count, the number of undervotes in that race could change the outcome or ~~force the election into~~ TRIGGER a mandatory recount if attributed to a legally qualified write-in candidate, THE COUNTY MUST ~~NOT~~ COUNT votes for that candidate ~~shall MUST be counted~~ whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office. THIS WILL REQUIRE A HAND COUNT OF ALL BALLOTS.CONTAINING THE CONTEST. ALL VOTES FOR ELIGIBLE CANDIDATES IN THE CONTEST INCLUDING THOSE PRINTED ON THE BALLOT MUST BE COUNTED AT THE SAME TIME.AND ANY CORRECTIONS TO THE TALLY MADE.

(5) The resolution board ~~shall~~ MUST duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot UNLESS THE DUPLICATION IS TO PROTECT VOTER PRIVACY. For example, the first ballot in Precinct # 1 to be

Comment [S298]: This was the reason for the original definition of blank ballot- but this is a much clearer way to handle this so that we don't see already voted ballots given to voters. Blank ballots are the ones to be given to voters.

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Comment [S299]: There is no reason to suggest post voter marking here.

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Comment [S300]: "Assigned write-in board" is another unregulated phrase.. with no accountability or means for appointment. Resolution board makes sense here.

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Comment [S301]: Putting the tense correctly here avoids an implication that post voter marking is ok. Voter intent is the most important criterion, not the ability of the voting system to capture the voter intent. Note this means that written instructions expressing voter intent will be ignored. This is the result of a machine-centric interpretation of law in these rules. If during the initial review all stray marks indicating voter intent trigger duplication onto a new ballot, then this problem will be minor.

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Comment [S302]: "Force" is an inappropriate word here.

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Comment [S303]: This is simply a mistake-

Comment [S304]: This spells out what needs to be done to count the write-in votes for which the oval is not marked- but all candidates deserve the same treatment in the contest in case of any errors made in machine detection of votes for any of the candidates.

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Comment [S305]: The placement of a number and phrase "duplicate" on the ballot duplicated to achieve anonymity is counterproductive.

duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots ~~shall~~ MUST be separated from the duplicate ballots and placed in a sealable container clearly marked "ORIGINAL BALLOTS." The duplicate ballots ~~shall~~ MUST be counted in lieu of the original ballots.

(6) The resolution board ~~shall~~ MUST maintain an official audit log setting forth the precinct number, duplicate ballot number, THE SPECIFIC reason ~~(with specificity)~~ that the ballot was duplicated, date of duplication, and the initials of the members of the duplication board responsible for duplicating the ballot.

(f) Recount Procedures for Optical Scan

(1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested ~~prior to~~ BEFORE the recount, and ~~shall~~ MUST be programmed to sort undervotes for the individual ~~race(s) or ballot measure(s~~) CONTEST(S) being recounted.

(2) The county will conduct a recount of a race with a write-in candidate as outlined in Rule ~~27.7.4~~ 18.6.4.

~~27.5~~ 18.4 Uniform Counting Standards for DREs. A vote that is properly recorded, as specified by the voting instructions, on the voting device for an office or ballot measure ~~shall~~ MUST be counted.

~~27.6~~ 18.5 Duplication of Ballots.

(a)Using the damaged ballot as the guide, THE ~~DUPLICATING TEAM~~ RESOLUTION BOARD MUST MARK a blank ballot ~~shall be marked by a duplicating team,~~ so that the votes recorded are identical to those indicated on the damaged ballot. ~~, and shall~~ THE DUPLICATION MUST be proofed to ensure it is marked properly and accurately.

(b) Every duplicated ballot ~~shall~~ MUST be subject to the process for determining voter intent outlined in Rule ~~27.7~~ 18.6.

(c) A unique number ~~shall~~ MUST be assigned to both the original and duplicated ballot. This will reference the two ballots together and provide an audit trail. (Example: the ballots may be marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers starting with the number one.) THIS NUMBERING SHALL NOT BE DONE ON BALLOTS DUPLICATED FOR REASON OF PROTECTING VOTER PRIVACY.

(d) The duplicated ballots ~~shall~~ MUST be counted in the same manner as all other ballots to be counted.

(e) The damaged or unreadable original ballot ~~shall~~ MUST be marked "DUPLICATED" to indicate that the ballot has been duplicated and the duplication is completed. All duplicated original ballots for a precinct along with

Comment [S306]: "DUPLICATING TEAM" is not defined or regulated. Resolution board is a correct replacement. Resolution of voter intent is required during this function and watcher witnesses are required.

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Comment [S307]: Numbering the duplicate ballot intended to be separated from the original for anonymity reasons would be counterproductive.

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any applicable printed material ~~shall~~ MUST be placed in a sealable container and clearly marked "ORIGINAL BALLOTS."

~~27.7~~ 18.6 Determination of Voter Intent

~~27.7.1~~ 18.6.1 If a voter uses a consistent alternate ballot marking method that deviates from the method specified by the voting instructions (such as circling or placing a check mark behind a candidate's name or ballot response) and does not place an "X", check or other appropriate mark in the target ~~area(s)~~ AREA, the voter will be considered to have voted for the appropriate candidates and or ballot responses and the ballot ~~shall~~ MUST be duplicated. ~~; except that, BUT if a voter marks any of his/her HIS OR HER choices by placing an "X", check or other appropriate mark in any target area on the voter's ballot, only those choices where the target area has been IS marked shall MAY be counted.~~

~~27.7.2~~ 18.6.2 A ballot that has a mark correctly in ONE ~~the~~ target area that partially extends into another target area ~~shall~~ MUST be counted as a vote for the candidate or ballot response so marked OF THE FIRST TARGET AREA AND THE EXTENSION OF THE MARK SHALL BE CONSIDERED AS STRAY.

~~27.7.3~~ 18.6.3 When resolving an overvoted race, marks indicating the voter's intent ~~shall~~ include, ~~but not be limited to,~~ circling the candidate's name and strike-outs or corrections of choices.

~~27.7.4~~ 18.6.4 Write-in votes

~~27.7.4.1~~ (A) If a voter designates a vote for a named candidate on the ballot and writes in the name of the same candidate in the write-in area, the vote ~~shall~~ MUST be counted.

~~27.7.4.2~~ (B) If a voter designates a named candidate on the ballot and writes in the name of a different candidate in the write-in area, it ~~shall~~ MUST be considered an overvote for that office if the number of chosen candidates exceeds the number permitted to be voted for in that office and no vote ~~shall~~ MAY be counted.

~~27.7.4.3~~ (C) During any recount of votes, if the number of undervotes in that race could change the outcome if attributed to a legally qualified write-in candidate, votes for that candidate ~~shall~~ MUST be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office. THIS WILL REQUIRE A HAND COUNT OF ALL BALLOTS.CONTAINING THE CONTEST. ALL VOTES FOR ELIGIBLE CANDIDATES IN THE CONTEST INCLUDING THOSE PRINTED ON THE BALLOT MUST BE COUNTED AT THE SAME TIME.AND ANY CORRECTIONS TO THE TALLY MADE.

~~Rule 40.~~ Rule 19. ~~Rules Concerning~~ Certification and Education of Designated Election Officials

~~40.1~~ 19.1 Purpose and Definitions.

~~40.1.1~~ 19.1.1 The Secretary of State recognizes that the oversight of elections is a

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Comment [S308]: This rule violates the principle of primacy of voter intent. Consistency is a property of a machine, not a human voter or resolution board. But if this rule must be maintained here is a better way to write it- "Except that if a voter inconsistently follows the directions, only marks demonstrating a reasonable attempt to follow directions may be counted."

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Comment [S309]: Note that this requires marking of the write-in target for the resolution board to see it before a recount.

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Comment [S310]: This spells out what needs to be done to count the write-in votes for which the oval is not marked- but all candidates deserve the same treatment in the contest in case of any errors made in machine detection of votes for any of the candidates.

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profession that requires thorough knowledge of complex state and federal election law and election procedures. Considering the complexity of state and federal law, voting equipment, and election procedures, extensive training is necessary. The certification program standardizes election procedures and education. The program also promotes Colorado voters' confidence in their election officials and the election process.

~~40.1.2~~ 19.1.2 "Local election official" means a county clerk ~~and recorder~~. (Section 1-1-301(1), C.R.S.)

Comment [S311]: These rules must also work for municipal, special district and school district designated election offiicals.

~~40.1.3~~ 19.1.3 "Persons required to complete certification" means:

(a) The county clerk ~~and recorder~~; and

(b) Employees in the COUNTY clerk'S ~~and recorder's~~ office who are directly responsible for overseeing election activities, including but not limited to: voter registration, candidate qualifications and ballot certification, poll worker training, ballot design and setup, ballot counting, and canvassing.

(Section 1-1-302, C.R.S.)

~~40.2~~ 19.2 Advisory Board.

19.2.1 The advisory board must meet at least twice each calendar year to approve the curriculum and make necessary changes. The advisory board must also review evaluations and recommend changes to the certification program.

~~40.2.2~~ 19.2.2 The advisory board must review individual applications for certification and must approve applications that are accurate and complete. The advisory board may take into account special circumstances in reviewing and approving applications.

~~40.2.3~~ 19.2.3 The Secretary of State will appoint the following as board members:

(a) Four county clerks or designated staff members;

(b) Two Secretary of State Office representatives; and

(c) Any individual(s) whom the Secretary of State believes could make a valuable contribution to the Board.

~~40.2.4~~ 19.2.4 Board members serve at least a two-year term.

~~40.2.5~~ 19.2.5 The Secretary of State may terminate board members without cause. Failure to attend meetings or meaningfully contribute may result in termination.

~~40.3~~ 19.3 Curriculum.

~~40.3.1~~ 19.3.1 The Secretary of State will develop the core and elective curriculum

offered for certification and continuing elections education. The Secretary will post curriculum information on the Secretary of State's website.

~~40.3.2~~ 19.3.2 The Secretary of State will develop and administer all training outlined in this Rule ~~40~~ 19.

~~40.3.3~~ 19.3.3 To obtain Colorado certification, a person must complete the following minimum curriculum prescribed by the Secretary of State:

(a) Seven basic core courses;

(b) One core course relevant to primary job duty; and

(c) Six electives.

~~40.3.4~~ 19.3.4 To maintain Colorado certification, a person must complete at least five Continuing Elections Education courses by July 31 of every even year.

~~40.4~~ 19.4 Training Format.

~~40.4.1~~ 19.4.1 Web-based training may be conducted live or by reviewing material previously presented by the Secretary of State. In either case, participants must achieve a satisfactory score on assessments before receiving credit for the course.

~~40.4.2~~ 19.4.2 The Secretary of State will provide classroom training. For certification, a person must complete at least one course in-class.

~~40.5~~ 19.5 Credit.

~~40.5.1~~ 19.5.1 Individuals applying for certification must successfully complete the curriculum prescribed by the Secretary of State. If an applicant submits duplicate coursework, the advisory board may reject the application for certification.

~~40.5.2~~ 19.5.2 Training assessment.

(a) To receive certification credit for any course presented by the Secretary of State under this rule, a participant must successfully complete a training assessment with a minimum score of 85%.

(b) A participant who fails to achieve a score of at least 85% may retake the assessment.

(c) The Secretary of State may administer either paper or electronic assessments.

~~40.5.3~~ 19.5.3 Credit for Teaching Classes. A person who teaches or substantially assists with preparation of a class offered for certification is excused from the

assessment requirement outlined in Rule ~~40.5.2~~ 19.5.2 and will receive credit for the course.

~~40.5.4~~ 19.5.4 No election official may receive credit toward his or her Colorado certification for training offered by other agencies or organizations.

~~40.6~~ 19.6 Application Review, Certification, and Maintenance of Records.

~~40.6.1~~ 19.6.1 Once a person completes the required coursework, he or she must promptly submit an application for certification or continuing certification to the Secretary of State's office on the form approved by the Secretary of State.

~~40.6.2~~ 19.6.2 The Secretary of State must review the application with reference to the Secretary of State records. If the application is complete and accurate, the Secretary of State must forward it to the advisory board for its review and approval. Upon approval by the advisory board, the Secretary of State must issue a certificate that the person is a Certified Colorado Election Official.

~~40.6.3~~ 19.6.3 The Secretary of State must track attendance at all classes and keep records of attendance, continuing elections education, and records of those persons who are certified and persons who are in the certification process.

~~40.9~~ 19.7 Decertification. A person who fails to satisfy continuing education requirements will lose certification.

[Current Rule 40 is amended and moved to new Rule 19. Amendments are shown above.]

~~Rule 43.~~ Rule 20. County Security Procedures

~~43.1 20.1 Definitions.~~

~~43.1.1 20.1.1 "Chain-of-custody log" means a written record that shows that the equipment and all associated data are secured according to these procedures and in the documented control of an employee or deputized election judge through the entire time of ownership by the jurisdiction.~~

~~43.1.2 20.1.2 "DRE" means a direct recording electronic voting device. A DRE is a voting device that records votes by means of a ballot display provided with mechanical or electro-optical components or an audio ballot that the voter can activate; that processes data by means of a computer program; and that records voting data and ballot images in memory components or other media. The device may produce a tabulation of the voting data stored in a removable memory component and as printed copy. The device may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from remote sites to the central location.~~

~~38.1.3 20.1.3 "Elector data" means voting information, including but not limited to, voter registration, voting history, and voting tabulations.~~

~~38.1.4 20.1.4 "Electronic pollbook" is a list of eligible electors in electronic format who are permitted to vote at a polling place LOCATION in an election conducted under the Election Code, which shall be processed by a computer at a Vote Center VOTER SERVICE AND POLLING CENTER to be immediately accessible to all other computers at all Vote Centers VOTER SERVICE AND POLLING CENTERS in the county.~~

~~43.1.3 20.1.5 20.1.4 "Employee" means all full-time, part-time, permanent, and contract employees of the county who have had PASSED a COLORADO BUREAU OF INVESTIGATION (CBI) INTERNET criminal history check (ICHC) conducted in accordance with Rule 11.2 6.4 and are deputized by the county clerk and recorder to prepare or maintain the voting system or election setup materials, staff the counting center and who have any access to the electromechanical voting systems or electronic vote tabulating equipment.~~

~~43.1.4 20.1.6 20.1.5 "Removable card or cartridge" means any A programming card or cartridge, except a voter activation card, that stores firmware, software, or data.~~

~~43.1.5 20.1.7 20.1.6 "Seal" means a serial-numbered tamper-evident device that indicates a seal is broken or removed, IF BROKEN OR MISSING, INDICATES THAT THE CHAIN OF CUSTODY IS BROKEN A DEVICE IS NOT SECURE.~~

~~38.1.2 20.1.8 20.1.7 "Teleprocessing lines" means secure, dedicated communication transmission facilities used for the purpose of transferring elector data between Vote Centers VOTER SERVICE AND POLLING CENTER and a centralized computerized pollbook maintained by the county clerk and recorder, to ensure the security and integrity of voting information so that no deviation can go undetected.~~

~~43.1.6 20.1.9 20.1.8 "Trusted build" means the write-once installation disk or disks for software and firmware for which the Secretary of State or his/her agent has established the chain of evidence to the building of a the disk(S), which is then used to establish and/or re-establish the chain of custody CHAIN-OF-CUSTODY of any component of a voting system that contains newly installed firmware or software. The trusted build is the origin of the chain of evidence for any software and firmware component of the voting system.~~

~~43.1.7 20.1.10 20.1.9 "Video security surveillance recording" means video monitoring by a device that continuously records a designated location or a system using motion detection that records one frame, or more, per minute until detection of motion triggers continuous recording.~~

[Definitions moved to Rule 1, with amendments]

~~43.2~~ ~~20.2~~ 20.1 ~~Annual security plan.~~ In accordance with section 1-5-616(5), C.R.S., AND USING THE FORM PRESCRIBED BY THE SECRETARY OF STATE, ~~each~~ A county must ANNUALLY submit a security plan to the Secretary of State ~~annually and~~ no later than 60 days ~~prior to~~

BEFORE the first election in which the COUNTY WILL IMPLEMENT THE security plan procedures. ~~are used. The plan must, at a minimum, include the following:~~

~~43.2.1~~ ~~20.3~~ 20.2 General requirements CONCERNING CHAIN-OF-CUSTODY.

~~(a)~~ ~~20.3.1~~ 20.2.1 The county ~~clerk and recorder shall~~ MUST maintain on file all documentation of seals, ~~chain of custody~~ CHAIN-OF-CUSTODY, and other documents related to the transfer of equipment between parties. These documents are subject to inspection by the Secretary of State.

~~(b)~~ ~~20.3.2~~ 20.2.2 The county must maintain and document the ~~chain of custody~~ CHAIN-OF-CUSTODY for each voting device throughout the county's ownership or leasing of the device.

~~(c)~~ ~~20.3.3~~ 20.2.3 Only ~~deputized clerks, election judges,~~ ELECTION OFFICIALS or canvass board members sworn under oath are allowed to handle ballots, which include VVPAT records.

~~(d)~~ ~~20.3.4~~ 20.2.4 The county may install additional or modified software developed by the vendor on any component of the voting system only if the software is specifically listed on the Secretary of State's certificate and verified against the state trusted build. Nothing in this rule ~~shall preclude~~ PRECLUDES the use of commercial off-the-shelf software, provided that the software is included in the certified list of services and executables for the certified voting systems.

~~(e)~~ ~~20.3.5~~ 20.2.5 Any form or log containing "date" means to note the month, calendar day, year, hour, minute, and whether the time is a.m. or p.m.

~~43.3~~ ~~20.3.6~~ 20.2.6 The county ~~shall~~ MUST submit ~~with the security plan~~ sample copies of all referenced forms, schedules, logs, and checklists WITH THE SECURITY PLAN.

~~43.2.2~~ ~~20.4~~ 20.3 Physical locking mechanisms and seals. The county must record the serial number of every seal on the appropriate chain-of-custody log. Two individuals must verify, and indicate by signing and dating the log, that the seal serial numbers match the logged serial numbers. If a seal is inaccessible and cannot be removed, then it is not necessary to verify that seal serial number.

~~(a)~~ ~~20.4.1~~ 20.3.1 DREs AND BALLOT MARKING DEVICES. ~~The county must seal DRE voting devices as follows:~~

~~(1)~~(A) The county must place a seal over ~~any~~ ANY removable card or cartridge that is inserted into the unit, or over the slot or door covering the card or cartridge AND OVER ONE OF THE SCREWS THAT WHEN REMOVED PERMITS ACCESS TO THE INTERNALS OF THE VOTING DEVICE.

Comment [S312]: Why was this change made?

Comment [S313]: Just protecting the slot is not enough.

~~(2)~~(B) The county must place a seal over any removable card slot or cartridge slot when no card or cartridge is inserted into the unit.

~~(3)~~(C) If the county cannot verify the firmware or software hash value (MD5 or SHA-1), the county must seal the DRE case. To detect unauthorized access, the county must use seals at either the seams of the case or at key entry points such as screw access points.

~~(4)~~(D) If the voting device contains one or more slots for a flash memory card, the county ~~shall~~ MUST affix a seal over each each flash card slot, door, or access panel.

~~(5)~~(E) These same procedures also apply to the Judge's Booth Controller (JBC) unit for the Hart InterCivic System.

~~(6)~~(F) Two ~~employees or~~ election ~~judges~~ OFFICIALS must verify, and indicate by signing and dating the chain-of-custody log, that all seal serial numbers match the logged serial numbers.

~~(b)~~ ~~20.4.2~~ 20.3.2 ~~VVPATs. Prior to~~ BEFORE attaching a VVPAT to a specific voting device, the ~~judges shall~~ COUNTY MUST seal the unit after verifying that no votes were cast. At least two election ~~judges~~ OFFICIALS must verify that seals are intact ~~prior to~~ BEFORE the start of voting, and at the close of voting. VVPAT records ~~shall~~ MUST either remain in the VVPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule ~~11~~ ~~43.2.10~~ 20.12.

~~(c)~~ ~~20.4.3~~ 20.3.3 ~~Remote or central count optical scanners.~~ Optical scanners. ~~used in a remote or central tabulating location shall meet the following seal requirements:~~

~~(1)~~(A) The county must place a seal over each card or cartridge inserted into the unit, or over any door or slot containing the card or cartridge AND OVER ONE OF THE SCREWS THAT WHEN REMOVED PERMITS ACCESS TO THE INTERNALS OF THE VOTING DEVICE.

Comment [S314]: Just protecting the slot is not enough.

~~(2)~~(B) The county must place a seal over each empty card or cartridge slot or door covering the area where the card or cartridge is inserted.

~~(3)~~(C) ~~Prior to~~ BEFORE the start of voting and after the close of voting, two ~~employees or~~ election ~~judges~~ OFFICIALS must visually confirm that all seals are intact and that the seal serial numbers match those logged in the chain-of-custody log.

~~(d)~~ ~~20.4.4~~ 20.3.4 Memory ~~Cards/Cartridges~~ CARDS OR CARTRIDGES.

~~(1)~~(A) The county must assign and securely affix a permanent serial number to each removable card or cartridge. The county may use the manufacturer assigned serial number for this purpose.

~~(2)~~(B) The county must handle removable memory cards and cartridges in a secure manner at all times. The county must transfer and store any removable card ~~and/~~or cartridge that is not sealed in a voting machine in a secure container with at least one seal. Upon delivery and receipt, election judges or county personnel must verify, and indicate by signing and dating

the chain-of custody log, that all seal serial numbers match those listed in the log.

~~(3)~~(C) The county ~~clerk and recorder~~ must maintain a written or electronic log to record card or cartridge seal serial numbers and track seals for each voting unit. ~~The county clerk and recorder must be notified if control of a card/cartridge or door or slot for a card/cartridge is breached before an election, and he/she must follow the procedures specific to the incident outlined in Rule 43.2.11~~ .

Comment [S315]: Placing seals without a remedy when the seals are broken does not make sense.

~~43.2.3~~ ~~20.5~~ 20.4 Individuals with access to keys, door codes, and vault combinations.

~~(a)~~ ~~20.5.1~~ 20.4.1 For employees with access to areas addressed in Rule ~~43.2.3(c)~~ ~~43.5.3~~ 20.4.3, the county must state IN THE SECURITY PLAN ~~the employees' titles~~ EACH EMPLOYEE'S TITLE and the date~~s~~ of ~~CBI background checks~~ THE ICHC. [Section 24-72-305.6, C.R.S.]

~~(b)~~ ~~20.5.2~~ 20.4.2 The county must change all keypad door codes or locks, vault combinations, computer and server passwords, encryption key codes, and administrator passwords at least once per calendar year prior to the first election of the year.

~~(c)~~ ~~20.5.3~~ 20.4.3 Employee access.

~~(1)~~ The county may grant employees access to the codes, combinations, passwords, and encryption keys described in this Rule ~~43.2.3~~ 20.5 in accordance with the following limitations:

~~(A) Access to the code, combination, password, or encryption key for the storage area for voting equipment and the mail-in ballot counting areas is restricted to employees as defined in Rule 43.1.3~~.

