



Notice of Permanent Adoption

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

February 9, 2016

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a permanent basis.

The Secretary of State considered the amendments at the January 14, 2016 rulemaking hearing in accordance with the State Administrative Procedure Act⁴.

Please note the following formatting key:

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

[Current 8 CCR 1505-1 is amended as follows:]

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

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

New Rule 2.14.5, concerning voter registration records and data:

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2015).

² Section 24-4-103(3)(a), C.R.S. (2015).

³ 8 CCR 1505-1.

⁴ Section 24-4-103(3)(a), C.R.S. (2015).

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

New Rule 4.1.3, concerning participation in coordinated elections:

4.1.3 THE COUNTY CLERK MUST INCLUDE ALL COORDINATING DISTRICTS IN THE SCORE DISTRICTS AND PRECINCTS MODULE AND ELECTION SETUP MODULE BEFORE CONDUCTING A COORDINATED ELECTION. IF THE COUNTY CLERK IS UNABLE TO INCLUDE ONE OR MORE DISTRICTS IN SCORE, THE CLERK MUST LIST THE DISTRICTS AND EXPLAIN THE ISSUE IN THE MAIL BALLOT PLAN REQUIRED UNDER RULE 7.1.1.

New Rule 4.8.6, concerning ballot format and printing:

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

Amendments to Rule 6:

Rule 6. Election Judges

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

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

[Current Rule 6.1.2 is amended and recodified as New Rule 6.2.1]

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

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

6.1.4 THE COUNTY CLERK MUST PROVIDE A LIST OF ELECTION JUDGES, INCLUDING POLITICAL PARTY AFFILIATIONS AND ASSIGNMENTS, IF KNOWN, TO EACH APPOINTING PARTY NO LATER THAN 35 DAYS BEFORE ELECTION DAY. UPON REQUEST BY AN APPOINTING PARTY, THE CLERK MUST PROVIDE A SUPPLEMENTAL

LIST NO LATER THAN SEVEN DAYS BEFORE THE DATE ON WHICH THE COUNTY WILL OPEN ITS FIRST VOTER SERVICE AND POLLING CENTER.

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

[Current Rules 6.2, 6.3, and 6.4 are amended and recodified as New Rules 6.5, 6.6, and 6.7.]

6.2 ASSIGNMENT OF ELECTION JUDGES

~~6.1.2~~6.2.1 The county clerk may assign AN election ~~judges to positions~~ JUDGE based upon appropriate skill level and interest. IF A MAJOR PARTY OBJECTS TO THE INITIAL ELECTION JUDGE ASSIGNMENTS PROVIDED BY THE CLERK UNDER RULE 6.1.4, THE POLITICAL PARTY MAY CONTACT THE CLERK AND NOMINATE JUDGES FOR REPLACEMENT. THE CLERK MUST CONSIDER THE NEW NOMINATIONS.

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

- (A) AN INABILITY TO PERFORM SIGNATURE VERIFICATION;
- (B) AN INABILITY TO SERVE FOR THE REQUISITE AMOUNT OF TIME NEEDED; OR
- (C) AN IRREGULAR ACCEPTANCE OR REJECTION RATE, AS DETERMINED BY THE COUNTY CLERK.

6.3 THE COUNTY CLERK MAY NOT PERSONALLY CONDUCT SIGNATURE VERIFICATION.

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

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

6.4.2 A COUNTY WITH FEWER THAN 5,001 ACTIVE ELECTORS BY THE 90TH DAY BEFORE ELECTION DAY MAY USE REGULAR COUNTY STAFF THAT ARE SWORN IN AS ELECTION JUDGES TO CONDUCT SIGNATURE VERIFICATION.