~~(B)~~ (A) Access to the code, combination, password, or encryption key for the ~~mail-in~~ VOTING EQUIPMENT, ~~AND~~ ballot storage ~~area~~ AREAS, ~~and~~ counting room, or tabulation workstations is restricted to ~~ten~~ employees ~~as defined in Rule 43.1.3~~ WHO HAVE SUCCESSFULLY PASSED ~~A COLORADO BUREAU OF INVESTIGATION (CBI) INTERNET CRIMINAL HISTORY CHECK (ICHC)~~ CRIMINAL BACKGROUND CHECK DESCRIBED IN RULE 6.4. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION OFFENSE OR FRAUD IS PROHIBITED FROM HAVING ACCESS TO A CODE, COMBINATION, PASSWORD, OR ENCRYPTION KEY FOR THE VOTING EQUIPMENT, BALLOT STORAGE AREAS, COUNTING ROOM, OR TABULATION WORKSTATIONS.

~~(C)~~ (B) Except for emergency personnel, no other individuals ~~shall~~ MAY be present in these locations unless supervised by one or more ELECTION OFFICIALS ~~employees as defined~~ in Rule 43.1.3.

Comment [S316]: Is the word "employee" no longer defined? Is this a security loophole that needs to be closed? What about "emergency personnel" and who are they?

~~(i)~~ Each individual who has access to the central election management system or central tabulator ~~shall~~ MUST have their own unique username and password. No individual ~~shall~~ MAY use any other ~~individuals~~ INDIVIDUAL'S username or password. Shared accounts are prohibited.

~~(ii) The county shall maintain a log of each person who enters the ballot storage room, including the person's name, signature, and date and time of entry. If access to the ballot storage room is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log shall meet the requirements of this rule.~~

~~(2)~~ (C) In extreme circumstance, the county may request and the Secretary of State may grant exemption from the requirements outlined in Rule ~~43.2.3(c)(1)~~ ~~43.5.3~~ 20.5.3.

~~(d)~~ ~~20.5.4~~ 20.4.5 ~~Computer room~~ Access TO WHERE ELECTION MANAGEMENT SOFTWARE IS USED is limited to authorized ~~employees and~~ election ~~judges~~ OFFICIALS only. Messengers or runners delivering ballots between the preparation room and computer room ~~shall~~ MUST wear distinguishing identification. ~~This rule does not supersede access by watchers, official observers, and media observers in accordance with Rule 8.~~

Comment [S317]: Election management software is not defined.

Comment [S318]: These locations- computer room and preparation room are not defined.

~~43.2.9~~ ~~20.6~~ 20.5 Internal Controls for the Voting System

~~(a)~~ ~~20.6.1~~ 20.5.1 The ~~County~~ COUNTY must enable, create, and use passwords.

Comment [S319]: Curious that in the security section, instead of "election officials" or "clerk" it is only the "county" that has responsibility for security tools such as passwords. I would make this the most carefully specific section, with very specific roles that cannot be designated or transferred.

~~(b)~~ ~~20.6.2~~ 20.5.2 In addition to the access controls discussed in Rule ~~43.2.3(c)~~ 20.5, the county ~~shall~~ MUST change all passwords and limit access to the following areas:

~~(1)~~(A) Software. The county ~~shall~~ MUST change all software passwords once per calendar year prior to the first election. This includes any boot or startup passwords in use, as well as any administrator and user passwords and remote device passwords.

~~(2)~~(B) Hardware. The county ~~shall~~ MUST change all hardware passwords once per calendar year prior to the first election. This includes any encryption keys, key card tools, supervisor codes, poll worker passwords on smart cards, USB keys, tokens, and voting devices themselves as it applies to the specific system.

~~(3)~~(C) Password Management. The county ~~shall~~ MUST limit access to the administrative passwords to the election management software to two employees. The county ~~shall~~ MUST limit access to passwords for all components of the election software and hardware to two employees. The

county may provide an additional ten employees with access to the administrative passwords for the software components, and an additional ten employees with access to the administrative passwords for the hardware components of the voting system. THE VOTING SYSTEM PROVIDER MAY NOT HAVE AN ADMINISTRATIVE OR APPLICATION USER/OPERATOR ACCOUNT, OR ADMINISTRATIVE ACCOUNT ACCESS TO THE ACCOUNTS.

[Language from current Rule 45.5.2.6.1(a)(vi) is amended and relocated to Rule 20.6.2]

~~(4)~~(D) Internet Access. The county must never connect or allow a connection of any voting system component to the Internet.

~~(5)~~(E) Modem Transmission. The county must never connect any component of the voting system to another device by modem EXCEPT AS SPEIFICALLY ALLOWED BY THIS RULE~~except for the vote tally software as allowable by the certification of the specific device~~.

~~(6)~~(F) Remote ~~sites~~ VOTER SERVICE AND POLLING CENTERS. AT REMOTE VOTER SERVICE AND POLLING CENTERS, THE COUNTY may use modem functions of optical scanners and DREs only for the purpose of transmitting unofficial results~~, as permitted by the Secretary of State's certification documents for the specific systems~~. ~~A county using modem devices to transmit results shall meet the following requirements:~~

~~(A) A county may use a modem device only after all steps to close the polls are complete and summary tapes are printed, and may only use the device to transmit test data or unofficial results.~~

~~(B) The county shall not use a modem for any programming, setup, or individual ballot casting transmissions.~~

~~(C) The county shall change the receiving telephone number for the modem transmission at least once per calendar year prior to the first election.~~

~~(D) The county may provide the telephone number of the modem receiving the transmission to no more than six employees. The county shall not publish or print the receiving modem telephone number for any election judge. To the extent possible, the county shall program the telephone number into the device and use the device in a way that hides the display of the number from the view of election judges and voters at all times.~~

~~(7)~~(G) Authorized Employees. The county ~~shall~~ MUST include in ~~their~~ ITS security plan ~~the employees' titles~~ EACH EMPLOYEE'S TITLE and the ~~dates~~ DATE of ~~CBI~~ background checks ~~ICHC~~ for employees with access to any of the areas or equipment set forth in this Rule. Each county ~~shall~~ MUST maintain

Comment [S320]: Useful to check what is a voting system component. This is a good rule.

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Comment [S321]: What is the vote tally software? This should be deleted or better defined. Note that the certification caveat has been removed.

a storage facility access log that details employee name, date, and time of access to the storage facility in which the software, hardware, or components of any voting system are maintained. If access to the storage facility is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log ~~shall~~ MUST meet the requirements of this rule. [Section 24-72-305.6, C.R.S.]

[Current Rule 43.2.9 is amended and relocated to New Rule 20.5 above.]

~~43.2.4~~ ~~20.7~~ 20.6 Temperature-controlled storage. The county must maintain all components of the voting system and ballots in a temperature-controlled STORAGE environment. The county ~~shall~~ MUST attest to the temperature-control settings used with the following components of a voting system. Information submitted to the Secretary of State ~~shall~~ MUST indicate the specifics for each type of component, as well as the specific environment used, which may include, but is not limited to controlled offices, controlled vaults, and controlled warehouses. The county must maintain the following required temperature settings:

~~(a)~~ ~~20.7.1~~ 20.6.1 Servers and workstations. The county ~~shall~~ MUST maintain the temperature so that the maximum temperature at no time exceeds 90 degrees Fahrenheit.

~~(b)~~ ~~0.7.2~~ 20.6.2 DREs AND OPTICAL SCANNERS. The county ~~shall~~ MUST maintain the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.

~~(c) 20.7.3 20.6.3 Optical scanners. The county shall MUST maintain the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.~~

~~(d)~~ ~~20.7.4~~ 20.6.3 VVPAT records, PAPER BALLOTS, AND VIDEO DATA RECORDS. In addition to the requirements set forth in Rule 11, the county ~~shall~~ MUST maintain A DRY ENVIRONMENT AND A ~~the~~ temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit~~. The county shall maintain V-VPAT records in a dry environment~~, with storage at least four inches above the finished floor, for a period of 25 months following the election.~~ The humidity of the environment shall not exceed 80% humidity for a period of more than 24 hours. The county shall store V-VPAT records in a manner that prevents exposure to light, except as necessary during recounts and audits.~~

~~(e) Paper Ballots. The county shall maintain paper ballots in a dry, humidity-controlled environment. The humidity of the environment shall not exceed 80% humidity for a period of more than 24 hours. The county shall store paper ballots at least four inches above the finished floor, for a period of 25 months following the election.~~

~~(f) Video Data Records. The county shall maintain video data records in a dry, temperature-controlled environment. The humidity of the environment shall not~~

~~exceed 80% humidity for a period of more than 24 hours. The county shall maintain temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit. The county shall store video data records at least four inches above the finished floor, for a period of 25 months following the election.~~

~~43.2.5~~ ~~20.8~~ 20.7 Security cameras or other surveillance.

~~43.2.3(c)(1)(C)(ii)~~ ~~20.8.1~~ 20.7.1 The county ~~shall~~ MUST maintain a log of each person who enters the ~~ballot storage room~~ THE ~~SPECIFIED~~ AREAS SPECIFIED IN RULE ~~20.8.3~~ 20.7.3, including the person's name, signature, and date and time of entry. If access to the ~~ballot storage room~~ SPECIFIED AREAS is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log ~~shall~~ MUST meet the requirements of this rule.

~~(a)~~ ~~20.8.2~~ 20.7.2 Unless otherwise instructed, the county ~~shall~~ MUST make video security surveillance recordings of ~~specified~~ THE areas SPECIFIED IN RULE ~~20.8.3~~ 20.7.3 beginning at least 60 days prior to the election and continuing through at least 30 days after the election~~, unless there is a recount or contest~~. IF A RECOUNT OR LITIGATION CONCERNING THE ELECTION ~~CONTEST~~ OCCURS, THE RECORDING MUST CONTINUE THROUGH THE CONCLUSION OF ALL SUCH ACTIVITY. The recording system ~~shall~~ MUST ensure that records are not written over when the system is full. The recording system ~~shall~~ MUST provide a method to transfer the video records to a different recording device or to replace the recording media. If replaceable media is used then the county ~~shall~~ MUST provide a process that ensures that the media is replaced often enough to prevent periods when recording is not available. ~~If a recount or contest occurs, the recording shall continue through the conclusion of all such activity.~~

Comment [S322]: Note the use of "the election" several times in this section.

Comment [S323]: To avoid confusing use of the word "contest"

~~20.8.3~~ 20.7.3 The following are the specific minimum requirements:

~~(1)~~ (A) If the county has 50,000 or more registered voters, then the county ~~shall~~ MUST MAINTAIN A LOG AND make video security surveillance recordings of the following areas, excluding voting booths:

~~(A)~~ (1) All areas in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.

~~(B)~~ (2) All areas used for processing ~~mail in~~ ballots, including but not limited to areas used for Signature Verification, tabulation, or storage of voted ballots beginning at least 35 days prior to the election and continuing through at least 30 days after the election, unless there is a recount or LITIGATION~~contest~~. If a recount or ~~contest~~ LITIGATION occurs, the recording ~~shall~~ MUST continue through the conclusion of all such activity.

~~(C)~~ (3) The storage area for all voting equipment.

~~(2)~~ (B) If the county has fewer than 50,000 registered voters then the county ~~shall~~ MUST MAINTAIN A LOG AND make video security surveillance recordings of all areas, ~~excluding voting booths,~~ in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.

~~(b)~~ (C) The county must adequately ~~and continuously~~ light the area(s) subject to video surveillance to provide visibility for video recording.EITHER CONTINUOUS OR MOTION ACTIVATED LIGHTING MUST BE PROVIDED.

Comment [S324]: Without lighting, the video is useless.

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~~43.2.6~~ ~~20.9~~ 20.8 Equipment maintenance procedures. In addition to the requirements for voting systems INVENTORY specified in Rule ~~11.4~~ 11.3, the county ~~shall~~ MUST adhere to the following minimum standards:

~~(a)~~ ~~20.9.1~~ 20.8.1 The county ~~shall~~ MUST store all equipment throughout the year with seals over the memory card slots for each device. The county ~~shall~~ MUST maintain a log of the seals used for each device consistent to the logs used for tracking ALL OTHER REQUIRED ~~Election Day~~ seals.

Comment [S325]: Election day seals has no meaning.

~~(b)~~ ~~20.9.2~~ 20.8.2 For equipment being sent to the vendor for offsite repairs/replacements, the county must keep a maintenance log for the device that ~~shall~~ MUST contain the following: the model number, serial number, and the type of device; the firmware version; the software version (as applicable); the printed name and signature of the person sending the equipment; and the date of submission to the vendor.

~~(c)~~ ~~20.9.3~~ 20.8.3 ~~When a vendor provides on-site maintenance of equipment, vendor personnel shall annually provide to the county a CBI or equivalent background check for all vendor personnel that will have access to any component of the voting system. The county must keep current CBI or equivalent background check information on file. Additionally, an~~ AN employee ~~shall~~ MUST escort the vendor's representative at all times while on-site. At no time ~~shall~~ MAY the voting system vendor have access to any component of the voting system without supervision by an employee. [Section 24-72-305.6, C.R.S.]

~~(d)~~ ~~20.9.4~~ 20.8.4 Upon completion of any maintenance, the county ~~shall~~ MUST verify or reinstate the trusted build and conduct a full acceptance test of equipment that ~~shall~~ MUST, at a minimum, include the hardware diagnostics test, as indicated in Rule 11, and conduct a mock election in which an employee(s) ~~shall~~ MUST cast a minimum of five ballots on the device to ensure tabulation of votes is working correctly. The county ~~shall~~ MUST maintain all documentation of the results of the acceptance testing on file with the specific device.

~~(e)~~ ~~20.9.5~~ 20.8.5 The Secretary of State will annually inspect county maintenance records on a randomly selected basis.

~~43.2.7~~ ~~20.10~~ 20.9 Transportation of equipment, memory cards, ballot boxes, and ballots.

~~(a)~~ ~~20.10.1~~ 20.9.1 The county ~~shall~~ MUST submit detailed plans to the Secretary of State prior to an election regarding the transportation of equipment and ballots both to remote voting sites and back to the central elections office or storage facility. IF THERE IS ANY EVIDENCE OF POSSIBLE TAMPERING WITH A SEAL, OR IF THE SERIAL NUMBERS DO NOT MATCH THOSE LISTED IN THE CHAIN-OF-CUSTODY LOG, THE COUNTY CLERK MUST BE IMMEDIATELY NOTIFIED AND MUST FOLLOW THE PROCEDURES SPECIFIC TO THE INCIDENT AS DESCRIBED IN RULE ~~20.15.1~~ 20.13. While the method of transportation of equipment may vary, the following standards ~~shall apply when transporting voting equipment to the voting location~~ APPLY:

~~(1)~~ (A) Transportation by county personnel. County personnel ~~shall~~ MUST at all times display ~~a badge or other~~ identification provided by the County. Two EMPLOYEE signatures and date ~~of employees~~ are required at the departure location verifying that the equipment, including memory card or cartridge, is sealed to prevent tampering. Upon delivery of equipment, at least two ~~employees or~~ election ~~judges~~ OFFICIALS ~~shall~~ MUST verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact and that the serial numbers on the seals match the logged serial numbers. ~~If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.~~

~~(2)~~ (B) Transportation by election judges. Election ~~judges~~ OFFICIALS that are receiving equipment ~~from county personnel shall~~ MUST inspect all components of voting devices and verify the specific numbers by signature and date on the chain-of-custody log for the device. ~~The election judge receiving the equipment shall request two election judges at the voting location to inspect the devices and to sign and date the chain-of-custody log indicating that all seals are intact and that the serial numbers on the seals match with those on the seal tracking log. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.~~

~~(3)~~ (C) Transportation by contract. A county electing to contract the delivery of equipment to remote voting locations ~~shall~~ MUST perform AN ~~CBI background checks~~ ICHC on EACH OF the specific individuals ~~who will be~~ delivering the equipment. Two ~~employees or~~ election ~~judges~~ OFFICIALS ~~shall~~ MUST verify, sign, and date the chain-of-custody log upon release of the equipment to the individual(s) delivering the equipment. ~~Two other employees or election judges shall verify, sign, and date the chain-of-custody log after delivery of the equipment, and prior to the opening of the polls. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they~~

~~shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11. [Section 24-72-305.6, C.R.S.]~~

~~(b)~~ ~~20.10.2~~ 20.9.2 Standards for transporting voting equipment to and from the voting location:

~~(1)~~ (A) Required procedures if memory cards or cartridges are removed from voting devices at remote voting locations:

~~(A)~~ (1) Before removing a memory card or cartridge, two election ~~judges~~ OFFICIALS ~~shall~~ MUST inspect and verify that all seals on the device are intact and that the serial numbers on the seals match those listed on the chain-of-custody log. Both election ~~judges~~ OFFICIALS ~~shall~~ MUST sign and date the chain-of-custody log prior to breaking the seal. ~~If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.~~

~~(B)~~ (2) Election ~~judges~~ OFFICIALS ~~shall~~ MUST place the memory cards or cartridges in a sealable transfer case and must seal the case ~~with at least one seal~~. The election ~~judges~~ OFFICIALS ~~shall~~ MUST maintain a chain-of-custody log for the transfer case of the memory cards or cartridges.

~~(C)~~ (3) Election ~~judges~~ OFFICIALS ~~shall~~ MUST place new seals over the empty memory card/cartridge slot and/or door and document the seal numbers used.

~~(D)~~ (4) At least two ~~county personnel or~~ election ~~judges~~ OFFICIALS ~~shall~~ MUST accompany the transfer case ~~containing the memory cards/cartridges~~ to the ~~drop-off~~ PROCESSING location. The election ~~judges~~ OFFICIALS who receive the equipment must verify, and indicate by signing and dating the chain-of-custody log, that the seals are intact and seal serial numbers match those listed in the log. ~~If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, the county personnel or election judges shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.~~

~~(E)~~ (5) ~~County personnel or election judges~~ ELECTION OFFICIALS transporting secured voting equipment must maintain chain-of-custody logs. ~~If there is any evidence of possible tampering with a~~

~~seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.~~

~~(2)~~ (B) Required procedures if devices are delivered with memory cards/cartridges intact:

~~(A)~~ (1) Two ~~county personnel or~~ election ~~judges~~ OFFICIALS ~~shall~~ MUST verify that all seals are intact at the close of polls. Election judges ~~shall~~ MUST sign and date the chain-of-custody log with such indication. ~~If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.~~

~~(B)~~ (2) At least two ~~county personnel or~~ election ~~judges~~ OFFICIALS ~~shall~~ MUST accompany the secured equipment to the drop-off location. ~~Seals will be verified, and logs will be signed and dated by the county election official receiving the equipment. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.~~ THE PERSON RECEIVING THE EQUIPMENT MUST VERIFY THE SEALS AND SIGN AND DATE THE LOGS.

~~(C)~~ (3) Upon confirmation that the seals are intact and bear the correct numbers, ~~election judges OR THE COUNTY PERSONNEL~~ ~~shall~~ ELECTION OFFICIALS MUST remove and upload the memory cards/cartridges into the central count system.

~~(D)~~ (4) To secure the equipment, election ~~judges~~ OFFICIALS ~~shall~~ MUST place a tamper-evident seal over the memory card slot and update the chain-of-custody log to reflect the new seal number(s).

~~(c)~~ ~~20.10.3~~ 20.9.3 Required procedures for transportation of ballot boxes:

~~(1)~~ (A) Election ~~judges~~ OFFICIALS ~~shall~~ MUST seal all ballot boxes that contain voted ballots so that no person can access the ballots without breaking a seal. The election ~~judges~~ OFFICIALS ~~shall~~ MUST record all seals in the chain-of-custody log and two election judges ~~shall~~ MUST verify, and indicate by signing and dating the log, that the required seals are intact.

~~(2)~~ (B) Two ~~county personnel or~~ election ~~judges~~ OFFICIALS ~~shall~~ MUST accompany all ballot boxes that contain voted ballots at all times, except when the ballot box is located in a vault or secure physical location.

~~(3)~~ (C) The ballot box exchange requirements of section 1-7-305, C.R.S., are met if a chain-in-custody log is completed for each ballot box.

(D) IF A SEAL IS BROKEN OR CHAIN-OF-CUSTODY CANNOT BE VERIFIED, THE COUNTY CLERK MUST INVESTIGATE, DOCUMENT ~~THEIR~~ HIS OR HER FINDINGS, AND REPORT THE INCIDENT TO THE SECRETARY OF STATE, AS APPROPRIATE.

20.9.4 BALLOT SECURITY AT A VOTER SERVICE AND POLLING CENTER

(A) THE COUNTY MUST SECURE ~~UNVOTED~~ BLANK PAPER BALLOTS DURING PRE-ELECTION STORAGE, TRANSPORTATION, AND AT POLLING LOCATIONS.

(1) EXCEPT WHEN ELECTION OFFICIALS ARE ACTIVELY ISSUING BALLOTS THE BALLOT CONTAINERS MUST BE SEALED AND SECURE.

(2) THE COUNTY MUST MAINTAIN CHAIN-OF-CUSTODY LOGS FOR ALL BALLOT CONTAINERS,

(B) UNVOTED PAPER BALLOTS MUST BE TRANSPORTED TO POLLING LOCATIONS IN SEALED CONTAINERS. THE COUNTY CLERK MUST RECORD THE SEAL NUMBER ON A CHAIN-OF-CUSTODY LOG FOR VERIFICATION BY THE RECEIVING ELECTION OFFICIALS. THE RECEIVING ELECTION OFFICIAL MUST VERIFY THE BALLOT CONTAINER SEAL NUMBER BEFORE ISSUING BALLOTS.

(C) WHEN ELECTION OFFICIALS ARE ACTIVELY ISSUING BALLOTS, THE UNVOTED BALLOTS MUST BE IN CLEAR VIEW OF A MINIMUM OF TWO ELECTION OFFICIALS OF DIFFERENT PARTY AFFILIATIONS AND ONE OF THE ELECTION OFFICIALS MUST ACTIVELY MONITOR THE BALLOTS UNLESS THE BALLOTS ARE STORED IN A LOCKED LOCATION ACCESSIBLE ONLY TO ELECTION OFFICIALS.

(D) A MINIMUM OF TWO ELECTION OFFICIALS OF DIFFERENT PARTY AFFILIATIONS MUST RECONCILE AND DOCUMENT ALL UNVOTED, ISSUED, AND SPOILED PAPER BALLOTS AT THE END OF EACH DAY THE POLLING CENTER IS OPEN, AND IMMEDIATELY REPORT ANY INVENTORY DISCREPANCIES TO THE COUNTY CLERK.

(E) IF UNVOTED PAPER BALLOTS ARE STORED OVERNIGHT AT THE POLLING LOCATION, THE BALLOTS MUST BE SEALED IN CONTAINERS AND STORED IN A LOCKED LOCATION ACCESSIBLE ONLY TO ELECTION OFFICIALS.

Comment [S326]: I would use the word "blank" ballots here instead of "unvoted" that is not defined. Sorry to say, all this chain of custody control of the blank ballots at polling locations is absurd when compared to the total lack of control over the ballots sent by mail. I agree that ballot security is important- so it must be solved for the mail ballot case. One way is to absolutely depend on ballot stubs for identification of returned ballots with the ballot sent to the elector.