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

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

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

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

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

Amendments to Rule 7.1:

Rule 7. Elections Conducted by the County Clerk and Recorder

7.1 Mail ballot plans

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

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

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

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

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

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

Amended Rule 7.2.6, concerning ballot return envelope:

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

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

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

7.2.9 ON ALL BALLOT-RETURN ENVELOPES PRINTED AFTER APRIL 1, 2016, THE COUNTY CLERK MUST PROVIDE A SPACE ON THE BALLOT-RETURN ENVELOPE FOR A WITNESS TO THE ELECTOR'S MARK TO PROVIDE HIS OR HER FULL LEGAL NAME.

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

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

Amendments to Rule 7.5.1(d):

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

Amendments to Rule 7.8:

7.8 Signature verification procedures

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

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

7.8.1 A SINGLE ELECTION JUDGE MAY CONDUCT THE FIRST LEVEL OF SIGNATURE VERIFICATION.

7.8.2 IF THE ELECTOR'S SIGNATURE APPEARS ANYWHERE ON THE BACK OF THE BALLOT RETURN ENVELOPE, THE ELECTION JUDGE MUST REVIEW THE SIGNATURE.

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

- ~~(a) — An obvious change in the signature's slant.~~
- ~~(b) — A printed signature on one document and a cursive signature on the other document.~~
- ~~(c) — A difference in the signature's size or scale.~~
- ~~(d) — A difference in the signature's individual characteristics, such as how the "t's" are crossed, "i's" are dotted, or loops are made on "y's" or "j's".~~
- ~~(e) — A difference in the voter's signature style, such as how the letters are connected at the top and bottom.~~
- ~~(f) — Evidence that ballots or envelopes from the same household have been switched.~~
- ~~(g) — Any other noticeable discrepancy such as misspelled names.~~

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

~~7.8.2-7.8.4~~ ~~In conducting further research, the election judges~~ IF AN ELECTION JUDGE MUST CONDUCT FURTHER RESEARCH ON AN ELECTOR'S SIGNATURE, HE OR SHE must check SCORE for ~~at least two~~ additional documents signed by the voter, if available.

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

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

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

- (A) ~~The election judges must identify~~ IDENTIFIES the elector ONLY BY NAME AND VOTER IDENTIFICATION NUMBER. ~~in the log using a unique tracking number. The tracking number may not contain the elector's social security number, Colorado driver's license number, or the identification number issued by the Department of Revenue.~~
- (B) ~~The log may~~ DOES not contain the elector's signature.
- (C) ~~The election judges must note~~ NOTES the final resolution and ballot disposition ~~on the research log.~~
- (D) IDENTIFIES THE ELECTION JUDGES RESPONSIBLE FOR FINAL RESOLUTION AND BALLOT DISPOSITION.

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

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

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

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

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

- (a) ~~If the county uses a signature verification device for automated signature verification on ballot envelopes, the~~ THE county clerk must test ~~the device~~ SIGNATURE VERIFICATION DEVICES before ~~using it~~ USE in an election.
 - (1) The testing must verify the accuracy of the device and ensure that the device will not accept a signature that a reasonably trained election judge would reject.
 - (2) The county must pull and test a minimum of 150 ballot envelopes received in the election and conduct an audit of the machine-verified signatures.
 - (A) A team of bipartisan election officials must manually review the signatures identified on the Automated

Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.

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

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

- (1) The county must pull a random sampling of ~~no fewer than~~ AT LEAST one in every fifty machine-verified signatures daily.
- (2) A team of bipartisan election judges must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.
- (3) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
- (4) If the device fails the audit, the county must immediately cease use of automated signature verification and notify the Secretary of State. The Secretary of State and the county must work in coordination to identify the issue and implement a solution.

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

- (1) The county may connect the device to the county network only for maintenance and support.
- (2) The device must be secured by the county firewall.
- (3) The county must maintain a maintenance and support log that includes the name of the person providing maintenance or support, the date and time the device was accessed, and the specific reason for access.