~~20.11 ELECTRONIC POLLBOOKS.~~

~~38.3.20.11.1 The designated election official shall COUNTY MUST establish written security procedures covering, WHICH COVER:~~

~~(A) The transference TRANSFER of Vote Center VOTER SERVICE AND POLLING CENTER teleprocessing information.;~~

~~38.3.2 (B) Such procedures shall include security covering The transmission of elector data processed through the electronic pollbook; and~~

~~(C) Reconciliation of the registration and history of voters casting ballots at a Vote Center VOTER SERVICE AND POLLING CENTER.~~

~~38.5.3 20.11.2 The county shall MUST submit in the security plan the system data transfer requirements to completely process a single voter record. This shall MUST include at a minimum the following:~~

~~a.(A) The data stream information on both send SENDING and receiving data STREAM INFORMATION for all points of the transaction until the transaction is complete;~~

~~b.(B) Information on all points where the connection is closed and the data stream released between the remote computer and the server; and~~

~~c.(C) The proposed method of securing transmissions across public networks.~~

~~38.5.4 20.11.3 The county shall MUST submit in the security plan a detailed list of all vote centers VOTER SERVICE AND POLLING CENTERS, with a proposed number of workstations connecting to the database and the proposed connection (including bandwidth and security) for each~~ location~~.~~

Comment [S327]: What happened to concern for security of electronic pollbook and devices that access SCORE?

[Provisions relating to connectivity requirements for Voter Service and Polling Centers moved to new Rule 2.18]

~~43.2.8~~ ~~20.12~~ 20.10 Contingency plans.

~~(a)~~ ~~20.12.1~~ 20.10.1 ~~Emergency~~ THE COUNTY MUST DEVELOP EMERGENCY contingency plans for voting equipment and voting locations IN ACCORDANCE WITH RULE ~~45~~ 21.

~~(1) All remote devices used in an election shall have sufficient battery backup for at least two hours of use. If this requirement is met by reliance on the internal battery of the voting device, then the county clerk and recorder shall verify that all batteries are fully charged and in working order prior to the opening of polls at the voting location. The use of third party battery backup systems also meets this requirement.~~

~~(2)~~ ~~20.12.2~~ 20.10.2 In the event of a serious or catastrophic equipment failure, or when equipment is removed from service ~~at one or more polling locations~~, or there is not adequate backup equipment to meet the requirements of section 1-5-501, C.R.S., the county ~~clerk and recorder shall~~ MUST notify the Secretary of State that

the county is using provisional ballots ~~or mail-in ballots~~ as an emergency voting method.

~~(b) A security plan must contain a section entitled "contingency plan" that includes the following:~~

~~(1) Evacuation procedures for emergency situations including fire, bomb threat, civil unrest, and any other emergency situations identified by the designated election official;~~

~~(2)~~ ~~20.12.3~~ 20.10.3 ~~Back up plans for~~ THE COUNTY CONTINGENCY PLANS AND EVACUATION PROCEDURES MUST ADDRESS emergency situations including fire, severe weather, bomb threat, civil unrest, electrical blackout, equipment failure, and any other emergency situations identified by the designated election official.~~;~~

~~(3) An emergency checklist for election judges; and~~

~~(4) A list of emergency contact numbers provided to election judges.~~

~~38.3.3~~ ~~20.12.4~~ 20.10.4 ~~Such procedures shall include contingency procedures for network and power failure. Such procedures shall at a minimum include procedures~~ THE COUNTY MUST DEVELOP PROCEDURES to address ~~all single point~~ failures OF SCORE CONTINUITY, ~~including:~~ WHICH INCLUDES~~:~~

(a)~~.~~ network failure,

(b)~~.~~ power failure that lasts less than one ~~(1)~~ hour, and

(c)~~.~~ Power failure that lasts more than one ~~(1)~~ hour.

~~38.3.4 Acceptable alternatives for addressing such failures include either:~~

~~a. A paper backup of the pollbook with the minimum information required to verify a voter's eligibility; or~~

~~b. A sufficient number of computers per vote center to ensure that the voter check-in continues in an efficient manner. The computers shall have the ability to function on batteries or an external power source for up to two (2) hours. In addition, each computer shall have an electrotnic backup of the current pollbook in one (1) of the following formats:~~

~~i. A Portable Document File (PDF);~~

~~ii. A spreadsheet that is limited to sixty-four thousand (64,000) lines if in Excel; or~~

~~iii. A database with a basic look-up interface.~~

~~38.3.5~~ ~~20.12.5~~ 20.10.5 ~~In addition to acceptable backup pollbook procedures, the security procedures shall address contingency procedures~~ ~~PROCEDURES~~ THE COUNTY MUST DEVELOP PROCEDURES to protect against activities such as voting twice, including ~~but not limited to~~ the use of an affidavit that the voter has not and will not cast another ballot.

[Current Rules 38.3.3-38.3.5 and 43.2.8 are amended and moved to new Rule 20.10.]

~~11.6~~ ~~20.13~~ 20.11 Procedures for ~~Voter Verifiable Paper Audit Trail (V-VPAT)~~ VOTER VERIFIABLE PAPER RECORD (VVPAT). THE FOLLOWING REQUIREMENTS APPLY ONLY TO DREs WITH A VVPAT.

~~11.6.1~~ ~~20.13.1~~ 20.11.1 Security. ~~11.6.1.1~~ The ~~V-VPAT~~ VVPAT record is considered an official record of the election, ~~pursuant to~~ IN ACCORDANCE WITH section 1-5-802, C.R.S. All security procedures related to election ballots ~~shall~~ MUST apply to ~~V-VPAT~~ VVPAT records.

~~11.6.1.2~~ (A) The housing unit for any ~~V-VPAT~~ VVPAT record to be used in the election ~~shall~~ MUST be sealed and secured prior to any votes being cast for the election. ~~Documentation of the seal number(s) must be maintained and noted prior to voting, and at the conclusion of voting. (a)~~ Election ~~judges~~ OFFICIALS ~~shall~~ MUST attest to the ~~V-VPAT~~ VVPAT record having no votes included on the paper record prior to the start of voting, and prior to the installation or replacement of a new ~~V-VPAT~~ VVPAT record. DOCUMENTATION OF THE SEAL NUMBER(S) MUST BE MAINTAINED AND NOTED PRIOR TO VOTING AND AT THE CONCLUSION OF VOTING.

~~11.6.1.3~~ (B) If a DRE with ~~V-VPAT~~ VVPAT is used during early voting, the seal number(s) must be recorded at the beginning and end of each voting day.

~~11.6.1.4~~ (C) At the close of the polls, the ~~V-VPAT~~ VVPAT records will be transferred to the ~~central~~ ELECTION office in the same manner as any paper ballots. In the absence of paper ballots, the ~~V-VPAT~~ VVPAT records will be transferred to the ~~central~~ ELECTION office in the same manner as ~~any~~ memory cards ~~containing electronic ballots~~.

~~11.6.2~~ ~~20.13.2~~ 20.11.2 Anonymity. ~~11.6.2.1~~ The ~~Election Official~~ DESIGNATED ELECTION OFFICIAL ~~shall put~~ MUST IMPLEMENT measures ~~in place~~ to protect the anonymity of voters choosing to vote on DREs ~~during the voting periods. These measures shall include:~~

(A) MEASURES TO PROTECT ~~THE~~ ANONYMITY ~~MAY~~ INCLUDE:

~~(a) Encouraging poll workers to personally vote on DREs when possible to ensure more than one vote will be cast on the device.~~

~~(b)~~ (1) Appropriate marking in ~~Poll Book~~ POLLBOOK or other voting list indicating ~~voters~~ VOTER'S choice to vote on DRE with the words: "Voted DRE", or similar in place of paper ballot information. THE COUNTY MAY NOT KEEP ANY ~~No~~ record ~~shall~~ ~~MAY be kept~~ indicating the order in which people voted on the DRE, or which ~~V-VPAT~~ VVPAT record is associated with the voter.

~~(c)~~ (2) When more than one DRE is available at a voting location, the voter ~~shall~~ MUST be given the choice as to which DRE they would like to vote on, to the extent ~~practical~~ PRACTICABLE.

~~(d) Encouraging or allowing any and all voters the opportunity to vote on a DRE if desired.~~

~~11.6.2.2~~ (B) THE COUNTY CLERK MUST REMOVE THE DATE/TIME STAMP FROM ANY ~~Any~~ report or export ~~(electronic or paper based)~~ generated from an electronic pollbook. ~~shall~~ MUST ~~remove the date/time stamp from the record and~~ THE COUNTY CLERK MAY not use this field as a sort method. THE COUNTY CLERK MUST RANDOMLY ASSIGN ANY ~~Any assignment of~~ Record ID ~~IDs~~, Key ID, or Serial Number stored in the database of votes ~~shall be randomly assigned~~.

~~11.6.2.3 Any Pollbook, electronic, paper or otherwise shall not be exposed to the same people at the same place who have exposure to the V-VPAT VVPAT records.~~

(C) ~~ELECTION JUDGES MAY NOT ACCESS VVPAT RECORDS AT THE TIME OF VOTING.~~ AT NO TIME MAY AN ELECTION ~~JUDGE~~ OFFICIAL SIMULTANEOUSLY ACCESS A VVPAT AND THE LIST OF VOTERS.

~~11.6.2.4~~ ~~The~~ Examination of the ~~V-VPAT~~ VVPAT record ~~shall always~~ MUST be ~~done~~ PERFORMED by at least two ~~witnesses~~ ELECTION ~~JUDGES~~ OFFICIALS.

~~11.6.3~~ ~~20.13.3~~ 20.11.3 Storage. ~~11.6.3.1~~ The storage of the ~~V-VPAT~~ VVPAT records must be consistent with storage of paper ballots pursuant to ~~section~~ 1-7-802, C.R.S.

~~11.6.3.2~~ (A) Individual spools containing ~~V-VPAT~~ VVPAT records must contain the following catalog information affixed to the spool:

~~(a)~~ (1) Date and name of election;

~~(b)~~ (2) Name of voting location;

~~(c)~~ (3) Date(s) and time(s) of voting;

~~(d)~~ (4) Machine serial number of DRE associated with the record; and

~~(e)~~ (5) Number of spools associated with this machine for this election (i.e. "Spool 1 of 1", or "Spool 1 of 2", etc.).

~~11.6.3.3~~ (B) Light sensitive storage containers ~~shall~~ MUST be used for the 25 month storage period to ensure the integrity of the ~~V-VPAT~~ VVPAT paper record. Containers ~~shall~~ MUST be sealed, with record of the seal numbers maintained on file and signed by two ~~elections~~ ELECTION officials ~~JUDGES~~.

~~11.6.3.4~~ (C) A master catalog ~~shall~~ MUST be maintained for the election containing the complete total number of ~~V-VPAT~~ VVPAT spools used in the election.

[Current Rule 11.6 is amended and relocated to New Rule 20.11. Amendments are shown above.]

~~43.2.10~~ ~~20.14~~ 20.12 Security training for election ~~judges~~ OFFICIALS. ~~(a)~~ The county ~~shall~~ MUST include in ~~their~~ ITS security plan the details of ~~their~~ ITS security training ~~for their election judges~~ ~~IN ACCORDANCE WITH RULE XX~~. The county must address the anticipated time of training, location of training, and number of election ~~judges~~ OFFICIALS receiving the security training, as it applies to the following requirements:

(~~1~~) (A) The county ~~shall~~ MUST conduct a separate training module for field technicians and election ~~judges~~ OFFICIALS responsible for overseeing the transportation and use of the voting systems, picking up supplies, and troubleshooting device problems throughout the Election Day.

(~~2~~) (B) Security training ~~shall~~ MUST include the following components:

~~(A)~~ (1) Proper application and verification of seals and chain-of-custody logs;

~~(B)~~ (2) How to detect tampering with voting equipment, memory cards/cartridges, or election data on the part of anyone coming in contact with voting equipment, including ~~employees, other~~ election ~~judges~~ OFFICIALS, vendor personnel, or voters;

~~(C)~~ (3) Ensuring privacy in voting booths;

~~(D) The nature of and reasons for the steps taken to mitigate the security vulnerabilities of voting systems;~~

~~(E)~~ (4) ~~V-VPAT~~ VVPAT requirements;

~~(F)~~ (5) Chain-of-custody requirements for voting equipment, memory cards/cartridges, and other election materials;

~~(G)~~ (6) Ballot security;

~~(H)~~ (7) Voter PRIVACY AND BALLOT anonymity; and

~~(I)~~ (8) Recognition and reporting of security incidents.

~~43.2.11~~ ~~20.15~~ 20.13 Remedies.

~~(a)~~ ~~41.15.1~~ 20.13.1 If a seal is broken, or ~~if~~ there is ~~a~~ ANOTHER discrepancy ~~in a chain of custody log, OR OTHER DISCREPANCY FOR ELECTRONIC VOTING EQUIPMENT~~, the election judges shall JUDGE ~~OFFICIAL MUST~~ immediately notify the county CLERK ~~clerk and recorder~~, who ~~shall~~ MUST ~~investigate, complete and submit to the Secretary of State an internal incident report, and follow the appropriate remedy as indicated in this rule or as directed by the Secretary of State.~~ REMEDY THE DISCREPANCY AS FOLLOWS:

~~(b) If the county clerk and recorder conducts an investigation in accordance with Rule 43.2.11(a) and is unable to determine why a seal was broken or why a discrepancy exists in a chain of custody log, then the county clerk and recorder shall file an incident report with the Secretary of State as soon as practicable, but no later than the close of the canvass period for the election. Any unit involved must undergo the reinstatement or verification of the trusted build, in accordance with State instructions. The following remedial actions are required if a device was tampered with (the county clerk and recorder may determine additional requirements based on the details of the incident report):~~

~~(1)~~(A) THE COUNTY OR SECRETARY OF STATE MUST REINSTATE OR VERIFY THE TRUSTED BUILD. For instances where the county can display, verify, or print the ~~trusted build~~ hash value (MD5 or SHA-1) of the firmware or software, the election official ~~shall~~ MUST document and verify that the hash value matches the documented ~~number~~ ALPHANUMERIC STRING associated with the trusted build for the software or firmware of that device.

~~(2)~~(B) If the evidence indicates that the ~~tampering~~ DISCREPANCY occurred ~~prior to~~ BEFORE the start of voting:

~~(A)~~(1) The election ~~judges~~ OFFICIALS ~~shall~~ MUST seal the device and securely deliver it to the county ~~clerk and recorder~~.

~~(B)~~(2) ~~The county clerk and recorder or his or her designee shall remove and secure the memory card following the procedures in Rule 43.2.2(d). The county clerk and recorder or his or her designee shall follow the State instructions for installing/verifying the trusted build for the specific device.~~ The county ~~clerk and recorder or his or her designee shall~~ OR THE SECRETARY OF STATE MUST install a new, secure memory card into the device, conduct a hardware diagnostics test as prescribed in Rule 11, and proceed to conduct ~~a logic and accuracy~~ AN ACCEPTANCE test on the machine in full election mode, casting at least 25 ballots on the device. The

Comment [S328]: Voters are not anonymous.

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Comment [S329]: County?

Comment [S330]: Ditto

county ~~shall~~ MUST maintain on file all documentation of testing and ~~chain of custody~~ CHAIN-OF-CUSTODY for each specific device.

~~(C)~~(3) The county ~~shall~~ MUST complete the necessary seal process and documentation to re-establish the ~~chain of custody~~ CHAIN-OF-CUSTODY for the device and new memory card.

~~(D)~~(4) The county ~~shall~~ MUST set the machine to election mode ready for a zero report.

~~(E) Repealed.~~

~~(3)~~(C) If the evidence indicates that the ~~tampering~~ DISCREPANCY occurred after votes were cast on the device ~~but before the close of polls~~:

~~(H)~~(1) THE COUNTY MAY NOT CONTINUE TO USE THE MACHINE UNTIL VERIFICATION OR REINSTALLATION OF TRUSTED BUILD AND ACCEPTANCE TESTING IS COMPLETE. The county ~~shall~~ MUST set the machine to election mode ready for a zero report BEFORE RESUMING VOTING ON THE DEVICE.

~~(A)~~(2) The election ~~judges~~ OFFICIALS ~~shall~~ MUST seal the device and securely deliver it to the county ~~clerk and recorder~~.

~~(B)~~(3) The county ~~clerk and recorder or his or her designee shall~~ MUST close the election on that device, and perform a complete manual ~~verification~~ COUNT of the paper ballots (or VVPAT records) to COMPARE TO the summary tape printed on the device that represents the record of votes on the memory card.

~~(C)~~(4) If the totals do not match then only the paper record COUNT will be accepted as the official results for that device. The county ~~clerk and recorder shall~~ MUST re-seal and secure the device and immediately report the discrepancy to the Secretary of State. ~~The county must not~~ NO use MAY BE MADE OF the device for the remainder of the election unless the trusted build is ~~reinstalled~~ REINSTATED.

~~(D)~~(5) If the totals match, the county may upload the memory card into the tally software at the close of polls.

~~(E)~~(6) After verifying the totals, the county ~~shall~~ MUST secure the paper records and memory card with seals and a chain-of-custody log.

~~(F) The county shall place a new and secure memory card in the device. The county clerk and recorder or his or her designee shall follow the State instructions for installing/verifying the trusted build for the specific device. The county clerk and recorder or his or her designee shall conduct a hardware diagnostics test as~~

Comment [S331]: Ditto… Should we define "county" as "county clerk"?

Comment [S332]: Ditto

Comment [S333]: Ditto

Comment [S334]: Ditto

Comment [S335]: Ditto

Comment [S336]: Ditto

Comment [S337]: Ditto

Comment [S338]: Describe what It is

Comment [S339]: Ditto

Comment [S340]: Not just in the county

Comment [S341]: County?

Comment [S342]: "tally software" is not defined..

Comment [S343]: County again.

~~prescribed in Rule 11. The county shall maintain on file all documentation of testing and chain of custody for the device.~~

~~(G)~~(7) The county ~~shall~~ MUST complete the necessary seal process and documentation to establish the ~~chain of custody~~ CHAIN-OF-CUSTODY for the device and memory card.

~~(H) The county shall set the machine to election mode ready for a zero report.~~

[Current Rule 43.2.11(a)(3)(H) is amended and moved to 20.13(c)(1) above]

~~(I)~~(8) ~~At the conclusion of the election~~ PRIOR TO CERTIFYING ELECTION RESULTS, the county ~~shall~~ MUST conduct a full (all ~~races~~ CONTESTS) post-election audit on the device and report PROCESS AND results to the Secretary of State as required by Rule 11. This requirement is in addition to the random selection FOR AUDIT OF DEVICES conducted by the Secretary of State.

~~(J) Repealed.~~

~~(4) If the evidence indicates that the tampering occurred after the close of polls:~~

~~(A) The election judges shall seal the device and securely deliver it to the county clerk and recorder.~~

~~(B) The county clerk and recorder or his or her designee shall perform a complete manual verification of the paper ballots (or V-VPAT records) to the summary tape printed on the device that represents the record of votes on the memory card.~~

~~(C) If the totals do not match then only the paper record will be accepted as the official results for that device. The county clerk and recorder shall re-seal and secure the device and immediately report the discrepancy to the Secretary of State. The county must not use the device for the remainder of the election unless trusted build is reinstalled.~~

~~(D) If the totals match, the county may upload the memory card into the tally software at the close of polls.~~

~~(E) After verifying the totals, the county shall secure the paper records and memory card with seals and a chain-of-custody log~~

~~(F) The county clerk and recorder or his or he designee shall follow the State instructions for installing/verifying the trusted build for~~

Comment [S344]: Very weak use of terminology for key actors considering this is the security section of the rules.

Comment [S345]: One more.

Comment [S346]: Not just races.

Comment [S347]: Not just results but a report of process.

Comment [S348]: To be clear, it is not just a random selection but an actual audit of other devices.

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~~the specific device and complete the necessary seal process and documentation to establish the chain of custody for the device.~~

~~(G) During the canvass process, the county shall conduct a full (all races) post-election audit on the device and report results to the Secretary of State as required by Rule 11. This requirement is in addition to the random selection conducted by the Secretary of State.~~

~~(H) Repealed.~~

~~(c)~~ ~~20.15.3~~ 20.13.2 The county ~~shall~~ MUST make all documentation related to the voting system and for every device used in the election available for Secretary of State inspection.

Comment [S349]: County?

~~43.2.12 The county shall MUST submit any additional physical security procedures not discussed in this rule to the Secretary of State for approval prior to the election.~~

~~43.3 The county shall submit with the security plan sample copies of all referenced forms, schedules, logs, and checklists.~~

[Current Rule 43.3 is moved to Rule 20.3.6]

~~43.4~~ ~~20.16~~ 20.14 Amendments and review of security plans.

~~43.4.1~~ ~~20.16.1~~ 20.14.1 If no changes have occurred since the last security plan was filed~~,~~ THEN the county ~~shall~~ MUST file a statement to that effect.

~~43.4.2~~ ~~20.16.2~~ 20.14.2 The county ~~shall~~ MUST clearly identify and describe any revisions to a previously filed security plan.

~~43.4.3~~ ~~20.16.3~~ 20.14.3 The county may change the security plan within 60 days of an election as a result of an emergency situation or other unforeseen circumstance. The county must document the changes and file the revisions with the Secretary of State within five days of the change.

~~43.4.4 If, under section 1-5-616(5)(b), C.R.S., the Secretary of State is unable to complete its review, the Secretary will notify the county that the security plan or revisions are temporarily approved until the review is complete.~~

~~43.5~~ ~~20.17~~ 20.15 Lease, LOAN, OR RENTAL OF ELECTION EQUIPMENT. ~~43.5.1~~ Nothing in this rule requires a county ~~clerk~~ to lease, loan, or rent any election equipment to any municipality, special district or other local jurisdiction.

~~43.5.2~~ ~~20.17.1~~ 20.15.1 A county ~~clerk who~~ THAT chooses to lease, loan, or rent any certified election equipment to a municipality, special district, or other local jurisdiction for use in their elections ~~shall~~ MUST ~~follow at least one of the following procedures in order to~~ maintain or reestablish an acceptable ~~chain of~~

~~custody~~ CHAIN-OF-CUSTODY and appropriate documentation in accordance with Rule ~~43.2.1~~ ~~20.3~~ 20.2.

~~43.5.3~~ ~~20.17.2~~ 20.15.2 Upon return of the ~~certified~~ voting equipment to the county ~~clerk and recorder, the county clerk is required to verify the trusted build, in accordance with State instructions~~, if the documentation and ~~chain of custody~~ CHAIN-OF-CUSTODY does not support the proper maintenance of the trusted build software ~~and chain of custody~~ THEN THE COUNTY MUST REINSTATE OR VERIFY THE TRUSTED BUILD BEFORE USING THE EQUIPMENT.

~~(a)~~ ~~20.17.3~~ 20.15.3 ~~After the local jurisdiction returns the certified equipment to the county clerk, the county clerk must reinstate or verify the trusted build in accordance with Rule 43 before the equipment is used in any primary, general, congressional vacancy, statewide ballot issue (including recall), or special election conducted by the county clerk.~~ TO REINSTATE OR VERIFY THE TRUSTED BUILD, THE COUNTY MUST IMPLEMENT ONE OF THE FOLLOWING PROCEDURES:

~~(b)~~(A) The county clerk ~~or their deputized representative shall~~ MUST:

(1) Deliver the ~~certified~~ equipment to the jurisdiction;

(2) Witness and document the installation of the memory card(s) or cartridge(s) used by the jurisdiction;

(3) Place one or more secure and numbered seals on the voting equipment in accordance with Rule ~~43.2.2~~ ~~20.4~~ 20.3. If during the course of the jurisdiction's election, the designated election official requires removal of a memory card or cartridge as a function of the election process, the county clerk ~~or their deputized representative shall~~ MUST witness and document the removal and proper resealing of the memory card or cartridge; and

(4) Upon return of the equipment to the county ~~clerk and recorder~~, the county ~~clerk shall~~ MUST verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact. If any seal is damaged or removed, the county ~~clerk shall reinstall~~ MUST REINSTATE or verify the trusted build ~~in accordance with this Rule 43~~.

~~(c)~~(B) The county ~~clerk and recorder shall~~ MUST designate and station deputized county staff with the loaned ~~certified~~ equipment at all times while the equipment is under control of the designated election official. The deputized county staff must maintain physical custody of the ~~certified~~ equipment at all times to ensure that no unauthorized access occurs.

~~(d)~~(C) In accordance with section 1-5-605.5, C.R.S., the county ~~clerk shall~~ MUST appoint the designated election official as a deputy for the purposes of

supervising the ~~certified~~ voting equipment. The designated election official ~~shall~~ MUST:

(1) Sign and submit to the county ~~clerk and recorder~~ an affirmation that he/she will ensure the security and integrity of the ~~certified~~ voting equipment at all times;

(2) Affirm that the use of the ~~certified~~ voting equipment is conducted in accordance with THIS Rule ~~43~~ 20 the specific Conditions for Use of the ~~certified~~ voting equipment; and

(3) Agree to maintain all chain-of-custody logs for the voting device(s).

~~43.5.3 Upon return of the certified voting equipment to the county clerk and recorder, the county clerk is required to verify the trusted build, in accordance with State instructions, if the documentation and chain of custody does not support the proper maintenance of the trusted build software and chain of custody.~~

~~20.18~~ 20.16 BALLOT ON DEMAND

~~20.18.1~~ 20.16.1 THE COUNTY MUST USE THE STATE-PROVIDED LAPTOP FOR BALLOT ON DEMAND PURPOSES ONLY.

Comment [S350]: Is this a defined single piece of equipment? Hard to believe.

~~20.18.2~~ 20.16.2 SOFTWARE ACCESS, SECURITY, AND STORAGE.

(A) THE COUNTY MUST CHANGE ALL WINDOWS AND BALLOT ON DEMAND APPLICATION PASSWORDS AT LEAST ONCE PER CALENDAR YEAR.

(B) ONLY ~~THE COUNTY, ELECTION JUDGES, SECRETARY OF STATE STAFF,~~ ELECTION OFFICIALS OR AUTHORIZED VENDOR REPRESENTATIVES MAY OPERATE THE BALLOT ON DEMAND SYSTEM.

(C) THE COUNTY MAY CONNECT THE BALLOT ON DEMAND LAPTOP TO AN EXTERNAL NETWORK FOR THE PURPOSE OF CONNECTING TO SCORE ONLY IF THE COUNTY MAINTAINS CURRENT VIRUS PROTECTION AND IMPLEMENTS FIREWALLS TO PREVENT UNAUTHORIZED ACCESS.

Comment [S351]: This seems insufficient for security and problematic.

(D) THE COUNTY MUST STORE THE STATE-PROVIDED LAPTOP~~(S)~~ AND UNUSED PAPER BALLOT STOCK IN A LOCKED STORAGE AREA WHEN THE PRINTER IS NOT IN USE.

~~20.18.3~~ 20.16.3 BALLOT RECONCILIATION.

(A) THE COUNTY MUST RECONCILE BALLOTS PRINTED ON DEMAND IN ACCORDANCE WITH RULES ~~41.4 AND 41.5~~ 20.4 AND 20.5.

(B) THE COUNTY MUST MAINTAIN DAMAGED, MISPRINTED, OR UNUSABLE BALLOTS AS ELECTION RECORDS.

~~Rule 45.~~ Rule 21. ~~Rules Concerning~~ Voting System Standards for Certification

~~45.1~~ 21.1 Definitions. The following definitions apply to their use in this rule only, unless otherwise stated.

~~45.1.1~~ 21.1.1 "Audio ballot" means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote in an election. It also provides the voter with audio stimuli and allows the voter to communicate voting intent to the voting system through vocalization or physical actions.

~~45.1.2~~ 21.1.2 "Audit log" means a system-generated record, in printed ~~and/~~or electronic format, providing a record of activities and events relevant to initializing election software and hardware, the identification of files containing election parameters, initializing the tabulation process, processing voted ballots and terminating the tabulation process.

~~45.1.3~~ 21.1.3 "Ballot image" means a corresponding TEXTUAL representation in electronic form of the marks or vote positions of a cast ballot that are captured by a ~~direct recording electronic voting device~~ DRE OR AN OPTICAL SCANNER "BALLOT SCAN" MEANS A DIGITALLY RETAINED PHOTOGRAPHIC IMAGE OF A BALLOT.

~~45.1.4~~ 21.1.4 "BALLOT MARKING DEVICE" OR "BMD" MEANS A DEVICE THAT USES ELECTRONIC TECHNOLOGY TO PERFORM THE FIRST AND OPTIONALLY THE SECOND STEP OF THE FOLLOWING:

(A) ~~MARK AN OPTICAL SCAN BALLOT~~ AFTER INTERACTIVE ~~T~~ VOTER DIRECTION AND VERIFICATION MARK A PAPER BALLOT SUITABLE FOR BEING OPTICALLY SCANNED,

(B) INTERPRET THE BALLOT SELECTIONS ALREADY MARKED ON A PAPER BALLOT, AND COMMUNICATE THE INTERPRETATION FOR VOTER VERIFICATION~~, AND THEN~~

~~(D) PRINT A VOTER-VERIFIED BALLOT.~~

A BMD INTEGRATES COMPONENTS SUCH AS AN OPTICAL SCANNER, PRINTER, TOUCH-SCREEN MONITOR, AND A NAVIGATIONAL KEYPAD OR OTHER INPUT METHODS AS WELL AS AUDIO OUTPUT.

~~45.1.4~~ 21.1.5 "Ballot style" means a specific ballot layout or content for an election. The ballot style is the presentation of the unique combination of contests ~~and candidates~~ for which the voter is eligible to vote. It includes the order of contests, ~~and candidates,~~ the list of ballot positions for each contest, and the binding of candidate names to ballot positions within the presentation. Multiple precincts may use a single ballot style ONLY IF PRECINCT NUMBER IS NOT CODED IN THE DESIGN OF THE BALLOT. Multiple styles may appear in a single precinct where voters are split between two or more districts or other categories defining voter eligibility for particular contests and candidates.

Comment [S352]: Trying to clearly describe a cast vote record and not a photographic image.

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Comment [S353]: Either source is possible.

Comment [S354]: New and different definition for a scanned photographic image of a ballot.

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Comment [S355]: This is a rewrite of the definition of a BMD. For HAVA compliance both steps are required. Voter verification happens when the paper ballot is read and verified, not when the content on the screen is verified. This is of crucial importance and the originally written rule misunderstands this point.

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Comment [S356]: Not necessary.

Comment [S357]: Ditto

Comment [S358]: Clarification

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~~45.1.5~~ 21.1.6 "Closed network" means a network structure in which devices are not connected to the internet or other office automation networks, except as allowable under THIS Rule ~~45.5.2.7~~ 21.

~~45.1.6 "Communications devices" means devices that may be incorporated in, or attached to, components of the voting system for the purpose of transmitting tabulation data between components or to another data processing system, printing system or display device.~~

~~45.1.7~~ 21.1.7 "DRE" means a direct recording electronic voting device. A DRE is a voting device that records votes by means of a ~~ballot~~ VISUAL AND AUDIO display ~~OR AN AUDIO~~ OF BALLOT CONTENTS AND CAPTURES ~~provided with~~ USER INPUT VIA mechanical or electro-optical components INCLUDING OPTIONAL INPUT DEVICES PROVIDED BY THE VOTER ~~or an audio ballot that can be activated by the voter~~, AND processes data by means of a ~~computer~~ SOFTWARE program and THAT records ~~voting data and~~ ballot images in memory components or other media. The device may produce a tabulation of the voting data stored in a removable memory component and as printed copy. The device may also provide a means for transmitting individual ballot IMAGEs or vote totals to a central location for consolidating and reporting results from remote sites to the central location.

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Comment [S359]: This definition needed improvement but I left the structure the same.

~~45.1.8~~ 21.1.8 "EAC" means the United States Election Assistance Commission.

~~45.1.9~~ 21.1.9 "Election management system" includes, but is not limited to, the ballot definition subsystem and the election reporting subsystem. The election management system may provide utilities for other election administration tasks, including maintaining equipment inventories, estimating ballot printing needs and maintaining information on ~~polling places~~ ~~VOTER SERVICE AND POLLING CENTERS~~ VOTER SERVICE AND POLLING CENTERS.

~~45.1.10~~ 21.1.10 "Election media" means any device including a cartridge, card, memory device or hard drive used in a voting system for the purposes of ~~programming ballot image~~ STORING ELECTION SETUP RECORDS ~~data~~ (ballot or card styles), recording voting results from electronic vote tabulating equipment or any other data storage required by the voting system for a particular election function. The election management system typically downloads ballot style information to the election media and uploads results and ballot images from the election media.

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~~45.1.11~~ 21.1.11 "Equipment" or "device" means a complete~~,~~ AND inclusive term to represent all items submitted for certification by the voting system provider. This can include, but is not limited to, any voting device, accessory to voting device, DRE, touch screen voting device, card programming device, software and hardware. "Equipment" may also mean a complete end to end voting system solution.

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~~45.1.12~~ 21.1.12 "MODIFICATION" MEANS A REVISION OR A NEW RELEASE OF AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM.

21.1.13 "OPTICAL SCANNER" MEANS AN OPTICAL OR DIGITAL BALLOT SCANNER.

~~45.1.12~~ 21.1.14 "Remote site" means any physical location identified by a designated election official as a location where the jurisdiction ~~shall~~ conducts the casting of ballots for a given election. A remote site includes, but is not limited to, locations such as ~~precinct polling places, vote centers, early voting sites and mail-in ballot counting sites~~ VOTER SERVICE AND POLLING CENTERS.

~~45.1.13~~ 21.1.15 ~~"Removable Storage Media"~~ "REMOVABLE STORAGE MEDIA" means storage devices that can be removed from the system and transported to another location for readout and report generation. Examples of removable storage media include, but are not limited to, programmable read-only memory (PROM), random access memory (RAM) with battery backup, thumb drives, magnetic media and optical media.

~~45.1.14~~ 21.1.16 "Secretary of State" ~~within the context of this rule,~~ means the Colorado Secretary of State and his or her ~~designated~~ agents including employees, contractors and volunteers BY SPECIFIC AND DOCUMENTED DESIGNATION.

Comment [S360]: This is how we achieve accountability for SOS actions. Under the circumstances.

~~45.1.15~~ 21.1.17 "Security" means the ability of a voting system to protect election information and election system resources with respect to confidentiality, integrity and availability.

~~45.1.16~~ 21.1.18 ~~"Split Precinct"~~"SPLIT PRECINCT" means a precinct that has a geographical divide between one or more political jurisdictions which results in each jurisdiction within the precinct to be assigned different ballot styles for a specific election.

~~45.1.17~~ ~~45.1.19~~21.1.19 ~~"Test Log" or "Test Records"~~"TEST LOG" OR "TEST RECORDS" means the documentation of certification testing and processes. This documentation may include, but is not limited to, certification testing reports, test plans, requirements matrices, photographs, written notes, video and/or audio recordings.

~~45.1.18~~ 21.1.20 ~~"Trusted Build"~~"TRUSTED BUILD" means the write-once installation disk or disks for software and firmware for which the Secretary of State or his/her agent has established the chain of evidence to the building of a disk, which is then used to establish and/or re-establish the ~~chain of custody~~ CHAIN-OF-CUSTODY of any component of the voting system which contains firmware or software. The trusted build is the SOS MAINTAINED origin of the chain of evidence for any software and firmware component of the voting system.

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~~45.1.20 "VOTING SYSTEM" MEANS:~~

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

~~(1) DEFINE BALLOTS;~~

~~(2) CAST AND COUNT VOTES;~~

~~(3) REPORT OR DISPLAY ELECTION RESULTS; AND~~

~~(4) MAINTAIN AND PRODUCE ANY AUDIT TRAIL INFORMATION; AND~~

~~(B) THE PRACTICES AND ASSOCIATED DOCUMENTATION USED TO:~~

~~(1) IDENTIFY SYSTEM COMPONENTS AND VERSIONS OF SUCH COMPONENTS;~~

~~(2) TEST THE SYSTEM DURING ITS DEVELOPMENT AND MAINTENANCE;~~

~~(3) MAINTAIN RECORDS OF SYSTEM ERRORS AND DEFECTS;~~

~~(4) DETERMINE SPECIFIC SYSTEM CHANGES TO BE MADE TO A SYSTEM AFTER THE INITIAL QUALIFICATION OF THE SYSTEM; AND~~

~~(5) MAKE AVAILABLE ANY MATERIALS TO THE VOTER (SUCH AS NOTICES, INSTRUCTIONS, FORMS, OR PAPER BALLOTS).~~

[Relocated to new Rule 1.1.33]

~~45.1.19~~ ~~21.1.22~~21.1.21 ~~"Voting System Test Laboratory" or "VSTL" means a "Federally Accredited Laboratory"~~ "VOTING SYSTEM TEST LABORATORY" OR "VSTL" MEANS A "FEDERALLY ACCREDITED LABORATORY", as defined in section 1-1-104(16.5), C.R.S., which is accredited by the EAC to conduct certification testing for voting systems.

~~45.5.2.9.1~~ ~~21.1.23 V-VPAT shall refer to a Voter-verified "VOTER-VERIFIED PAPER AUDIT TRAIL" OR "VVPAT" MEANS A DEVICE CAPABLE OF PRODUCING A VOTER-VERIFIED paper record as defined in section 1-1-104(50.6)(a), C.R.S.~~

[Relocated to new Rule 1.1.39]

~~45.2~~ 21.2 Introduction

~~45.2.1 Definition of voting system for certification purposes~~

~~45.2.1.1~~ 21.2.1~~The definition of a voting system for the purposes of this rule shall be as the term is defined in HAVA Section 301(b).~~ For Colorado purposes, no single component of a voting system, or device, meets the definition of a voting system except that nothing in this rule ~~shall~~ MAY be interpreted to require the testing of an entire modified system if the Secretary of State determines ~~pursuant to~~ IN ACCORDANCE WITH section 1-5-618, C.R.S., that a modification to any certified voting system requires testing for security and accuracy. ~~only~~ ONLY the modification ~~shall be required to~~ AND ANY AFFECTED FEATURES OR CAPABILITIES MUST be tested to ensure compliance with this Rule ~~45~~ 21.

~~45.2.1.2~~ 21.2.2 Sufficient components ~~shall~~ MUST be assembled to create a configuration that allows the system or modification as a whole to meet the requirements as described for a voting system in this rule.

~~45.2.3~~ 21.2.3 THE CERTIFICATION OF A VOTING SYSTEM ~~SHALL~~ MAY NOT BE INTERPRETED AS A REQUIREMENT THAT A COUNTY PURCHASE OR LEASE ALL OF THE COMPONENTS OF THE VOTING SYSTEM. COUNTIES MAY CHOOSE TO CONFIGURE AND USE A SUBSET OF THE CERTIFIED VOTING SYSTEM AND MAY USE THE SERVICES OF A VENDOR OR THIRD PARTY TO PROVIDE BALLOT DEFINITION AND ELECTION PROGRAMMING OF MEMORY CARDS. COUNTIES ARE NOT REQUIRED TO USE A PAPER BALLOT TABULATION DEVICE IF THEY CHOOSE TO MANUALLY TABULATE THE ELECTION RESULTS.

~~45.2.2 Authority~~

~~45.2.2.1 Pursuant to Articles 5 and 7 of Title 1, C.R.S., the Secretary of State is expressly authorized to adopt this rule.~~

~~45.2.3 Documents Incorporated by Reference~~

~~45.2.3.1 All documents incorporated by reference in this Rule 45 do not include any later amendments or editions of those documents.~~

~~45.2.3.2 All documents incorporated by reference in this Rule 45 may be viewed on the "Voting Systems" page of the "Elections Center" on the Secretary of State's website at www.sos.state.co.us, or by contacting the Secretary of State Voting Equipment Certification Program/1700 Broadway Suite 200/Denver, CO 80290.~~

~~45.3~~ 21.3 Certification Process Overview and Timeline

~~45.3.1~~ 21.3.1 The voting system ~~shall~~ WILL be considered as a unit, and all components ~~of such system shall be~~ tested at once, unless the circumstances necessitate otherwise. Any change made to individual components of a voting system ~~shall~~ WILL require the entire voting system TO be recertified ~~in accordance with this rule~~ unless the change is a modification that can be approved under ~~the provisions of~~ section 1-5-618(1.5), C.R.S.

~~45.3.2~~ 21.3.2 For a voting system to be certified, the voting system provider ~~shall~~ MUST successfully complete all phases of the certification process~~, to include submitting a complete application, a review of the documentation to evaluate whether the system meets the requirements of this rule, a public demonstration of the system, functional testing of the voting system to demonstrate substantial compliance with the requirements of this rule and Colorado Election Code as well as any additional testing that is deemed necessary by the Secretary of State~~. THE CERTIFICATION PROCESS INCLUDES: SUBMISSION OF A COMPLETE APPLICATION, A DOCUMENTATION REVIEW, A PUBLIC DEMONSTRATION OF THE SYSTEM, AND FUNCTIONAL TESTING.

~~45.3.3~~ 21.3.3 The flow of each phase of certification is as follows:

(a) Phase I – ~~Voting~~ THE VOTING system provider ~~submits~~ MUST SUBMIT an application and all documentation required in Rule ~~45.4~~ 21.4. The Secretary of State ~~reviews~~ WILL REVIEW the ~~applicaton~~ APPLICATION and ~~informs~~ INFORM the voting system provider whether or not the application is complete. ~~If the application is complete, the Secretary of State makes arrangements with the voting system provider for a public demonstration.~~ If the application is incomplete, the Secretary of State ~~shall~~ WILL identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete. WHEN THE APPLICATION IS COMPLETE, THE SECRETARY OF STATE WILL MAKE ARRANGEMENTS WITH THE VOTING SYSTEM PROVIDER FOR A PUBLIC DEMONSTRATION.

(b) Phase II – The Secretary of State ~~reviews~~ WILL REVIEW the submitted documentation, ~~conducts the review of~~ VSTL REPORTS FROM PREVIOUS TESTING, AND ~~or~~ evaluations provided by ~~another State under Rule 45.5.1.3, prepares a certification test plan for the system and presents the test plan to the voting system provider~~ OTHER STATES.

(C) PHASE III – THE SECRETARY OF STATE WILL PREPARE A CERTIFICATION TEST PLAN. IF A VSTL IS CONTRACTED TO TEST THE VOTING SYSTEM, THE VSTL WILL WORK WITH THE SECRETARY OF STATE TO PREPARE A CERTIFICATION TEST PLAN. THE CERTIFICATION TEST PLAN WILL BE PRESENTED TO THE VOTING SYSTEM PROVIDER FOR REVIEW ~~PRIOR TO THE START OF FUNCTIONAL TESTING~~ BEFORE EXECUTION OF THE TEST PLAN.

~~(c)~~ (D) Phase ~~III~~ IV– Upon receipt of the voting system provider's agreement to the CERTIFICATION test plan, the Secretary of State ~~performs~~ OR THE VSTL WILL ~~PERFORM the functional tests~~ EXECUTE THE TEST PLAN.

~~(d)~~ (E) Phase ~~IV~~ V – The Secretary of State ~~reviews~~ WILL REVIEW the TEST results ~~of the functional tests~~ and ~~decides~~ DETERMINE whether ~~to certify or not to certify~~ the voting system SUBSTANTIALLY MEETS THE REQUIREMENTS FOR CERTIFICATION. Within 30 days of ~~the~~ ~~THIS~~ A decision, ~~to certify or not certify the voting system~~, the SECRETARY OF STATE WILL POST THE certification test report for the voting system ~~shall be posted~~ on ~~the Secretary of State's~~ ITS website.

~~45.6.3~~ 21.3.4 The Secretary of State ~~shall~~ WILL certify voting systems that substantially comply with the requirements in this Rule 21, Colorado Election Code, and any additional testing that is deemed necessary by the Secretary of State.

~~45.4~~ 21.4 Application Procedure

~~45.4.1~~ 21.4.1 Any voting system provider may apply to the Secretary of State for certification at any time.

~~45.4.2~~ 21.4.2 A voting system provider that ~~submits~~ DESIRES TO SUBMIT a voting system for certification ~~shall~~ MUST complete the Secretary of State's "Application for Certification of Voting System" WHICH IS AVAILABLE ON THE SECRETARY OF STATE'S WEBSITE.

~~45.4.3~~ 21.4.3 The Secretary of State, in accordance with section 24-21-104(1)(a), C.R.S., ~~shall~~ WILL charge the voting system provider all direct and indirect costs associated with the testing of a voting system submitted for certification. The Secretary of State ~~shall~~ WILL provide~~, upon request,~~ an estimate of costs for certification testing ~~at the conclusion of Phase II evaluation. PRIOR TO~~ BEFORE THE ~~COMMENCEMENT OF FUNCTIONAL TESTING~~ CERTIFICATION PROCESS BEGINS. IN ORDER TO BEGIN ~~FUNCTIONAL~~ TESTING, THE VOTING SYSTEM PROVIDER ~~SHALL~~ MUST PROVIDE A WRITTEN APPROVAL OF THE COST ESTIMATE. THE VOTING SYSTEM PROVIDER ~~All costs shall~~ MUST PAY ALL COSTS BEFORE THE SECRETARY OF STATE WILL ISSUE ~~be paid in full prior to the issuance of~~ a final determination ~~by the Secretary of State~~.

~~45.4.4~~ 21.4.4 Along with the application, the voting system provider ~~shall~~ MUST submit all documentation required in this Rule ~~45~~ 21 IN ELECTRONIC FORMAT. ~~The requirements include documentation necessary for the identification of the full system configuration submitted for certification. Documentation shall include information that defines the voting system design, method of operation and related resources. It shall also include a system overview and documentation of the voting system's functionality, accessibility, hardware, software, security, test and verification specifications, operations procedures, maintenance procedures and personnel deployment and training requirements. In addition, the documentation submitted shall include the voting system provider's configuration management plan and quality assurance program.~~

~~45.4.5 Electronic copies of documentation are preferred and shall be submitted in lieu of a hard copy when possible.~~

~~45.4.6~~ 21.4.5 The vendor ~~shall~~ MUST identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, section 24-72-204, et. seq., C.R.S., together with a citation to the specific grounds for exemption~~. The request shall MUST be made prior to~~ BEFORE BEGINNING ~~the start of~~ Phase III ~~IV~~ of the certification process.