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

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

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

7.9 Voter service and polling centers

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

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

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

Amendments to Rule 7.9.5:

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

Amendments to Rules 7.11 through 7.14:

7.11 Voter service and polling center connectivity

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

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

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

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

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

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

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

~~(b)~~7.12.3 Offer an in-person voter the opportunity to obtain a replacement mail ballot rather than a provisional ballot in the event the voter service and polling center loses connectivity to WebSCORE but retains connectivity to SCORE.

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

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

NOTICE

VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

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

1. *If you require assistance, please inform an election judge.*
2. *Any person, including an election judge, may assist you.*
3. *If you select a person other than an election judge, he or she must complete a Voter Assistance Form, which includes an oath that states:*

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

4. *The person you select may provide any assistance you need, including entering the voting booth, preparing the ballot, or operating the voting machine.*
5. *The person assisting you may not seek to persuade you or induce you to vote in a particular manner.*
6. *The election judge must record the name of each voter who receives assistance and the name of the person who provides assistance on the signature card.*

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

~~7.13~~-7.14 Voter history

~~7.13.1~~-7.14.1 After the canvass, the designated election official must give vote credit to each ~~voter~~ PERSON who voted in the election.

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

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

(b) All signature cards are accounted for.

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

~~7.14.7.15~~ Reimbursement to counties for state ballot measure elections. No later than 90 days after an election, the county must submit a completed request for reimbursement under section 1-5-505.5, C.R.S. The county must submit the request using the form provided by the Secretary of State.

Amendments to Rule 8:

Rule 8. Watchers

8.1 ~~Watchers must affirm that they are qualified under sections 1-1-104(51), 1-7-105, 1-7-106, 1-7-107, and 1-7-108(2), C.R.S., as applicable. Watchers must take the oath described in section 1-7-108(1), C.R.S. and, upon first entering the polling location, surrender the certificate of appointment to the supervisor judge at each location where the watcher is designated to observe. A WATCHER MUST AFFIRM THAT HE OR SHE IS QUALIFIED TO ACT AS A WATCHER UNDER COLORADO LAW. THE COUNTY CLERK MUST ACCEPT THE APPOINTMENT OF ALL ELIGIBLE WATCHERS DULY CERTIFIED BY A POLITICAL PARTY, CANDIDATE, OR ISSUE COMMITTEE UNDER SECTIONS 1-1-104(51), 1-7-105, 1-7-106, OR 1-7-107, C.R.S.~~

[Stricken portions of Current Rule 8.1 are amended and recodified in Rule 8.1, New Rule 8.5,

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

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

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

8.1.2 THE COUNTY CLERK MUST CONFIRM A WATCHER'S ELIGIBILITY BEFORE ALLOWING THE WATCHER TO PERFORM HIS OR HER DUTIES. IF THE COUNTY CLERK IS UNABLE TO CONFIRM THE WATCHER'S ELIGIBILITY, THE CLERK MUST PROMPTLY INFORM THE APPOINTING ENTITY.

8.1.3 A WATCHER MAY PROVIDE A COPY OF HIS OR HER CURRENT REGISTRATION RECORD FROM THE SECRETARY OF STATE'S WEBSITE WITH THE CERTIFICATE OF APPOINTMENT TO SATISFY THE ELIGIBILITY-CONFIRMATION REQUIREMENT.

8.1.4 A WATCHER FOR AN ISSUE COMMITTEE MAY PROVIDE A TRACER PRINT-OUT OF THE ISSUE COMMITTEE REGISTRATION WITH THE CERTIFICATE OF APPOINTMENT TO SHOW THAT THE PERSON APPOINTING THE WATCHER IS PERMITTED TO APPOINT UNDER RULE 8.1.1.

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

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

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

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

~~8.13~~8.4 ~~Watchers~~A WATCHER may be certified to observe more than one polling location IN WHICH THE COUNTY IS CONDUCTING ELECTION ACTIVITIES. ~~See section 1-7-106, C.R.S.~~ A WATCHER MUST PRESENT A CERTIFICATE OF APPOINTMENT AT EACH LOCATION WHERE THE WATCHER IS DESIGNATED TO OBSERVE, UNLESS THE COUNTY CLERK HAS ESTABLISHED AN ALTERNATE PROCESS.

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

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

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

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

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

~~8.12~~8.6 Removal of Watchers.

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

- (a) ~~Commits or encourages~~ COMMITTED OR ENCOURAGED fraud in connection with his or her duties;
- (b) ~~Violates~~ VIOLATED any of the limitations outlined in Rule ~~8.6~~8.15;
- (c) ~~Violates~~ VIOLATED his or her oath; or

- (d) ~~Is~~ WAS abusive or threatening toward election officials or voters.
- ~~8.12.2~~8.6.2 Upon removal of a watcher, the county clerk must inform the political party, candidate, or committee who appointed the watcher.
- ~~8.12.3~~8.6.3 A removed watcher may be replaced by an alternate watcher duly certified in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.7 THE COUNTY CLERK MUST SUBMIT A WATCHER ACCOMMODATION PLAN TO THE SECRETARY OF STATE BY EMAIL USING THE APPROVED FORM NO LATER THAN 90 DAYS BEFORE AN ELECTION.
- 8.7.1 WATCHERS MAY BE PRESENT AT EACH STAGE OF THE CONDUCT OF THE ELECTION, INCLUDING WHEN ELECTORS ARE VOTING OR WHEN ELECTION JUDGES ARE PRESENT AND PERFORMING ELECTION ACTIVITIES.
- 8.7.2 THE COUNTY CLERK MUST PROVIDE, AND IDENTIFY IN SOME MANNER, AT LEAST ONE PRIMARY CONTACT FOR WATCHERS AT EACH LOCATION WHERE ELECTION ACTIVITIES ARE PERFORMED WHEN WATCHERS ARE PRESENT.
- ~~8.4.1~~8.7.3 ~~The~~ AT VOTER SERVICE AND POLLING CENTERS, THE designated election official must position the voting equipment, voting booths, and the ballot box so that they are in plain view of the election officials and watchers.
- ~~8.4.2(b)~~8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. THE SIX-FOOT LIMIT IN RULE 1.1.26 APPLIES ONLY TO VOTING.
- 8.8 THE MINIMUM NUMBER OF WATCHERS THE COUNTY CLERK MUST ACCOMMODATE FOR EACH APPOINTING ENTITY IS AS FOLLOWS:
- 8.8.1 IN A CENTRAL COUNT FACILITY, ONE WATCHER PER CENTRAL COUNT PROCESS, BUT IN ANY CASE NOT LESS THAN ONE WATCHER FOR EVERY TEN ELECTION JUDGES.
- 8.8.2 DURING SIGNATURE VERIFICATION, ONE WATCHER FOR EVERY FOUR ELECTION JUDGES.
- 8.8.3 AT EACH VOTER SERVICE AND POLLING CENTER, ONE WATCHER, OR ONE WATCHER PER VOTER SERVICE AND POLLING CENTER PROCESS.
- ~~8.4.2(e)~~8.8.4 The number of watchers permitted in any room at one time is subject to SPACE LIMITATIONS AND local safety codes.
- 8.9 A WATCHER MAY OBSERVE ELECTION ACTIVITIES AT A GROUP RESIDENTIAL FACILITY, AS DEFINED IN SECTION 1-1-104(18.5), C.R.S., ONLY IF THE WATCHER CONTACTS THE COUNTY CLERK BEFOREHAND TO ARRANGE THE TIME AND LOCATION. WHILE AT A GROUP RESIDENTIAL FACILITY, A WATCHER MUST MAINTAIN AN ADEQUATE DISTANCE FROM THE ELECTOR SO THE ELECTOR MAY MARK OR RECEIVE ASSISTANCE MARKING HIS OR HER BALLOT IN PRIVATE. A WATCHER MAY NOT ENTER A VOTER'S PRIVATE ROOM OR APARTMENT UNLESS THE VOTER CONSENTS.