~~45.4.7 If the EAC has established a trusted build for the system submitted for certification, the trusted build shall be provided by the EAC. The voting system provider shall execute and submit to the EAC any necessary releases for the EAC to provide the same and provide the Secretary of State with a copy of such executed releases. The voting system provider shall pay directly to the EAC any cost associated with same. In addition, the voting system provider shall submit all documentation and instructions necessary for the creation and guided installation of files contained in the trusted build which will be created at the start of functional testing and will be the model tested. The Secretary of State reserves the~~

~~right to add additional instructions or guidance for the use of the trusted build when initiating the chain of custody process for a jurisdiction using the specified equipment.~~

~~45.4.8~~ 21.4.6 ~~If the EAC does not have a trusted build for the voting system submitted for certification, the~~ THE voting system provider ~~shall~~ MUST coordinate with the Secretary of State for the establishment of the trusted build. THE VOTING SYSTEM PROVIDER ~~SHALL~~ MUST SUBMIT ALL DOCUMENTATION AND INSTRUCTIONS NECESSARY FOR THE CREATION AND GUIDED INSTALLATION OF FILES CONTAINED IN THE TRUSTED BUILD WHICH WILL BE CREATED AT THE START OF FUNCTIONAL TESTING AND WILL BE THE MODEL TESTED. At a minimum, ~~this~~ THE TRUSTED BUILD ~~shall~~ MUST include a compilation of files placed on write-once media ~~for which the Secretary of State has observed the chain of evidence from the time of source code compilation through delivery~~, and an established hash file distributed from a VSTL or the National Software Reference Library to compare federally certified versions. ~~All or any part of the~~ THE trusted build disks ~~may be encrypted. If applicable, they~~ should all be labeled ~~as proprietary information and~~ with identification of the voting system provider's name and release version ~~based on the voting system provider's release instructions~~.

~~45.4.9~~ 21.4.7 All materials submitted to the Secretary of State ~~shall~~ MUST remain in the custody of the Secretary of State ~~during the life of the certification and for 25 months after the last election in which the system is used with the exception of any equipment provided by the voting system provider for the purposes of testing.~~AS FOLLOWS:

(A) FOR CERTIFIED SYSTEMS, UNTIL THE CERTIFICATION IS PERMANENTLY REVOKED, OR UNTIL NO COMPONENTS OF THE CERTIFIED SYSTEM ARE USED IN THE STATE OF COLORADO; AND

(B) FOR SYSTEMS THAT ARE NOT CERTIFIED, A PERIOD OF 25 MONTHS.

~~45.4.10~~ 21.4.8 ~~In addition to the application and the documentation specified above, the~~ THE APPLICANT MUST PROVIDE ALL ADDITIONAL INFORMATION REQUESTED BY THE Secretary of State ~~may request additional information from the applicant, as deemed necessary~~.

~~45.5~~ 21.5 Voting System Standards

~~45.5.1 Federal Standards~~

~~45.5.1.1~~ 21.5.1 All voting systems ~~shall~~ MUST meet the ~~voting systems standards pursuant to section 1-5-601.5, C.R.S., and Secretary of State Rule 37.3~~ 2002 VOTING SYSTEM STANDARDS.

~~45.5.1.2~~ 21.5.2 THE VOTING SYSTEM PROVIDE MUST DOCUMENT THAT ~~All~~ ALL voting system software, hardware, and firmware ~~shall~~ ~~MUST~~ meet all requirements of

federal law that address accessibility for the voter interface of the voting system. These laws include~~, but are not limited to,~~:

(a) ~~the~~ THE Help America Vote Act,

(b) ~~the~~ THE Americans with Disabilities Act, and

(c) ~~the~~ THE Federal Rehabilitation Act. ~~The voting system provider shall MUST explicitly acknowledge that their proposed software, hardware and firmware are all in compliance with the relevant accessibility portions of these laws.~~

~~45.5.1.3 The Secretary of State may use and rely upon the testing of a voting system performed by a VSTL or by another state upon satisfaction of the following conditions:~~

~~(a) The Secretary of State has complete access to any documentation, data, reports or similar information upon which the VSTL or another state relied in performing its tests and will make such information available to the public subject to any redaction required by law; and~~

~~(b) The Secretary of State makes written findings and certifies that he or she has reviewed such information and determines that the tests were conducted in accordance with appropriate engineering standards in use when the tests were conducted and the extent to which the tests satisfy the requirements of sections 1-5-615 and 1-5-616, C.R.S., and all rules promulgated under those sections.~~

[Current rule 45.5.1.3 is mended and moved to Rule 21.5.12(a).]

~~45.5.2 State Standards~~

~~45.5.3~~ 21.5.3 INDEPENDENT ANALYSIS

~~45.5.2.4.3~~ (A) ~~Prior to~~ BEFORE completion of functional testing, all voting system providers submitting a voting system ~~shall~~ MUST COMPLETE an independent analysis of the system~~.~~, WHICH ~~SHALL~~ INCLUDES:

~~(a) The independent analysis shall include:~~

~~(i)~~ (1) An application penetration test conducted to analyze the system for any potential vulnerabilities that may result from poor or improper system configuration, known ~~and/~~or unknown hardware or software flaws, or operational weaknesses in process or technical countermeasures. The test ~~shall~~ MUST involve active exploitation of security vulnerabilities of the voting system, whether or not the vulnerabilities can be mitigated through compensating controls.

~~(ii)~~ (2) A source code evaluation conducted ~~pursuant to the requirements identified in Rule 45.5.2.6.1(f), requiring compliance with the 2002 voting system standards~~ IN ACCORDANCE WITH SOFTWARE DESIGN AND CODING STANDARDS OF THE 2002 VOTING SYSTEM STANDARD OR THE MOST CURRENT VERSION OF THE VOLUNTARY VOTING SYSTEM GUIDELINES ~~THAT HAS BEEN~~ APPROVED AFTER JANUARY 1, 2008.

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

~~(c)~~ (4) The ~~vendor~~ VOTING SYSTEM PROVIDER ~~shall~~ MUST use ~~an EAC approved VSTL~~ AT LEAST ONE OF THE FOLLOWING to perform the independent analysis~~, or submit the results of testing conducted in another state, or some combination of such VSTL and state testing that meets the requirements of this rule.~~:

~~(i)~~ (A) AN EAC APPROVED VSTL;

~~(ii)~~ (B) TESTING CONDUCTED IN ANOTHER STATE; OR

~~(iii)~~ (C) SOME COMBINATION OF SUCH VSTL AND STATE TESTING THAT MEETS THE REQUIREMENTS OF THIS RULE.

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

~~(e)~~ (6) ~~When an analysis performed by another state is used, the~~ THE Secretary of State ~~has the right to~~ MAY reject any evaluation if not satisfied with the work product and to require additional analysis to meet the requirements of section 1-5-608.5, C.R.S., and this Rule.

[Rule 45.5.2.4.3 is amended and moved to New Rule 21.5.3(a). Amendments are shown above.]

~~45.5.2.1~~ 21.5.4 Functional ~~requirements~~ REQUIREMENTS

~~45.5.2.1.1~~(A) Functional requirements ~~shall~~ MUST address ~~any and~~ all detailed operations of the voting system related to the management and controls required to successfully conduct an election ~~on the voting system~~.

~~45.5.2.1.2~~ (B) The voting system ~~shall~~ MUST provide for appropriately authorized users to:

~~(a) Prepare the system for an election;~~

~~(b)~~ (1) ~~Setup~~ SET UP and prepare ballots for an election;

~~(c)~~ (2) Lock and unlock system to prevent or allow changes to ballot design;

~~(d)~~ (3) Conduct hardware ~~and~~ diagnostic testing ~~as required herein~~;

~~(e)~~ (4) Conduct logic and accuracy testing ~~as required herein~~;

~~(f)~~ (5) Conduct an election and meet ~~additional~~ requirements as identified in this ~~section~~ RULE ~~45~~ 21 for procedures for voting, auditing information, inventory control WHERE APPLICABLE, counting ballots, opening and closing polls, recounts, reporting and accumulating results ~~as required herein~~;

~~(g)~~ (6) Conduct the post-election audit ~~as required herein~~; and

~~(h)~~ (7) Preserve the system for future election use.

~~45.5.2.1.3~~ (C) The voting system ~~shall~~ MUST integrate ~~Election Day~~ ELECTION DAY voting results with ~~mail-in, early voting~~ MAIL~~,~~ and provisional ballot results.

~~45.5.2.1.4 The voting system shall be able to count all of an elector's votes on a provisional ballot or only federal and statewide offices and statewide ballot issues and questions, as provided under section 1-8.5-108(2), C.R.S.~~

~~45.5.2.1.5 The voting system shall provide for the tabulation of votes cast in split precincts where all voters residing in one precinct are not voting the same ballot style.~~

~~45.5.2.1.6~~ (D) The voting system ~~shall~~ MUST provide for the tabulation of votes cast in combined precincts at remote sites, where more than one precinct is voting at the same location, on either the same ballot style or ON a different ballot style.

~~45.5.2.1.7~~ (E) The ~~voting system application~~ ELECTION MANAGEMENT SYSTEM ~~shall~~ MUST provide authorized users with the capability to produce electronic files including election results in either ASCII (both comma-delimited and fixed-width) or web-based format ~~that shall contain (a) all data or (b) any user selected data elements from the database~~. The software ~~shall~~ MUST provide authorized users with the ability to generate these files on an "on-demand" basis. After creating such files, the authorized users ~~shall~~ MUST~~, at their discretion,~~ have the capability to copy

the files to diskette, tape, CD-ROM or ~~to transmit the files to another information system~~ OTHER MEDIA TYPE.

~~(a)~~ (1) Exports necessary for the Secretary of State ~~shall~~ MUST conform to a format agreed upon by the Secretary of State and the voting system provider. If the voting system provider and the Secretary of State have not previously agreed upon a format, the voting system provider ~~shall~~ MUST provide the Secretary of State with specifications for all available export file formats. ~~As part of the certification test, the voting system provider will demonstrate that preliminary and canvassing level election result data, using one or more of the provided formats, can be imported to a commercially available data management program such as a spreadsheet, database, or report generator which can accept that format and which is used and selected by the Secretary of State's office. Using the imported data, the Secretary of State's test team shall confirm that the election results data may be consolidated with results from one or more additional election jurisdictions, searched, selected, sorted, generate totals from selected subsets of the data, and formatted for reporting~~.

~~(b) Export files shall be generated so that election results can be communicated to the Secretary of State on election night both during the accumulation of results and after all results have been accumulated.~~

[Current Rule 45.2.1.7(b) is amended and moved to Rule 11]

(2) THE VOTING SYSTEM PROVIDER ~~SHALL~~ MUST DEMONSTRATE THAT PRELIMINARY AND CANVASSING LEVEL ELECTION RESULT DATA CAN BE IMPORTED TO A COMMERCIALLY AVAILABLE DATA MANAGEMENT PROGRAM SUCH AS A SPREADSHEET, DATABASE, OR REPORT GENERATOR.

~~45.5.2.1.8~~ (F) The voting system ~~shall~~ MUST include hardware ~~and~~ OR software to enable the closing of the ~~remote~~ voting location and disabling the acceptance of ballots on all vote tabulation devices to allow for the following:

~~(a)~~ (1) ~~Machine generated paper record~~ PRINTOUT of the time the voting system was closed.

~~(b)~~ (2) ~~Readings~~ PRINTOUT of the public counter and protective counter ~~shall become a part of the paper audit record~~ upon CLOSING THE BALLOT CASTING FUNCTIONALITY ~~disabling the voting system to prevent further voting~~.

~~(c)~~ (3) Ability to print ~~an abstract of the count of votes~~ A REPORT which ~~shall~~ MUST contain:

~~(i)~~ (A) Names of the offices;

~~(ii)~~ (B) Names of the candidates and party, when applicable;

~~(iii)~~ (C) A tabulation of votes from ballots of different political parties at the same voting location in a primary election;

~~(iv)~~ (D) Ballot titles;

~~(v)~~ (E) Submission clauses of all initiated, referred or other ballot issues or questions; and

~~(vi)~~ (F) The number of votes counted for or against each candidate or ballot issue.

~~(d) Abstract shall include an election judge's certificate and statement that contains:~~

~~(i)~~ (G) Date of election (day, month and year);

~~(ii)~~ (H) Precinct ~~Number~~ NUMBER (ten digit format);

~~(iii)~~ (I) County or ~~Jurisdiction Name~~ JURISDICTION NAME;

~~(iv)~~ (J) ~~State of Colorado~~ AREA FOR "STATE OF COLORADO";

~~(v)~~ (K) Count of votes ~~as indicated in this section~~ FOR EACH CONTEST; and

~~(vi)~~ (L) ~~Area~~ AN ELECTION JUDGE'S CERTIFICATE WITH AN AREA for judges' signatures with the words similar to: "Certified by us", and "Election Judges". Space ~~should~~ MUST allow for a minimum of two signatures.

~~(e)~~ (4) Votes counted by a summary of the voting location and by individual precincts.

~~(f)~~ (5) Ability to produce multiple copies of the unofficial results at the close of the election.

~~(g) Ability to accommodate a two page ballot (races on four faces) is required.~~

[Current Rule 45.5.2.1.8(g) is amended and moved to new Rule 21.5.6(c).]

~~45.5.2.1.9 Voters voting on a DRE shall be able to navigate through the screens without the use of page scrolling. Features such as next or previous page options shall be used.~~

~~45.5.2.1.10~~ (G)The ~~voting system application~~ ELECTION MANAGEMENT SYSTEM ~~shall~~ MUST ensure that an election setup may not be changed once ballots are printed and/or election media devices are downloaded ~~for votes to be conducted~~ without proper authorization and acknowledgement by the application administrative account. The application and database audit transaction logs ~~shall~~ MUST accurately reflect the name of the system operator making the change(s), the date and time of the change(s), and the "old" and "new" values of the change(s).

~~45.5.2.1.11 The voting system shall ensure that all tabulated results will be accurately captured, interpreted, and reported to the level of accuracy required in the 2002 Voting System Standards.~~

~~45.5.2.3.13~~ (H)All DRE OR BMD voting devices ~~shall~~ MUST use ~~touch screen technology or other~~ technology providing visual AND AUDITORY ballot display and TACTILE selection METHODS INCLUDING THOSE NEEDED BY THE DEAF AND BLIND.

~~45.5.2.3.14~~ (I) All electronic voting devices supplied by the voting system provider AND USED AT VOTER SERVICE AND POLLING CENTERS ~~shall~~ MUST have the capability to continue ALL NORMAL VOTING operations and provide continuous device availability during a 2-HOUR period of electrical outage without any loss of election data.

~~45.5.2.3.16~~ (J) The voting system ~~shall~~ MUST provide capabilities to protect the ~~confidentiality~~ ANONYMITY of voter~~s'~~ ballot choices.

~~(a)~~ (1) All optical scan devices, associated ballot boxes and V-VPAT storage devices ~~shall~~ MUST provide physical locks and procedures to prevent LOSS OF ELECTION DATA ~~disclosure of voters' confidential ballot choices~~ during and after the vote casting operation.

~~(b)~~ (2) All DRE devices ~~shall~~ MUST provide randomization of all voter choices and stored electronic ballot information, ~~regardless of format~~, to prevent disclosure of voter~~s' confidential ballot choices~~ IDENTITY IN RELATION TO VOTER ~~during and after storage of the voters'~~ ballot selections.

~~45.5.2.2 Performance Level~~

~~45.5.2.2.1 Performance Level shall refer to any operation related to the speed and efficiency required from the voting system to accomplish the successful conduct of an election on the voting system.~~

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Comment [S361]: Description improved… too much concentration on touch screen that isn't a particuolarly beneficial technology for the disability community.

Comment [S362]: Confidentiality of the choices is not desirable as this prevents tabulation and auditing. The problem is in the use of the possessive form voters'- this implies a violation of the CO constitution. The choices must not be identifiable, not to election officials, the equipment, not to anyone. So the possessive form of description should definitely not be used here and anonymity not confidentiality is the key to voter privacy.

Comment [S363]: The locks are to prevent stealing or ballot stuffing, not to hide violations of constitutional anonymity.

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Comment [S364]: Restated in a manner to clarify what the problem and solution are. This rule is violated by the VVPAT order that can be used to reveal identity in relation to voter intent.This is one primary reason why the DRE is not preferred and the ballot marking device is far superior.

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~~45.5.2.2.2 The voting system shall meet the requirements for casting ballots as detailed in the vendor documentation required for certification.~~

~~45.5.2.2.3 The voting system provider shall publish and specify processing standards for each component of the voting system as part of the documentation required for certification.~~

[Current Rule 45.5.2.2.3 is amended and moved to new Rule 21.5.12(l)]

~~45.5.2.2.4 For the purpose of evaluating software, the voting system provider shall be required to provide detailed information as to the type of hardware required to execute the software.~~

[Current Rule 45.5.2.2.4 is amended and moved to new Rule 21.5.12(m)]

~~45.5.2.2.5 At no time shall third party hardware or software have a negative effect on performance levels of the voting system application, unless, through documentation, a voting system provider specifically details the specific hardware or software, the performance effect and a workaround for the end user to overcome the issue.~~

[Rule 45.5.2.1 is amended and moved to New Rule 21.5.4. Amendments are shown above.]

~~45.5.2.3~~ 21.5.5 Physical and ~~Design Characteristics~~ DESIGN CHARACTERISTICS

~~45.5.2.3.1~~(A) Physical and design characteristics ~~shall~~ MUST address any and all external or internal construction of the physical environment of the voting system or the internal workings of the software necessary for the voting system to function. The voting system ~~shall~~ MUST substantially comply with these requirements to be considered successful in the conduct of an election on the voting system.

Comment [S365]: Are we kidding here? What does this intend to say? It actually says nothing.

~~45.5.2.3.2 The voting system shall meet the following environmental controls allowing for storage and operation in the following physical ranges:~~

~~(a) Operating Temperature – Maximum 95 Degrees Fahrenheit; Minimum 50 Degrees Fahrenheit, with maximum humidity of 90%, normal or minimum operating humidity of 15%.~~

~~(b) Non-Operating Temperature – Maximum 140 Degrees Fahrenheit; Minimum minus 4 Degrees Fahrenheit. Non-operating humidity ranges from 5% to 90% for various intervals throughout the day.~~

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

[Part of current Rule 45.5.2.3.2 is relocated to new Rule 21.5.12(n)]

~~45.5.2.3.17~~ (B) The voting system provider ~~shall~~ MUST submit drawings, photographs and any related brochures or documents to assist with the evaluation of the physical design of the use of the voting system.

~~45.5.6~~ 21.5.6 BALLOT DEFINITION SUBSYSTEM

~~45.5.2.3.3~~ (A) The ballot definition subsystem of the voting system application consists of hardware and software required to accomplish the functions outlined in this Rule ~~45.5.2.3~~ 21.5.6. ~~System databases contained in the ballot definition subsystem may be constructed individually or they may be integrated into one database. These databases are treated as separate databases to identify the necessary types of data to be handled and to specify, where appropriate, those attributes that can be measured or assessed for determining compliance with the requirements of this standard.~~

~~45.5.2.3.4 The ballot definition subsystem shall be capable of formatting ballot styles in English and any alternate languages as are necessary to comply with The "Voting Rights Act of 1965" 42 U.S.C. § 1973c et seq. (1965).~~

~~45.5.2.3.5 The voting system application shall allow the operator to generate and maintain an administrative database containing the definitions and descriptions of political subdivisions and offices within the jurisdiction.~~

~~45.5.2.3.6 The ballot definition subsystem shall provide for the definition of political and administrative subdivisions where the list of candidates or contests may vary within the remote site and for the activation or exclusion of any portion of the ballot upon which the entitlement of a voter to vote may vary by reason of place of residence or other such administrative or geographical criteria. This database shall be used by the system with the administrative database to format ballots or edit formatted ballots within the jurisdiction.~~

~~45.5.2.3.7 For each election, the subsystem shall allow the user to generate and maintain a candidate and contest database and provide for the production and/or definition of properly formatted ballots and software.~~

~~45.5.2.3.8~~ (B) The ballot definition subsystem ~~shall~~ MUST be capable of handling at least ~~500~~ 200 potentially active voting positions, arranged to identify

party affiliations in a primary election, offices with their associated labels and instructions, candidate names with their associated labels and instructions and ballot issues or questions with their associated text and instructions.

~~45.5.2.3.9 The ballot display may consist of a matrix of rows or columns assigned to political parties or non-partisan candidates and columns or rows assigned to offices and contests. The display may consist of a contiguous matrix of the entire ballot or it may be segmented to present portions of the ballot in succession.~~

~~45.5.2.1.8(g)~~ (C) ~~Ability to~~ THE VOTING SYSTEM MUST accommodate ~~a~~ SINGLE PAGE BALLOT~~S~~ (CONTESTS ~~RACES~~ ON ONE FACE OR BOTH FACES) AND two page ~~ballot~~ PAPER BALLOTS (CONTESTS ~~races~~ on THREE OR four faces) ~~is required~~.

Comment [S366]: Tense of "ballot" wrong and contests more correct than races.

Comment [S367]: Ditto

~~45.5.2.3.10~~ (D) The ~~voting system application shall~~ BALLOT DEFINITION SUBSYSTEM MUST:

(1) ~~provide~~ PROVIDE a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates~~. It shall provide for all voting options and specifications as provided for in Articles 5 and 7, Title 1, C.R.S.~~;

(2) ~~The system shall generate~~ GENERATE all required masters and distributed copies of the ~~voting program in conformance with the definition of the ballot for each voting device and remote site~~ ELECTION MANAGEMENT SOFTWARE. ~~The distributed copies, resident or installed, in each voting device shall include all software modules required to monitor system status and generate machine-level audit reports, accommodate device control functions performed by remote location officials and maintenance personnel and register and accumulate votes.~~

~~45.5.7~~ 21.5.7 TRUSTED BUILD

~~45.5.2.3.11 The trusted build of the voting system software, installation programs and third party software used to install or to be installed on voting system devices shall be distributed on a write-once media.~~

~~45.5.2.3.12~~ The voting system ~~shall~~ MUST allow the system administrative account to verify that the software installed is the certified software by comparing it to the trusted build or other reference information.

~~45.5.2.3.13 All DRE voting devices shall use touch screen technology or other technology providing visual ballot display and selection. The voting system provider shall provide documentation concerning the use of touch~~

~~screen or other display and selection technology including, but not limited to:~~

~~(a) Technical documentation describing the nature and sensitivity of the tactile device (if the system uses touch screen technology);~~

~~(b) Technical documentation describing the nature and sensitivity of any other technology used to display and select offices, candidates or issues;~~

[Current Rule 45.5.2.3.13 is amended and moved to new Rule 21.5.4(h). Current Rule 45.5.2.3.13(a)-(b) are amended and moved to new Rule 21.5.12(c).]

~~(c) Any mean time between failure (MTBF) data collected on the vote recording devices; and~~

~~(d) Any available data on problems caused for persons who experience epileptic seizures due to the DRE voting device's screen refresh rate.~~

[Current Rule 45.5.2.3.13(d) amended and moved to new Rule 21.5.12(o).]

~~45.5.2.3.14 All electronic voting devices supplied by the voting system provider shall have the capability to continue operations and provide continuous device availability during a period of electrical outage without any loss of election data.~~

[Current Rule 45.5.2.3.14 amended and moved to new Rule 21.5.4(i)]

~~(a) For optical scan devices, this capability shall include, at a minimum, for a period of not less than two hours the ability to:~~

~~(i) Continue to scan or image voters' ballots;~~

~~(ii) Accurately tabulate voters' choices from the ballots;~~

~~(iii) Accurately store voters' ballot choices; and~~

~~(iv) Transmit required results files accurately if power failure occurs during transmittal of results.~~

~~(b) For DRE devices, this capability shall include, at a minimum, for a period of not less than two hours the ability to:~~

~~(i) Continue to present ballots accurately to voters;~~

~~(ii) Accept voters' choices accurately on the devices;~~

~~(iii) Tabulate voters' choices accurately;~~

Comment [S368]: Rule 45 seems to be drastically eviscerated in this rule proposal. What about this terribly vague but crucial requirement?

~~(iv) Store voters' choices accurately in all storage locations on the device; and~~

~~(v) Transmit required results files accurately if power failure is experienced during transmittal of results.~~

~~(c) For V-VPAT devices connected to DREs, this capability shall include, at a minimum, for a period of not less than two hours the ability to:~~

~~(i) Continue to print voters' choices on the DRE accurately and in a manner that is identical to the manner of the printers' operations during a period of normal electrical operations; and~~

~~(ii) Continue to store the printed ballots in a secure manner that is identical to the manner of the printers' operations during a period of normal electrical operations.~~

~~(d) The voting system provider shall deliver to the Secretary of State documentation detailing estimated time of battery operation for each type of optical scanner, ballot imager, DRE and V-VPAT they provide, assuming continuous use of the devices by voters during an interruption of normal electrical power.~~

~~(e) The voting system provider shall deliver to the Secretary of State documentation specifying the steps and times required for charging batteries for each type of optical scanner, ballot imager, DRE and V-VPAT they provide.~~

[Current 45.5.2.3.14 (d) and (e) are amended and moved to new rule 21.5.12(e) and (p) and (q).]

~~45.5.2.3.15 The voting system provider's software application shall be able to recover operations after a power outage or other abnormal shutdown of the system on which that application and database are operating without loss of more than the current transaction data record on which the administrative account or authorized operator account is currently working.~~

[Current 45.5.2.3.15 is amended and moved to new Rule 21.5.4(j)]

~~45.5.2.3.16 The voting system shall provide capabilities to protect the confidentiality of voters' ballot choices.~~

~~(a) All optical scan devices, associated ballot boxes and V-VPAT storage devices shall provide physical locks and procedures to prevent disclosure of voters' confidential ballot choices during and after the vote casting operation.~~

~~(b) All DRE devices shall provide randomization of all voter choices and stored electronic ballot information, regardless of format, to prevent disclosure of voters' confidential ballot choices during and after storage of the voters' ballot selections.~~

[Current 45.5.2.3.16 is amended and moved to new Rule 21.5.4(j)]

~~45.5.2.3.17 The voting system provider shall submit drawings, photographs and any related brochures or documents to assist with the evaluation of the physical design of the use of the voting system.~~

[Current 45.5.2.3.17 is moved to new Rule 21.5.5(b).]

~~45.5.2.4 Documentation Requirements~~

~~45.5.2.4.1 In addition to other documentation requirements in this rule, the voting system provider shall provide the following documents:~~

~~(a) Standard Issue Users/Operator Manual;~~

~~(b) System Administrator's/Application Administration Manual;~~

~~(c) Training Manual and related materials;~~

~~(d) Systems Programming and Diagnostics Manuals; and~~

~~(e) A list of minimum services needed for the successful, secure and hardened operation of all components of voting system.~~

[Current Rule 45.5.2.4 amended and moved to new rule 21.5.12.]

~~45.5.2.4.2 For the review of VSTL or other state testing in Rule 45.5.1.3 copies of all VSTL or state qualification reports, test logs~~

~~and technical data packages shall be provided to the Secretary of State.~~

~~(a) The voting system provider shall execute and submit any necessary releases for the applicable VSTL, state and/or EAC to discuss any and all procedures and findings relevant to the voting system submitted for certification with the Secretary of State and allow the review by the Secretary of State of any documentation, data, reports or similar information upon which the VSTL or other state relied in performing its testing. The voting system provider shall provide a copy of the same to the Secretary of State.~~

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

[Current Rule 45.5.2.4.2 amended and moved to new rule 21.5.12(d).]

~~45.5.2.4.3 Prior to completion of functional testing, all voting system providers submitting a voting system shall have completed an independent analysis of the system.~~

~~(a) The independent analysis shall include:~~

~~(i) An application penetration test conducted to analyze the system for any potential vulnerabilities that may result from poor or improper system configuration, known and/or unknown hardware or software flaws, or operational weaknesses in process or technical countermeasures. The test shall involve active exploitation of security vulnerabilities of the voting system, whether or not the vulnerabilities can be mitigated through compensating controls.~~

~~(ii) A source code evaluation conducted pursuant to the requirements identified in Rule 45.5.2.6.1(f), requiring compliance with the 2002 voting system standards.~~

~~(b) A complete report detailing all findings and recommended compensating controls for vulnerabilities and deficiencies identified.~~

~~(c) The vendor shall use an EAC approved VSTL to perform the independent analysis, or submit the results of testing conducted in another state, or some combination of such~~

~~VSTL and state testing that meets the requirements of this rule.~~

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

~~(e) When an analysis performed by another state is used, the Secretary of State has the right to reject any evaluation if not satisfied with the work product and to require additional analysis to meet the requirements of section 1-5-608.5, C.R.S., and this Rule.~~

[Current Rule 45.5.2.4.3 amended and moved to New Rule 21.5.3.]

~~45.5.2.4.4 Documentation submitted to the Secretary of State shall be reviewed to determine the extent to which the voting system has been tested to federal standards.~~

[Current Rule 45.5.2.4.4 amended and moved to new rule 21.5.12(f)]

~~45.5.2.4.5 Documentation shall include the financial statements set forth in Rule 45.13, which shall be for the prior fiscal year, and any quarterly financial statements for the period following the prior fiscal year and preceding the date of application for certification.~~

[Current Rule 45.5.2.4.5 amended and moved to new rule 11]

~~45.5.2.4.6 Failure by the voting system provider to provide any documentation with their application for certification will delay processing the application until the documentation is provided.~~

[Current Rule 45.5.2.4.6 amended and moved to new rule 21.5.12 (g)]

~~45.5.2.5~~ ~~45.5.8~~ 21.5.8 Audit ~~capacity~~ CAPACITY

~~45.5.2.5.1 The voting system shall be capable of producing electronic and printed audit logs of system operation and system operators' actions which shall be substantially compliant to allow operations and input commands to be audited.~~

~~45.5.2.5.2 The voting system shall include detailed documentation as to the level, location and programming of audit trail information throughout the system. The audit information shall apply to:~~

~~(a) Operating Systems (workstation, server and/or DRE);~~

~~(b) Election Programming Software;~~

~~(c) Election Tabulation Devices – optical scan and DRE; and~~

~~(d) Election Reporting Subsystem.~~

[Current Rule 45.5.2.5.2 amended and moved to new rule 21.5.12 (h)]

~~45.5.2.5.3~~ (A) The voting system ~~shall~~ MUST track and maintain audit information of the following ~~voting system application~~ ELECTION MANAGEMENT SYSTEM events:

~~(a)~~ (1) Log on and log off activity;

~~(b)~~ (2) Application start and stop;

~~(c)~~ (3) Printing activity, where applicable;

~~(d)~~ (4) Election events – setup, set for election, unset for election, open polls, close polls, end election, upload devices, download devices, create ballots, create precincts, create districts, create ~~poll places (or Vote Centers)~~ VOTER SERVICE AND POLLING CENTERS, initialize devices, backup devices and voting activity; and

~~(e)~~ (5) Hardware events – add hardware, remove hardware, initialize hardware and change hardware properties~~.~~, POWER FAIL, POWER RESTORED.

Comment [S369]: Among many other event that need to be logged.

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~~45.5.2.5.4~~ (B) All tabulation devices ~~shall~~ MUST display the unit serial number(s) both physically and within any applicable software, logs or reports.

~~45.5.2.5.5~~ (C) Vote tabulation devices ~~shall~~ MUST allow for an alternate method of transfer of audit records if the device or a memory storage device is damaged or destroyed.

~~45.5.2.5.6~~ (D) All transaction audit records of the ~~voting system application~~ ELECTION MANAGEMENT SYSTEM database ~~shall~~ MUST be maintained in a file outside of or separate from the database IN A READ-ONLY FORMAT~~, which is not accessible by user/operator accounts~~.

~~45.5.2.6~~ ~~45.5.9~~ 21.5.9 Security ~~Requirements~~ REQUIREMENTS

~~45.5.2.6.1~~ (A) All voting systems ~~submitted for certification~~ ~~shall~~ MUST meet the following minimum system security requirements:

~~(a)~~ (1) The voting system ~~shall~~ MUST MEET THE FOLLOWING REQUIREMENTS TO accommodate a general system of access by least privilege and ~~role-based~~ ROLE-BASED access control~~. The following requirements shall apply~~:

~~(i)~~ (A) ~~The operating~~ OPERATING system administrative ~~account~~ ACCOUNTS ~~shall~~ MAY not have access to read or write data to the database~~ and shall not have the ability or knowledge of the database administrator password~~;

~~(ii) The operating system administrative account shall not be required to use any function of the voting system during normal operations;~~

~~(iii)~~ (B) ~~A unique~~ OPERATING system user/operator ~~account~~ ACCOUNTS ~~shall~~ MUST be ABLE TO BE created ~~for operating system use~~ that ~~is~~ ARE restricted from the following aspects of the operating system:

~~a.~~ (I) No access to system root directory;

~~b.~~ (II) No access to operating system specific folders;

~~c.~~ (III) No access to install or remove programs; and

~~d.~~ (IV) No access to modify other user accounts on the system.

~~(iv)~~ (C)~~A unique application~~ APPLICATION administrative ~~account~~ ACCOUNTS ~~shall~~ MUST ~~be created which has~~ HAVE full access and rights to the application and database;

~~(v)~~ (D) ~~A unique application~~ APPLICATION user/operator ~~account~~ ACCOUNTS ~~shall~~ MUST ~~be created with~~ HAVE limited rights specifically designed to perform functional operation within the scope of the application. This user/operator ~~shall~~ MUST be restricted in the creation or modification of any user/operator accounts.~~; and~~

~~(vi) The voting system provider shall not have an administrative account or administrative account access.~~

[Current Rule 45.5.2.6.1(a)(vi) Moved to Rule 20]

~~(b)~~ (2) The voting system ~~shall~~ MUST meet the following requirements for network security:

~~(i)~~ (A) All components of the voting system ~~shall~~ MUST have the ability to operate on a closed network dedicated to the voting system;

~~(ii)~~ (B) All components of the voting system ~~shall~~ MUST include the limited use of non-routable IP address configurations for any device connected to the closed network. For the purposes of this requirement, non-routable IP addresses are those defined in the RFC 1918 Address base; and

~~(iii)~~ (C) The voting system ~~shall~~ MUST be tested to contain provisions for updating security patches, software and/or service packs without access to the open network.

~~(c)~~ (3) All voting systems ~~submitted for certification~~ THAT USE DATABASES ~~shall~~ MUST ~~meet the following requirements for database security~~:

~~(i) All voting systems submitted for certification shall have~~ HAVE databases hardened to specifications developed by the voting system provider. Documentation included with the application ~~shall~~ MUST provide a detailed ~~prescription~~ PROCEDURE for hardening ~~and the procedure used to harden the system~~. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.

Comment [S370]: ??? really?

~~(d)~~ (4) The voting system ~~shall~~ MUST meet the following requirements for operating system security:

~~(i)~~ (A) All voting systems ~~submitted for certification shall~~ MUST have all operating systems hardened to specifications developed by the voting system provider. Documentation included with the application ~~shall~~ MUST provide a detailed ~~prescription~~ PROCEDURE for hardening ~~and the procedure used to harden the system~~. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.

Comment [S371]: Ditto. Shocking.

~~(ii) The voting system provider shall submit documentation containing a list of minimum services and executables required to run the voting system application.~~

[Current Rule 45.5.2.6.1(d)(ii) is amended and moved to new Rule 21.5.12 (r)]

~~(iii)~~ (B) The voting system provider ~~shall~~ MUST configure the voting system operating system of the workstation

and~~/or~~ server used for the election management software to the following requirements:

~~a.~~ (I) The ability for the system to take an action upon inserting a removable media (~~Auto~~ AUTO run) ~~shall~~ MUST be disabled; and

~~b.~~ (II) The ~~voting~~ OPERATING system ~~shall~~ MUST only boot from the drive or device identified as the primary drive.~~ The voting system shall not boot from any alternative device.~~

~~(iv)~~ (C) The voting system provider ~~shall~~ MUST use a virus protection/prevention application on the election management server(s)/workstations which ~~shall~~ MUST be capable of manual updates without the use of DIRECT CONNECTION TO the internet.

~~(e)~~ (5) The voting system ~~shall~~ MUST meet the following requirements for password security:

~~(i) (D)~~ All passwords ~~shall~~ MUST be stored and used in a non-reversible format;

~~(ii)~~ (E) Passwords to THE database ~~shall~~ MUST not be stored in THE database;

~~(iii)~~ (F) Password to THE database ~~shall~~ MUST be owned and only known by the application;

(iv) (G) The application's database management system ~~shall~~ MUST require separate passwords for the administrative account and each operator account ~~with access to the application~~;

(v) (H) The system ~~shall~~ MUST be designed in such a way to ensure THAT the use of the administrative account password ~~shall~~ IS not ~~be~~ required for normal operating functions~~ at any remote location~~;

~~(vi)~~ (I) The system ~~shall~~ MUST be designed in such a way to facilitate the ~~changing of passwords for each election cycle;~~

~~(vii)~~ (J) The use of blank or empty passwords ~~shall~~ MUST not be permitted at any time with the exception of a limited one-time use startup password which requires a new password to be assigned before the system can be used; and

~~(viii)~~ (K) All voting systems ~~submitted for certification~~ ~~shall~~ MUST have all components of THE voting system capable of supporting passwords of a minimum of eight characters, ~~which~~ AND ~~shall~~ MUST be capable of including numeric, alpha and special characters in upper case or lower case used in any combination.

~~(f) All voting system software submitted for certification shall be in compliance with the Software Design and Coding Standards of the Voting System Standards adopted in Rule 37.3.~~

~~(g)~~ (6) All modules of the system ~~shall~~ MUST meet the ~~following~~ 2002 VOTING SYSTEM STANDARDS requirements for installation of software, including hardware with embedded firmware~~.~~:

~~(i) If software is resident in the system as firmware, the voting system provider shall provide documentation that describes how devices may be retested to validate each ROM prior to the start of elections operations.~~

~~(ii) No software shall be permanently installed or resident in the voting system unless the system documentation states that the jurisdiction shall provide a secure physical and procedural environment for the storage, handling, preparation and transportation of the system hardware.~~

~~(iii) The voting system bootstrap, monitor and device controller software may be resident permanently as firmware, provided that this firmware has been shown to be inaccessible to activation or control by any means other than by the authorized initiation and execution of the vote counting program and its associated exception handlers.~~

~~(iv) The election specific programming may be installed and resident as firmware, provided that such firmware is installed on a component (such as a computer chip) other than the component on which the operating system resides.~~

~~(v) After initiation of Election Day testing under Rule 11.5.3, no source code, compilers or assemblers shall be resident or accessible.~~

~~(vi)~~ (A) Where the system includes a feature to interpret and control execution using data from a script, code tokens, or other form of control data file separate from the source code, the human-readable source information ~~shall~~ MUST be made available as part of ~~the~~ A source code review ~~and the~~

~~data files used shall be defined and controlled as part of the Trusted Build as if it were part of the executable code~~.

~~(vii)~~ (B) Security features and procedures ~~shall~~ MUST be defined and implemented to prevent any changes of interpreted data files after the initial election testing of the final election definition ~~and only allow authorized replacement~~ REPLACEMENT of the data files with tested and approved files from the ~~Trusted Build~~ TRUSTED BUILD ~~SHALL~~ MUST BE by authorized personnel before the election definition is finalized for an election.

~~(viii)~~ (C) The introduction of interpreted data during execution ~~shall~~ MUST not be permitted unless defined as a ~~pre-defined~~ PREDEFINED set of commands or actions subject to security review and the interpretation function provides security edits on input to prevent the introduction of other commands or the modification or replacement of existing code.

~~(ix) Independent analysis will test for the following conditions and report on absence or presence of the following input validations in accordance with Rule 45.5.2.4.3:~~

~~a. Path manipulation;~~

~~b. Cross Site Scripting;~~

~~c. Resource Injection;~~

~~d. OS Command Injection (also called "Shell Injection"); and~~

~~e. SQL Injection.~~

~~(x) Independent analysis will test for the following conditions and report on their absence or presence of the following range errors in accordance with Rule 45.5.2.4.3:~~

~~a. Stack Overflow;~~

~~b. Heap Overflow;~~

~~c. Format string vulnerability; and~~

~~d. Improper Null Termination.~~

~~(xi) Independent analysis will test for the following conditions and report on their absence or presence of the following Application Programming Interface (API) abuses in accordance with Rule 45.5.2.4.3:~~

~~a. Heap Inspection; and~~

~~b. String Management/Manipulation.~~

~~(xii) Independent analysis will test for the following conditions and report on the absence or presence of the following time and state conditions in accordance with Rule 45.5.2.4.3:~~

~~a. Time-of-check/Time-of-use race condition; and~~

~~b. Unchecked Error Condition.~~

~~(xiii) Independent analysis will test for the following conditions and report on the absence or presence of the following code quality conditions accordance with Rule 45.5.2.4.3:~~

~~a. Memory Leaks;~~

~~b. Unrestricted Critical Resource Lock;~~

~~c. Double Free;~~

~~d Use After Free;~~

~~e. Uninitialized variable;~~

~~f. Unintentional pointer scaling;~~

~~g. Improper pointer subtraction; and~~

~~h. Null Dereference.~~

~~(xiv) Independent analysis will test for the following conditions and report on the absence or presence of the following encapsulation conditions in accordance with Rule 45.5.2.4.3:~~

~~a. Private Array Typed Field Returned from a Public Method;~~

~~b. Public Data Assigned to Private Array-Typed Field;~~

~~c. Overflow of static internal buffer; and~~

~~d. Leftover Debug Code.~~

~~(xv)~~ (D) The application ~~shall~~ MUST not open database tables for direct editing.

(h) All voting systems ~~submitted for certification~~ ~~shall~~ MUST meet the following minimum requirements for removable storage media with data controls:

(i) All voting data stored that includes ~~vote records~~, ballot images, tally data and cast ~~votes~~ VOTE RECORDS ~~shall~~ MUST be authenticated and validated.

Comment [S372]: Here I see ballot image and cast vote record as presumably different things. But this is contrary to the definition. What constitutes authentication and validation? Shouldn't this rule be specifying what those mean?

(ii) All non-voting data stored ~~shall~~ MUST be authenticated, encrypted, and validated.

(iii) All removable media, upon insertion ~~of media or media device~~ on server and/or workstations hosting the elections management software, ~~shall~~ MUST AUTOMATICALLY be scanned by antivirus software.

~~45.5.2.6.2 The voting system provider shall provide documentation detailing voting system security in the areas listed below. The system shall contain documented configurations, properties and procedures to prevent, detect and log changes to system capabilities for:~~

~~(a) Defining ballot formats;~~

~~(b) Casting and recording votes;~~

~~(c) Calculating vote totals consistent with defined ballot formats;~~

~~(d) Reporting vote totals;~~

~~(e) Altering of voting system audit records;~~

~~(f) Changing or preventing the recording of a vote;~~

~~(g) Introducing data for a vote not cast by a registered voter;~~

~~(h) Changing calculated vote totals;~~

~~(i) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and~~

~~(j) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.~~

[Current Rule 45.5.2.6.2 amended and moved to new Rule 21.5.12(i)]

~~45.5.2.6.3 The voting system provider shall submit to the Secretary of State its recommended policies or guidelines governing:~~

~~(a) Software access controls;~~

~~(b) Hardware access controls;~~

~~(c) Data communications;~~

~~(d) Effective password management;~~

~~(e) Protection abilities of a particular operating system;~~

~~(f) General characteristics of supervisory access privileges;~~

~~(g) Segregation of duties; and~~

~~(h) Any additional relevant characteristics.~~

~~45.5.2.6.4 The voting system shall include detailed documentation regarding the security measures it has in place for all systems, applicable software, devices that act as connectors (upload, download, and other programming devices) and any security measures the voting system provider recommends to the jurisdictions that purchase the voting system.~~

[Current Rule 45.5.2.6.4 amended and moved to New Rule 21.5.12(j).]

~~45.5.2.7~~ 21.5.10 Telecommunications ~~Requirements~~ REQUIREMENTS

~~45.5.2.7.1~~ (A) Telecommunications includes all components of the system that transmit data outside of the closed network as defined in this Rule ~~45~~ 21.

~~45.5.2.7.2~~ (B) All electronic transmissions from a voting system ~~shall~~ MUST meet the ~~following minimum standards~~ 2002 VOTING SYSTEM STANDARDS.

~~(a)~~ (C) Modems from remote devices ~~shall~~ MUST be PROGRAMMED TO BE "dial only" and ~~cannot be programmed to~~ NOT receive a call;

~~(b) Use an encryption standard currently documented and validated for use by an agency of the United States Federal Government; and~~

~~(c) Provide a means to detect the presence of an intrusive process, such as an Intrusion Detection System.~~

~~45.5.2.7.3~~ (D) Any modem ~~in any component failing~~ THAT FAILS to meet ~~these criteria~~ THE REQUIREMENTS OF THIS RULE ~~shall~~ MAY not be used by any voting system.

~~45.5.2.7.4~~ (E) ~~All wireless components in voting systems shall be disabled with the exception of line~~ LINE of sight infrared technology ~~SHALL~~ MAY ONLY BE used in a closed environment where the transmission and reception is shielded from external infrared signals and can only accept infrared signals generated from within the system.

~~45.5.2.7.5~~ (F) All systems that transmit data over public telecommunications networks ~~shall~~ MUST maintain a clear audit trail ~~that can be provided to the Secretary of State~~ when election results are transmitted ~~by telephone, microwave or other type of electronic communication~~.

Comment [S373]: Is this allowed?

~~45.5.2.7.6 Systems designed for transmission of voter information over public networks shall meet security standards that address the security risks attendant with the casting of ballots at remote sites controlled by election officials using the voting system configured and installed by election officials and/or their voting system provider or contractor, and using in-person authentication of individual voters.~~

~~45.5.2.7.7 Any voting system provider of systems that cast individual ballots over a public telecommunications network shall provide detailed descriptions of:~~

~~(a) All activities mandatory to ensure effective system security to be performed in setting up the system for operation, including testing security before an election.~~

~~(b) All activities that should be prohibited during system setup and during the time frame for voting operations, including the hours when polls are open and when polls are closed.~~

~~45.5.2.7.8~~ (G) ~~In any situation in which the voting system provider's system transmits~~ VOTING SYSTEMS THAT TRANSMIT data through any telecommunications medium~~, the system~~ ~~shall~~ MUST be able to recover, either automatically or with manual intervention, from incomplete or failed transmission sessions and resume transmissions ~~automatically~~ when telecommunications are ~~re-established~~ REESTABLISHED.

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

~~(b)~~ (2) Failure and recovery of transmissions ~~shall~~ MUST not cause any error in data transmitted from the ~~polling place~~ VOTER SERVICE AND POLLING CENTERS to the central election site during a recovered transmission session.

~~45.5.2.7.9 Voting systems that use public telecommunications networks shall provide system documentation that clearly identifies all COTS hardware~~

~~and software products and communications services used in the development and/or operation of the voting system, including operating systems, communications routers, modem drivers and dial-up networking software. Documentation shall identify the name, voting system provider and version used for each such component.~~

~~45.5.2.7.10 Voting systems providers shall document how they plan to monitor and respond to known threats to which their voting systems are vulnerable. This documentation shall provide a detailed description, including scheduling information, of the procedures the voting system provider will use to:~~

~~(a) Monitor threats, such as through the review of assessments, advisories and alerts for COTS components;~~

~~(b) Evaluate the threats and, if any, proposed responses;~~

~~(c) Develop responsive updates to the system and/or corrective procedures; and~~

~~(d) As part of the certification requirements of the proposed system, provide assistance to customers, either directly or through detailed written procedures, how to update their systems and/or to implement the corrective procedures within the timeframe established by the Secretary of State.~~

~~45.5.2.8 Repealed.~~

~~45.5.2.9~~ 21.5.11 ~~Voter Verifiable Paper Record Requirements (V-VPAT)~~ VOTER-VERIFIABLE PAPER RECORD REQUIREMENTS

~~45.5.2.9.1 V-VPAT shall refer to a Voter verified paper record as defined in section1-1-104(50.6)(a), C.R.S.~~

[Current Rule 45.5.2.9.1 is amended and moved to New Rule 21.1.22.]

~~45.5.2.9.2~~ (A) Existing systems that are retrofitted to comply with ~~this law~~ SECTION 1-5-802(1), C.R.S., ~~shall~~ MUST be examined for certification by the Secretary of State. Any retrofitted voting system ~~shall~~ MUST comply with the process and application for certification as identified by this Rule ~~45~~ 21.

~~45.5.2.9.3~~ (B) The ~~V-VPAT~~ VVPAT ~~shall consist of~~ MUST INCLUDE the following ~~minimum~~ components:

~~(a)~~ (1) ~~The voting device shall contain a~~ A paper audit trail writer or printer that ~~shall~~ MUST be attached, built into or used in

conjunction with the DRE,~~. The printer~~ AND ~~shall~~ MUST duplicate a voter's selections from the DRE onto a paper record;

~~(b)~~ (2) ~~The unit or device shall have a~~ A paper record display unit or area that ~~shall~~ MUST allow a voter to view his or her paper record; AND

~~(c)~~ (3) ~~The V-VPAT unit shall contain a~~ A paper record storage unit that ~~shall~~ MUST store cast and spoiled paper record copies securely.~~; and~~

~~(d) These devices may be integrated as appropriate to their operation.~~

~~45.5.2.9.4 V-VPAT devices shall allow voters to verify his or her selections on a paper record prior to casting ballots. The voter shall either accept or reject the choices represented on the paper record. Both the electronic record and the paper record shall be stored and retained when the ballot is cast.~~

~~45.5.2.9.5 The V-VPAT printer connection may be any standard, publicly documented printer port (or the equivalent) using a standard communication protocol.~~

(C) THE VVPAT ~~SHALL~~ MUST MEET THE FOLLOWING FUNCTIONAL REQUIREMENTS:

~~45.5.2.9.6~~ (1) The printer ~~shall not be permitted to~~ MAY ONLY communicate with ~~any device other than~~ the voting device to which it is connected~~.~~;

~~45.5.2.9.7~~ (2) The printer ~~shall only be able to~~ MAY ONLY function as a printer, and not perform any other non-printer related services~~.~~ ;

~~45.5.2.9.8~~ (3) ~~Every electronic voting record shall have a corresponding paper record.~~ PRODUCE A PAPER RECORD FOR EVERY CORRESPONDING ELECTRONIC VOTING RECORD;

~~45.5.2.9.9 The paper record shall be considered an official record of the election available for recounts, and shall be sturdy, clean, and of sufficient durability to be used for this purpose.~~

~~45.5.2.9.16~~ (4)~~The V-VPAT unit shall provide~~ PROVIDE a "low supply" warning to the election ~~judge~~ OFFICIAL to add paper, ink, toner, ribbon or other like supplies. In the event that an election ~~judge~~ OFFICIAL is required to change supplies during the process of voting, the voter ~~shall~~ MUST be allowed to reprint and review the paper ~~audit trail~~ RECORD without having to ~~re-mark~~ MARK his or her ballot~~, and the~~. THE device ~~shall~~ MUST prevent the election ~~judge~~ OFFICIAL from seeing ~~any voters' ballots~~ A VOTER'S BALLOT.

~~45.5.2.9.17~~ (5) ~~All voting systems submitted for certification shall stop the V-VPAT printer of all forward operations of the DRE~~ STOP ALL OPERATIONS if the printer is not working ~~due to paper jams, out of other consumables or any other issue which may cause the correct readable printing of information on the V-VPAT record~~ as designed.

~~45.5.2.9.20~~ (6) ~~The V-VPAT shall allow~~ ALLOW a voter to spoil his or her paper record no more than two times. Upon spoiling, the voter ~~shall~~ MUST be able to modify and verify selections on the DRE without having to reselect all of his or her choices.

~~45.5.2.9.21~~ (7) Before the voter causes a third and final record to be printed~~, the voter shall be presented~~ THE VVPAT MUST PRESENT THE VOTER with a warning notice that the selections made on screen shall be final and the voter ~~shall~~ MAY see and verify a printout of his or her vote, but ~~shall~~ MAY not be given additional opportunities to change their vote.

~~45.5.2.9.22~~ (8) When ~~V-VPAT~~ VVPAT components are integrated into A PREVIOUSLY CERTIFIED voting ~~systems~~ SYSTEM the new configuration of the VOTING system must comply with existing state testing and auditing requirements.

~~45.5.2.9.23~~ (9) ~~The V-VPAT component should print~~ PRINT a barcode with each record that contains the human readable contents of the paper record ~~and digital signature information~~. The voting system provider ~~SHALL~~ MUST include documentation of the barcode type, protocol, and/or description of barcode and the method of reading the barcode as applicable to the voting system.

Comment [S374]: This barcode and its potential use are problematic. If it is to help know what the voter verified, it will not suffice.

~~45.5.2.9.25~~ (10) If used for provisional ballots, the ~~V-VPAT system~~ VVPAT shall MUST be able to mark paper records as a provisional ballot through the use of human readable text and optionally printing barcode and/or serial number information, which ~~SHALL~~ MUST provide for mapping the record back to the electronic record and the provisional voter for processing after verification in accordance with Article 8.5 of Title 1, C.R.S.

Comment [S375]: If I recall correctly CO does not allow provisional ballots on DRE. And this paragraph looks like a potential privacy problem.

(D) THE VVPAT ~~SHALL~~ MUST MEET THE FOLLOWING DESIGN REQUIREMENTS:

~~45.5.2.9.10~~ (1) ~~The V-VPAT device shall be designed to allow~~ ALLOW every voter to review and accept or reject his/her paper record in as private and independent manner as possible ~~for both disabled and non-disabled voters~~ REGARDLESS OF WHETHER THE VOTER HAS DISABILITY.

~~45.5.2.9.11 The V-VPAT system shall be designed in conjunction with state law to ensure the secrecy of votes so that it is not possible to determine which voter cast which paper record.~~

~~45.5.2.9.12~~ (2)~~The V-VPAT printer shall print~~ PRINT at a font size no less than ~~ten point~~ 14-POINT SANS-SERIF ARIAL ~~for ease of readability. Any protective covering intended to be transparent shall be in such condition that it can be made transparent by ordinary cleaning of its exposed surface~~.

~~45.5.2.9.13~~ (3)~~The V-VPAT system shall be designed to allow~~ ALLOW each voter to verify his or her vote on a paper record in the same language THAT they voted in on the DRE.

~~45.5.2.9.14~~ (4)~~The V-VPAT system shall be designed to prevent~~ PREVENT tampering with unique keys ~~and/~~or seals for the compartment that stores the paper record ~~as well as meet the security requirements of this rule. Additional security measures may be in place on the printer to prevent tampering with the device~~.

~~45.5.2.9.15~~ (5)~~The V-VPAT system shall be capable of printing and storing~~ PRINT AND STORE paper record copies for at least 75 ballots cast without requiring the paper supply source, ink or toner supply, or any other similar consumable supply to be changed, assuming a fully printed double sided 18 inch ballot with a minimum of 20 contests.

~~45.5.2.9.16 The V-VPAT unit shall provide a "low supply" warning to the election judge to add paper, ink, toner, ribbon or other like supplies. In the event that an election judge is required to change supplies during the process of voting, the voter shall be allowed to reprint and review the paper audit trail without having to re-mark his or her ballot, and the device shall prevent the election judge from seeing any voters' ballots.~~

[Current Rule 45.5.2.9.16 is amended and moved to New Rule 21.5.11(c)(4).]

~~45.5.2.9.17 All voting systems submitted for certification shall stop the V-VPAT printer of all forward operations of the DRE if the printer is not working due to paper jams, out of other consumables or any other issue which may cause the correct readable printing of information on the V-VPAT record as designed.~~

[Current Rule 45.5.2.9.17 amended and moved to New Rule 21.5.11(c)(5).]

~~45.5.2.9.18 The voting system provider shall provide procedures and documentation for the use of the V-VPAT device.~~

[Current Rule 45.5.2.9.18 amended and moved to New Rule 21.5.12(k).]

~~45.5.2.9.19~~ (6) The printed information on the ~~printed ballot or verification portion of the V-VPAT device~~ PAPER RECORD ~~SHALL~~ MUST contain at least the following items:

~~(a)~~ (A) Name or header information of race, question or issue;

~~(b)~~ (B) Voter's selections for the race information;

~~(c)~~ (C) Write-in candidate's names if selected;

~~(d)~~ (D) Undervote ~~or overvote~~ information~~ – this is in addition to the information on the review screen of the DRE~~;

~~(e)~~ (E) Ability to optionally produce a unique serial number (randomized to protect privacy); and

~~(f)~~ (F) Identification that the ballot was cancelled or cast.

~~45.5.2.9.20 The V-VPAT shall allow a voter to spoil his or her paper record no more than two times. Upon spoiling, the voter shall be able to modify and verify selections on the DRE without having to reselect all of his or her choices.~~

[Current Rule 45.5.2.9.20 amended and moved to New Rule 21.5.11(c)(6).]

~~45.5.2.9.21 Before the voter causes a third and final record to be printed, the voter shall be presented with a warning notice that the selections made on screen shall be final and the voter shall see and verify a printout of his or her vote, but shall not be given additional opportunities to change their vote.~~

[Current Rule 45.5.2.9.21 amended and moved to New Rule 21.5.11(c)(7).]

~~45.5.2.9.22 When V-VPAT components are integrated into voting systems the new configuration of the system must comply with existing state testing and auditing requirements.~~

[Current Rule 45.5.2.9.22 amended and moved to New Rule 21.5.11(c)(8).]

~~45.5.2.9.23 The V-VPAT component should print a barcode with each record that contains the human readable contents of the paper record and digital signature information. The voting system provider shall include documentation of the barcode type, protocol, and/or description of barcode and the method of reading the barcode as applicable to the voting system.~~

[Current Rule 45.5.2.9.23 amended and moved to New Rule 21.5.11(c)(9).]

~~45.5.2.9.24~~ (7) ~~The V-VPAT component shall be designed such that a voter shall not be able to leave~~ PROHIBIT THE VOTER FROM LEAVING the voting area with the paper record.

~~45.5.2.9.25 If used for provisional ballots, the V-VPAT system shall be able to mark paper records as a provisional ballot through the use of human readable text and optionally printing barcode and/or serial number information which shall provide for mapping the record back to the electronic record and the provisional voter for processing after verification in accordance with Article 8.5 of Title 1, C.R.S.~~

[Current Rule 45.5.2.9.25 amended and moved to New Rule 21.5.11(c)(10).]

~~45.5.2.9.26~~ (8) The voting system provider ~~SHALL~~ MUST provide ~~procedures to the Secretary of State with the application for certification which describe~~ DOCUMENTATION DESCRIBING how to investigate and resolve malfunctions including, but not limited to the following: ~~misreporting votes, unreadable paper records, paper jams, low ink, misfeeds, preventing the V-VPAT from being a single point of failure, recovering votes in the case of malfunction and power failures.~~

(A) MISREPORTING VOTES;

(B) UNREADABLE PAPER RECORDS;

(C) PAPER JAMS;

(D) LOW-INK;

(E) MISFEEDS;

(F) LOST VOTES; AND

(G) POWER FAILURES.

~~45.5.2.4~~ 21.5.12 Documentation ~~Requirements~~ REQUIREMENTS

~~45.5.1.3~~ (A) The Secretary of State may ~~use and~~ rely upon the testing of a voting system performed by a VSTL or by another state upon satisfaction of the following conditions:

~~(a)~~ (1) The Secretary of State has ~~complete~~ access to any documentation, data, reports or similar information upon which the VSTL or another state relied in performing its tests and will make such information available to the public subject to any redaction required by law; and

~~(b)~~ (2) The Secretary of State ~~makes written findings and certifies that he or she has reviewed such information and determines~~ HAS DETERMINED that the tests were conducted in accordance with appropriate engineering standards ~~in use when the tests were conducted~~, and the extent to which the tests satisfy the requirements of sections 1-5-615 and 1-5-616, C.R.S., and all rules promulgated under those sections.

~~45.5.2.4.1~~ (B) In addition to other documentation requirements in this rule, the voting system provider ~~SHALL~~ MUST provide the following documents:

~~(a)~~(1) Standard ~~Issue Users/Operator Manual~~ ISSUE USERS/OPERATOR MANUAL;

~~(b)~~(2) System ~~Administrator's/Application Administration Manual~~ ADMINISTRATOR'S/APPLICATION ADMINISTRATION MANUAL;

~~(c)~~(3) Training ~~Manual~~ MANUAL and related materials;

~~(d)~~(4) Systems ~~Programming~~ PROGRAMMING and ~~Diagnostics Manuals~~ DIAGNOSTICS MANUALS; and

~~(e)~~(5) A list of minimum services needed for the successful, secure and hardened operation of all components of THE voting system.

~~45.4.2.13~~ (C) The voting system provider ~~SHALL~~ MUST provide documentation concerning the use of touch screen or other display and selection technology including, but not limited to:

~~(a)~~ (1) Technical documentation describing the nature and sensitivity of the tactile device (if the system uses touch screen technology);

~~(b)~~ (2) Technical documentation describing the nature and sensitivity of any other technology used ~~to display and select offices, candidates or issues~~;

~~45.5.2.4.2~~ (D) For the review of VSTL or other state testing in Rule ~~45.5.1.3~~ 21.5.12(A) copies of all VSTL or state qualification reports, test logs and technical data packages ~~shall~~ MUST be provided to the Secretary of State.

~~(a)~~ (1) The voting system provider ~~SHALL~~ MUST execute and submit any necessary releases for the applicable VSTL, state and/or EAC to discuss any and all procedures and findings relevant to the voting system ~~submitted for certification~~ with the Secretary of State and allow the review by the Secretary of State of any documentation, data, reports or similar information upon which the VSTL or other state relied in performing its testing. The voting system provider ~~SHALL~~ MUST provide a copy of the same to the Secretary of State.

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

~~45.5.2.3.14(d)~~ (E) The voting system provider ~~SHALL~~ MUST ~~deliver to the Secretary of State documentation detailing estimated time of battery operation for each type of optical scanner, ballot imager, DRE and V-VPAT they provide, assuming continuous use of the devices by voters during an interruption of normal electrical power. 45.5.2.3.14(e) The voting system provider shall deliver~~ PROVIDE ~~to the Secretary of State~~ documentation specifying the steps and times required for charging batteries, AND THE TIME OF BATTERY OPERATION for each type of ~~optical scanner, ballot imager, DRE and V-VPAT~~ DEVICE they provide, ASSUMING CONTINUOUS USE OF THE DEVICES BY VOTERS DURING AN INTERRUPTION OF NORMAL ELECTRICAL POWER.

~~45.5.2.4.4~~ (F) ~~Documentation submitted to the~~ THE Secretary of State ~~shall be reviewed~~ WILL REVIEW SUBMITTED DOCUMENTATION to determine the extent to which the voting system has been tested to federal standards.

~~45.5.2.4.6~~ (G) Failure by the voting system provider to provide any documentation ~~with their application for certification~~ will delay processing

the application ~~until the documentation is provided~~ AND MAY BE CAUSE FOR DENIAL OF CERTIFICATION.

~~45.5.2.5.2~~ (H) The voting system ~~shall~~ MUST include detailed documentation, WHICH INCLUDES ~~as to~~ the level, location and ~~programming~~ A DESCRIPTION OF THE CONTENT of THE of audit trail information throughout the system. The audit information ~~shall apply~~ APPLIES to:

~~(a)~~ (1) Operating Systems (workstation, server, OPTICAL SCANNER, BDM, and~~/or~~ DRE);

~~(b)~~ (2) Election ~~Programming Software~~ MANAGEMENT SYSTEM; AND

~~(c)~~ (3) Election Tabulation Devices – optical scan and DRE.~~; and~~

~~(d) Election Reporting Subsystem.~~

~~45.5.2.6.2~~ (I) The voting system provider ~~shall~~ MUST provide documentation detailing voting system security ~~in the areas listed below~~. The ~~system~~ DOCUMENTATION ~~shall~~ MUST contain ~~documented~~ configurations, properties and procedures to prevent, detect and log changes to system capabilities for:

~~(a)~~(1) Defining ballot formats;

~~(b)~~(2) Casting and recording votes;

~~(c)~~(3) Calculating vote totals consistent with defined ballot formats;

~~(d)~~(4) Reporting vote totals;

~~(e)~~(5) Altering of voting system audit records;

~~(f)~~(6) Changing or preventing the recording of a vote;

~~(g)~~(7) Introducing data for a vote not cast by a registered voter;

~~(h)~~(8) Changing calculated vote totals;

~~(i)~~(9) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and

~~(j)~~(10) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.

~~45.5.2.6.4~~ (J) The voting system PROVIDER ~~shall~~ MUST ~~include~~ ~~detailed~~ PROVIDE documentation ~~regarding~~ DETAILING the security measures it has in place for all systems, ~~applicable~~ software, devices that act as connectors (upload, download, and other programming devices) and any RECOMMENDED security measures ~~the voting system provider recommends to the jurisdictions that purchase the voting system~~.

~~45.5.2.9.18~~ (K)The voting system provider ~~shall~~ MUST provide procedures and documentation for the use of the ~~V-VPAT device~~ VVPAT.

~~45.5.2.2.3~~ (L) The voting system provider ~~shall~~ MUST publish and specify processing standards for each component of the voting system as part of the documentation required for certification.

~~45.5.2.2.4~~ (M) For the purpose of evaluating software, the voting system provider ~~shall~~ MUST ~~be required to~~ provide detailed information as to the type of hardware required to execute the software.

~~45.5.2.3.2~~ (N) The documentation supplied by the voting system ~~shall~~ MUST include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other facility or resource required for the installation, operation and storage of the voting system.

~~45.5.2.3.13(d)~~ (O) ~~Any~~ THE VOTING SYSTEM PROVIDER ~~SHALL~~ MUST PROVIDE ANY available data on problems caused for persons who experience epileptic seizures due to the DRE voting device's screen refresh rate.

~~45.5.2.3.14(d)~~ (P) The voting system provider ~~shall~~ MUST deliver to the Secretary of State documentation detailing estimated time of battery operation for each type of ~~optical scanner, ballot imager, DRE and V-VPAT they provide~~ DEVICE SUBMITTED FOR CERTIFICATION, assuming continuous use of the devices by voters during an interruption of normal electrical power.

~~45.5.2.3.14(e)~~ (Q) The voting system provider ~~shall~~ MUST deliver to the Secretary of State documentation specifying the steps and times required for charging batteries for each type of ~~optical scanner, ballot imager, DRE and V-VPAT they provide~~ DEVICE SUBMITTED FOR CERTIFICATION.

~~45.5.2.6.1(d)(ii)~~ (R) The voting system provider ~~shall~~ MUST submit documentation containing a list of minimum services and executables required to run the ~~voting system application~~ ELECTION MANAGEMENT SYSTEM.

~~45.6~~ 21.6 Testing PREPARATION PROCEDURES

~~45.6.1~~ 21.6.1 Voting ~~System Provider Demonstration~~ SYSTEM PROVIDER DEMONSTRATION

~~45.6.1.1~~ (A) The voting system provider ~~shall~~ MUST demonstrate the ~~exact proposed~~ SUBMITTED voting system to the Secretary of State prior to any functional testing.

~~45.6.1.2~~ (B) The demonstration period does not have a ~~pre-determined~~ PREDETERMINED agenda for the voting system provider to follow; however, presentations should be prepared to address and demonstrate~~,~~ ~~within the specific system,~~ the following items as they pertain to each area and use within the voting system, IF APPLICABLE:

~~(a)~~ (1) System overview;

~~(b)~~ (2) Verification of complete system matching EAC certification;

~~(c)~~ (3) Ballot definition creation;

~~(d)~~ (4) Printing ballots on demand;

~~(e)~~ (5) Hardware ~~diagnostics~~ DIAGNOSTIC testing;

~~(f)~~ (6) Programming election media devices for various ~~count~~ COUNTING methods INCLUDING:

~~(i)~~ (A) Mail ~~in Ballots~~ BALLOTS;

~~(ii)~~ (B) ~~Early Voting~~ IN-PERSON BALLOTS; AND

~~(iii) (C) Precinct/Poll Place ;~~

~~(iv)~~ (~~D~~ C) Provisional BALLOTS.~~; and~~

~~(v) (D) Vote Center.~~

~~(g)~~ (7) Sealing and securing system devices;

~~(h)~~ (8) Logic and accuracy testing;

~~(i)~~ (9) Processing ballots;

~~(j)~~ (10) Accessible use;

~~(k)~~ (11) Accumulating results;

~~(l)~~ (12) Post-election audit;

~~(m)~~(13) Canvass process handling;

~~(n)~~ (14) Audit steps and procedures throughout all processes;

~~(o)~~ (15) Certification of results; and

~~(p)~~ (16) Troubleshooting.

~~45.6.1.3~~ (C) The voting system provider ~~shall~~ WILL have access to the demonstration room for one day prior to the start of the demonstration to provide time for setup of the voting system.

~~45.6.1.4~~ (D) A maximum of one business day is normally allowed for the demonstration. If the voting system provider requests more time for the demonstration or, if the Secretary of State finds that the complexity of the system is such that more time is needed for a demonstration, more time may be granted.

~~45.6.1.5~~ (E) The demonstration ~~shall~~ WILL be open to representatives of the press and the public to the extent allowable. The Secretary of State may limit the number of representatives from each group to accommodate space~~ limitations and other considerations~~.

~~45.6.1.6~~ (F) The Secretary of State ~~shall~~ WILL post notice of the fact that the demonstration will take place in the designated public place for posting such notices for at least seven days prior to the demonstration. The notice ~~shall~~ MUST indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.

~~45.6.1.7~~ (G) The voting system provider ~~shall~~ MUST provide the same class of workstation and/or server for testing the voting system as the normal production environment for the State of Colorado.

~~45.6.2 Functional Testing~~

~~45.6.2.1 Voting system provider requirements for testing~~

~~45.6.2.1.1~~ (H) Based upon the review of VSTL or other state reports and test records, the Secretary of State will prepare a test plan. The test plan ~~shall~~ WILL be designed to test for any requirements specific to Colorado law which were not addressed in prior testing and for any federal or Colorado requirements which were not addressed to the satisfaction of the Secretary of State in the reports and records from prior testing.

~~45.6.2.1.2~~ (I) The test plan ~~shall~~ MUST include the election definitions to be used in testing and specifications for test ballots. Test ballots and election definitions ~~shall~~ MUST generally follow all requirements for election definitions, ballot layout and printing to verify the system's ability to meet

those requirements. Some election definitions and ballots may depart from the requirements in order to test specific functions.

~~45.6.2.1.3~~ (J) For each system tested, a requirements matrix ~~shall~~ MUST be prepared to identify those requirements satisfied by the review of VSTL or other state reports and test data and how those requirements not satisfied are to be tested or otherwise satisfied. If during test planning or testing one of the requirements in the voting systems standards or in this rule are determined to be not applicable to the system under test, the reason for the determination will be documented.

~~45.6.2.1.4~~ (K) The voting system provider ~~shall~~ MUST submit for testing the specific system configuration that will be offered to jurisdictions including the components with which the voting system provider recommends the system be used.

~~45.6.2.1.5~~ (L) The voting system provider is not required to have a representative present during the functional testing, but ~~shall~~ MUST provide a point of contact for technical support. After the delivery, unpacking and initial inspection of the equipment for shipping damage and missing components, a vendor representative ~~shall~~ WILL only be allowed to operate or touch the equipment when approved by the Secretary of State. All such activity by a vendor representative ~~shall~~ MUST be documented on video ~~and~~ OR in writing.

~~45.6.2.1.6~~ (M) The proprietary software ~~shall~~ MUST be installed on the workstation/server and all applicable voting system components by the Secretary of State OR THE VSTL using the trusted build and the installation procedures provided by the voting system provider. After installation, hash values for the software and firmware ~~shall~~ MUST be compared to any published hash values of the trusted build. Any mismatches in hash values will be investigated and resolved before proceeding with testing.

~~45.6.2.1.7~~ (N) All equipment ~~shall~~ MUST be hardened using the voting system provider's procedures and specifications.

~~45.6.2.1.8~~ (O) Testing ~~shall~~ MUST be performed with test election definitions and test ballots as required in the test plan.

~~45.6.2.1.9~~ (P) The results of all testing ~~shall~~ MUST be recorded in the requirements matrix. The requirements matrix ~~shall~~ WILL be the primary record describing which requirements were met and specifying which were not. It ~~shall~~ MUST be supplemented as necessary to support the findings with test team notes and system reports. Supplemental information may include photographs and audio or video recordings.

~~45.6.2.1.10~~ (Q)Functional testing ~~shall~~ MUST be completed according to the phases identified in Rule ~~45.3.3~~ 21.3.3.

~~45.6.2.2 Secretary of State requirements for testing~~

~~45.6.2.2.1~~(R) The Secretary of State OR THE VSTL ~~shall~~ MUST conduct functional testing on the voting system based on this Rule 45~~ and additional testing procedures as determined by the Secretary of State~~.

~~45.6.2.2.2~~ (S) The voting system ~~shall~~ MUST receive a pass, fail or not applicable for each requirement with appropriate notation in the requirements matrix.

~~45.6.2.2.3~~ (T) Records of the test procedures ~~shall~~ MUST be maintained ~~and recorded on file with the Secretary of State~~ IN ACCORDANCE WITH RULE ~~45.4.7~~ 21.4.7. The records ~~shall~~ MUST identify the system and all components by voting system provider name, make, model, serial number, software version, firmware version, date tested, test number, test plan, requirements matrix, test team notes and other supplemental information, and results of test. The test environment conditions ~~shall~~ MUST be described.

~~45.6.2.2.4~~ (U) In the event that a deviation from the test plan is required, it ~~shall~~ MUST be documented in a test team note. The note ~~shall~~ MUST provide a description of the deviation, the reason for the deviation and effect of the deviation on testing and determining compliance with requirements.

~~45.6.2.3~~ 21.6.2 General ~~Testing Procedures and Instructions~~ TESTING ~~PROCEUDRES~~ PROCEDURES AND INSTRUCTIONS

~~45.6.2.3.1~~ (A) Certification tests ~~shall~~ MUST be used to determine compliance with applicable performance standards for the system and its components. The general procedure for these tests ~~shall~~ WILL:

~~(a)~~ (1) Verify, by means of the ~~applicant's~~ VOTING SYSTEM PROVIDER'S standard operating procedure, that the device is in a normal condition and status;

~~(b)~~ (2) Establish the standard test environment or the special environment required to perform the test;

~~(c)~~ (3) Invoke all operating modes or conditions necessary to initiate or to establish the performance characteristic to be tested;

~~(d)~~ (4) Measure and record the value or the range of values of the performance characteristic to be tested; and

~~(e)~~ (5) Verify all required measurements have been obtained, and that the device is still in a normal condition and status.

~~45.6.2.3.2~~ (B) All tests ~~shall~~ WILL be generally conducted in regular election mode. Tests of test mode and diagnostic functions may be conducted in the appropriate test mode.

~~45.6.2.3.3~~ (C) The voting system provider ~~is required to~~ MUST produce ballots and assemble marked test decks and spare ballots as specified in the test plan.

~~45.6.2.3.4 The voting system provider shall provide a minimum of ten ballot marking pens/pencils/markers as defined by their system for marking ballots by the Secretary of State.~~

~~45.6.2.3.5~~ (D) For mark-sense or optical scan devices, the Secretary of State OR THE VSTL will prepare 100 or more test ballots with marking devices of various color, weight and consistency to determine the range of marks that can be read and the range and consistency of reading marginal marks.

~~45.6.2.3.6~~ (E) Ballots ~~shall~~ MUST be cast and counted in all applicable counter types (or counter groups) as necessary based on the parts included in the voting system. These are, at a minimum, ~~Poll Place (or Vote Center), Mail-in, Provisional and Early Voting~~ ~~POLLING PLACE (OR VOTE CENTER), MAIL-IN~~ IN-PERSON, MAIL, AND PROVISIONAL ~~AND EARLY VOTING~~ BALLOTS. Ballots may be run through components more than one time depending on components and counter group being tested to achieve a minimum number of ballots cast as follows for each group:

(a) Polling ~~Place~~ ~~PLACE~~ LOCATION / OS = 1,000;

(b) Polling ~~Place~~ ~~PLACE~~ LOCATION / DRE = 500;

~~(c) Vote Center CENTER and Early Voting EARLY VOTING / OS = 2,500;~~

~~(d) Vote Center CENTER and Early Voting EARLY VOTING / DRE = 500;~~

(~~e~~ C) ~~Mail-in~~ MAIL = 1, 500; and

(~~f~~ d) Provisional = 500.

~~45.6.2.3.7~~ (~~F~~ E) Ballot design ~~shall~~ MUST be sufficient to verify the scope of allowable ballot designs for the given system under Colorado election law.

~~45.6.2.3.8 Ballots shall be printed in applicable languages as required by state or federal law, or both.~~

~~45.6.2.3.9 Ballots shall include candidates to represent the maximum number of political parties in the State of Colorado, and shall accommodate all qualified political parties and political organizations.~~

~~45.6.2.3.10~~ (~~G~~ F) The requirements matrix ~~shall~~ MUST include the following requirements for election definitions and ballots to simulate and test "real world" situations in the State of Colorado. Election definitions and ballots ~~shall~~ MUST include the following minimum contest criteria:

~~(a)~~ (1) Parties for different races;

~~(b)~~ (2) Selection of a pair of candidates;

~~(c)~~ (3) In a ~~Primary Election~~ PRIMARY ELECTION, allow voters to vote for the candidates of the party for which they are eligible and for any and all non-partisan candidates and measures, while preventing them from voting on candidates of another party;

~~(d)~~ (4) In a general election, allow a voter to vote for any candidate for any office, in the number of positions allowed for the office, and to vote for any measure on the ballot that the voter is allowed to vote in, regardless of party;

~~(e)~~ (5) Allow for programming to accommodate Colorado recall questions as prescribed in Article 12 of Title 1, C.R.S.;

~~(f)~~ (6) A minimum of 20 pairs of "yes" and "no" positions for voting on ballot issues; and

~~(g)~~ (7) Ability to contain a ballot question or issue of at least 200 words.

~~45.6.2.3.11 Additional tests and procedures may be requested at the discretion of the Secretary of State.~~

~~45.6.2.3.12~~ (~~H~~ G) A county clerk ~~and recorder~~ OR HIS~~/~~ OR HER designated representative may observe the functional testing of a voting system. The representative may assist at the request of the Secretary of State. ~~All such activity by a county representative shall be documented on video and in writing.~~

~~45.6.2.3.13~~ (~~I~~ H) The public ~~shall~~ MUST be allowed to view all functional testing conducted by the Secretary of State. However, legal limitations may require that certain testing, including but not limited to proprietary information and system security, be done outside the view of the public. If the functional testing is outsourced to a testing lab or contractor, public viewing ~~shall be~~ IS subject to limitations set forth by the testing lab or contractor.

~~45.6.2.3.14~~ (~~J~~ I) If any malfunction or data error is detected, its occurrence and the duration of operating time preceding it ~~shall~~ MUST be recorded for inclusion in the analysis~~ and the test shall be interrupted~~. If corrective

action is taken to restore the devices to a fully operational condition within eight hours, then the test may be resumed at the point of suspension.

~~45.6.3 The Secretary of State shall certify voting systems that substantially comply with the requirements in this Rule 45, Colorado Election Code, and any additional testing that is deemed necessary by the Secretary of State.~~

[Current Rule 45.6.3 moved to New Rule 21.3.4]

~~45.7~~ 21.7 Temporary ~~Use~~ USE

~~45.7.1~~ 21.7..1 If a voting system provider has a system that has not yet been approved for certification through the Secretary of State, the voting system provider or the designated election official may apply to the Secretary of State for temporary approval of the system to be used for up to one year.

~~45.7.2~~ 21.7.2 Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the Secretary of State's office. At no time ~~shall~~ MAY a jurisdiction enter into a contract to purchase a voting system that has been approved for temporary use.

~~45.7.3 The Secretary of State shall approve use of a temporarily approved voting system for each election that a jurisdiction requests permission to conduct with the voting system.~~

~~45.7.4~~ 21.7.3 Temporary use does not supersede the certification requirements and/or process, and may be revoked at any time at the discretion of the Secretary of State.

~~45.8 Periodic Review~~

~~45.8.1 The Secretary of State shall periodically review the voting systems in use in Colorado to determine if the system(s):~~

~~(a) Are defective, obsolete or unacceptable for use based on the requirements of this Rule 45; and~~

~~(b) Have been modified from certified and trusted build versions of hardware or software;~~

~~45.8.2 The Secretary of State shall review a minimum of two randomly selected jurisdictions and voting systems per calendar year at the choosing of the Secretary of State.~~

~~45.8.3 The Secretary of State shall conduct an annual visual inspection of all software incident records maintained by each voting system provider certified for use in the State of Colorado.~~

Comment [S376]: Former rule 45 has been utterly gutted to remove practices intended to maintain integrity. With voting systems going more electronic, more centralized, more technical and less exposed to the public, how can this reduction in oversight possibly be seen to compensate for the additional oversight that is actually needed?

~~45.8.4 After such review, certification or temporary approval for use may be withdrawn. Three months notice shall be given prior to withdrawing certification of any voting system unless the Secretary of State shows good cause for a shorter notice period.~~

~~45.8.5 All forms, notes and documentation from a periodic review shall be kept on file with the Secretary of State.~~

[Current Rule 45.8 amended and moved to New Rule 11]

~~45.9~~ 21.8 Decertification

~~45.9.1~~ 21.8.1 If, after any time the Secretary of State has certified a voting system, it is determined that the voting system fails to substantially meet the standards set forth in this Rule ~~45~~ 21, the Secretary of State ~~shall~~ WILL notify any jurisdictions in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.

~~45.9.2~~ 21.8.2 Certification of a voting system may be revoked ~~and~~/or suspended at the discretion of the Secretary of State based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:

(a) The Election Assistance Commission (EAC);

(b) Voting System Test Laboratory (VSTL);

(c) The Federal Election Commission (FEC);

(d) The National Software Reference Library (NSRL);

(e) National Association of State Election Directors (NASED);

(f) The National Association of Secretaries of State (NASS);

(g) Information from any state elections department or Secretary of State;

(h) Information from Colorado ~~County Clerk and Recorders~~ COUNTY CLERKS AND RECORDERS RECORDS or their association;

(i) Any other source the Secretary of State deems reliable.

Comment [S377]: Clerks ok sources, public not? Election judges,canvas boards not?

~~45.9.3~~ 21.8.3 If any voting system provider, provides for use, ~~or~~ installs, or causes to be installed an uncertifed or decertifed voting system or component, the Secretary of State may suspend use of the component or the voting system. ~~[Section 1-5-618(6), C.R.S.]~~

~~45.9.4~~ 21.8.4 ~~Pursuant to~~ IN ACCORDANCE WITH section 1-5-621, C.R.S., the Secretary of State ~~shall~~ WILL hold a public hearing to consider the decision to decertify a voting system.

~~45.10~~ 21.9 Modifications and ~~Re-examination~~ REEXAMINATION.

~~45.10.1~~ Any modification, change or other alteration to a certified voting system ~~shall require certificaton~~ REQUIRES CERTIFICATION or review of the modification under section 1-5-618, C.R.S., unless the voting system provider decides to present the modified system for certification under this Rule ~~45~~ 21.

~~45.11~~ 21.10 Acceptance Testing by Jurisdictions

~~45.11.1~~ 21.10.1 Whenever ~~an election~~ A jurisdiction acquires ~~a new system or modification of an existing system certified by the Secretary of State~~ VOTING EQUIPMENT, the ~~election~~ jurisdiction ~~shall~~ MUST perform acceptance tests of the system before it may be used to cast or count votes at any election. The voting system ~~shall~~ MUST be operating correctly, pass all tests as directed by the acquiring jurisdiction's project manager or contract negotiator and ~~shall~~ MUST be identical to the voting system certified by the Secretary of State.

~~45.11.2~~ 21.10.2 The voting system provider ~~shall~~ MUST provide all manuals and training necessary for the proper operation of the system to the jurisdiction~~, or as indicated by their contract~~.

~~45.11.3~~ 21.10.3 The election jurisdiction ~~shall~~ MUST perform a series of functional and programming tests ~~that shall test~~ FOR all functions of the voting system at their discretion.

~~45.11.4 The jurisdiction shall coordinate acceptance testing with the Secretary of State and complete a Jurisdiction Acceptance Test form provided by the Secretary of State.~~

[Current Rule 45.11.4 amended and moved to New Rule 11]

~~45.12 Purchases and Contracts~~

~~45.12.1 Any voting system that has been certified under the procedures of this Rule 45 are eligible for purchase, lease, or rent for use by jurisdictions within the State of Colorado providing the contract contains the following items:~~

~~(a) The voting system is certified for use within the state;~~

~~(b) Contract contains training and maintenance costs for jurisdiction; and~~

~~(c) Contract identifies components contained in the certified voting system and appears complete with all accessories necessary for successfully conducting an election within the laws and rules of the State of Colorado.~~

~~45.12.2 The Secretary of State shall maintain on file a list of all components used and purchased for use. The list shall include, at a minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices and name of the voting systems that was purchased.~~

~~45.13 Financial Statements of Voting System Providers~~

~~45.13.1 All voting system providers applying for certification in the State of Colorado, or doing business in the State of Colorado, shall provide quarterly financial statements and an annual auditor's report to the Secretary of State. All financial statements and reports shall be due:~~

~~(a) Prior to the completion of functional testing for any voting system being submitted for certification;~~

~~(b) At the conclusion of each accounting quarter for providers with equipment certified for use in the State of Colorado; and~~

~~(c) Upon issuance of a final auditor's report after the completion of each annual audit.~~

~~45.13.2 Financial statements submitted to the Secretary of State shall include a Statement of Cash Flow, Statement of Retained Earnings, Balance Sheet, and Income Statement.~~

[Current Rule 45.13 amended and moved to New Rule 11]

~~11.8~~ 21.11 Escrow of ~~Voting System Software by Voting System Provider~~ VOTING SYSTEM SOFTWARE AND FIRMWARE BY VOTING SYSTEM PROVIDER. THE VOTING SYSTEM PROVIDER MUST MEET THE REQUIREMENT FOR SOFTWARE ESCROW PER THE FOLLOWING:

~~11.8.1~~ 21.11.1 ~~Voting System Providers~~ THE VOTING SYSTEM PROVIDER must place in escrow a copy of the election software, FIRMWARE, and supporting documentation being certified with either the Secretary of State or an independent escrow agent approved by the Secretary of State. ~~*See* section~~ [SECTION 1-7-511, C.R.S.]

~~11.8.2~~ 21.11.2 Within ten days of the ~~Voting System~~ VOTING SYSTEM provider receiving notification of examination of voting equipment as part of the certification process, the ~~Voting System Provider shall~~ VOTING SYSTEM PROVIDER MUST arrange for the completion of escrow requirements as indicated by this rule.

~~11.8.3~~ 21.11.3 ~~Voting System Provider shall~~ THE VOTING SYSTEM PROVIDER MUST sign a sworn affidavit that the election software in escrow is the same as the election software used in its voting systems in this state. An annual update of the affidavit will be on file in a secured location with the Secretary of State's office.

~~11.8.4~~ 21.11.4 A complete copy of the certified election software including any and all subsystems of the certified software ~~shall~~ WILL be maintained in escrow.

~~11.8.5~~ 21.11.5 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.

~~11.8.6~~ 21.11.6 In addition to the requirements listed below, the ~~Voting System Provider~~ VOTING SYSTEM PROVIDER must include a cover/instructions sheet for any escrow material to include the ~~Voting System Provider Name, Address~~ VOTING SYSTEM PROVIDER, ADDRESS and pertinent contact information, ~~Software Version, Hardware Version, Firmware Revision Number~~ SOFTWARE VERSION, HARDWARE VERSION, FIRMWARE REVISION NUMBER, and other uniquely identifying numbers of the software submitted for certification.

~~11.8.7~~ 21.11.7 Election ~~Software Source Code~~ SOFTWARE SOURCE CODE, maintained in escrow, ~~shall~~ MUST contain internal documentation such that a person reasonably proficient in the use of the programming language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the ~~Source Code~~ SOURCE CODE should it be removed from escrow for any reason.

~~11.8.8~~ 21.11.8 System documentation ~~shall~~ WILL include instructions for converting the escrowed ~~Source Code~~ SOURCE CODE into ~~Object Code~~ OBJECT CODE, organized and configured to produce an executable system, if warranted.

~~11.8.9~~ 1.11.9 System documentation ~~shall~~ WILL include technical architecture design, analysis, detail design, testing and an installation and configuration guide.

~~11.8.21~~.11.10 A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk ~~and recorder~~ ~~shall~~ MUST be ~~on file~~ FILED with the Secretary of State.

~~11.8.11~~ 21.11.11 All parties ~~shall~~ MUST treat as confidential the terms of this ~~Section~~ RULE including all escrow materials and any other related information that comes into their possession, control or custody ~~pursuant to~~ IN ACCORDANCE WITH this section.

~~11.8.12~~ 21.11.12 Copies of ~~Electronic~~ ELECTRONIC media and supporting documentation for ~~Escrow~~ ESCROW within the Secretary of State ~~shall~~ WILL be sent to:
Colorado Secretary of State
Attn: Voting Systems Specialist
1700 Broadway – Suite ~~270~~ 200
Denver, CO 80290

~~11.8.13~~ 21.11.13 Any cost of using an alternative third party escrow agent ~~shall~~ MUST be borne by the ~~Voting System~~ VOTING SYSTEM provider

[Current Rule 11.8 is amended and moved to New Rule 21.11. Modifications are shown above.]

~~Rule 51.~~ Rule 22. Use of approved and recommended election forms

~~51.1~~ 22.1 Where the Secretary of State ~~has issued~~ ISSUES an approved election form, notice, application, or correspondence ~~provided for by the "Uniform Election Code of 1992"~~, all designated election officials and registration offices ~~shall~~ MUST use the approved form.

~~51.1.1~~ 22.1.1 A designated election official or registration office that wishes to SUBSTANTIVELY modify the content of any form approved ~~or recommended~~ by the Secretary of State ~~shall~~ MUST submit a written request via email to the Secretary of State's office stating the requested modification and the reasons it is needed.

(a) The Secretary of State ~~shall have~~ WILL APPROVE OR DENY A REQUEST TO MODIFY AN APPROVED FORM WITHIN five business days. ~~in which to approve or deny the modification request.~~ Failure of the Secretary of State to issue a decision within five business days ~~shall~~ DOES not constitute an approval of the request. If the modification request is denied, the Secretary of State will ~~provide an explanation stating the basis~~ EXPLAIN THE REASON for denying the request.

(b) A non-substantive customization OF AN APPROVED FORM, such as placing the form on county letterhead or language translation, ~~shall~~ DOES not require THE SECRETARY OF STATE'S approval.

~~51.2~~ 22.2 The Secretary of State ~~shall~~ WILL approve standard voter registration and ballot application forms ~~recommended~~ for use by political parties and organizations that provide such forms to the public. The Secretary of State will PUBLISH ON THE DEPARTMENT'S WEBSITE ~~ensure that~~ the current approved REGISTRATION forms ~~for registration and ballot request are publicly available on it's the website~~.

~~51.2.1~~ 22.2.1 Political parties and organizations may also use the National Mail Voter Registration form. Because the forms approved by the Secretary of State contain all ~~of the~~ information ~~specific to~~ SPECIFICALLY REQUIRED BY Colorado law, the applicants and the organization are afforded greater protection ~~when~~ BY DISTRIBUTING OR USING the ~~standard~~ STATE forms approved by the Secretary of State ~~are used~~.

~~51.2.2~~ 22.2.2 All political parties and organizations that conduct a mass mailing of either registration or ballot request forms to the public ~~shall~~ MUST identify ~~the party or organization conducting the mailing~~ THEMSELVES by printing the organization name and contact information on the form.

~~51.2.3~~ 22.2.3 Any political party or organization may contact the Secretary of State ~~prior to~~ BEFORE sending a mailing to request a review of the form and information to be mailed.

~~51.3~~ 22.3 ~~In accordance with~~ UNDER section 1-1-107(2)(d), C.R.S., the Secretary of State ~~may~~ WILL seek injunctive action or other ~~penalties as a remedy to~~ REMEDIES FOR violations of this Rule.

[Current Rule 51 is amended and moved to new Rule 22. Amendments are shown above.]