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

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

~~8.4.2-8.10.2~~ Watchers must be permitted access that would allow them to attest to the accuracy of election-related activities, ~~including recall elections.~~ This includes personal visual access at a reasonable proximity to read documents, writings or electronic screens and reasonable proximity to hear election-related discussions between election judges and electors. ~~Witness and verify means to personally observe actions of election officials in each step of the conduct of an election.~~

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

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

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

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

(3) BALLOT RECEIPT AND PROCESSING.

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

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

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

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

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

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

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

(8) PROVISIONAL BALLOT PROCESSING.

(9) UOCAVA BALLOT PROCESSING.

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

(10) CANVASS.

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

(11) RECOUNT.

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

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

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

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

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

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

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

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

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

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

8.13 DURING INITIAL SIGNATURE REVIEW BY AN ELECTION JUDGE, THE COUNTY CLERK MAY ALLOW A WATCHER TO ESCALATE BALLOT ENVELOPE SIGNATURES FOR SECONDARY REVIEW BY A BIPARTISAN TEAM OF ELECTION JUDGES.

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

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

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

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

~~8.6~~-8.15 A watcher may not:

~~8.6.1~~-8.15.1 Personally interrupt or disrupt the processing, verification, and counting of any ballots or any other stage of the election-, EXCEPT AS PERMITTED BY THE COUNTY CLERK UNDER RULE 8.13.

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

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

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

~~8.6.5~~-8.15.5 Interact with election judges ~~except for the supervisor judge~~ OTHER THAN A DESIGNATED WATCHER CONTACT, EXCEPT AS PERMITTED BY THE COUNTY CLERK UNDER RULE 8.13.

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

~~8.6.7~~-8.15.7 Use any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted.

~~8.6.8~~-8.15.8 Attempt to determine how any elector voted.

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

~~8.6.10~~-8.15.10 Disclose any results before the polls have closed.

8.16 UNLESS THE COUNTY CLERK HAS ESTABLISHED ANOTHER PROCESS, IF A WATCHER DISPUTES A DECISION MADE BY AN ELECTION JUDGE OR ALLEGES A DISCREPANCY, THE WATCHER MUST ALERT THE DESIGNATED WATCHER CONTACT.

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

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

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

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

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

1. *If practical, please contact the county clerk's office prior to coming to observe the counting of ballots. If the county clerk knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.*
2. *At the discretion of the county clerk, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there*

are insufficient sight lines for you to take the photos or video you need, the county clerk may be able to make arrangements to accommodate your needs.

3. *Please observe counting procedures without disrupting the count. Please take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.*
4. *The Secretary of State's Election Rules state that if observers leave the area during a recount, they may not reenter without the consent of the county clerk. If you have occasion to leave the area, you may be denied re-admittance.*
5. *Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.*

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

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

Amendments to Rule 10.5.2:

10.5.2 A COUNTY MUST SUBMIT THE STATE PORTION OF THE ABSTRACT AND THE ENR UPLOAD REQUIRED BY RULE 11.10.5 TO THE SECRETARY OF STATE IN THE FORMAT APPROVED BY THE SECRETARY OF STATE. The state portion of the abstract, ~~which the county must use the format approved by the Secretary of State and transmit to the Secretary of State,~~ must include:

- ~~(a) — The total number of active registered electors on election day;~~
- ~~(b) — The total number of registered electors (active and inactive) on election day;~~
- ~~(c)-(A) The summary of votes cast for each state race and each ballot question or issue; AND~~
- ~~(d)-(B) The total number of ballots cast in the election; and.~~
- ~~(e) — The Canvass ENR upload required under Rule 11.10.4.~~

New Rule 10.8.3, concerning recount generally:

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

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

~~10.11 Watchers and observers during a recount~~

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

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

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

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

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

~~40.13.1~~10.12.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule ~~40.12~~10.11, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule ~~40.13.5~~10.12.5.

~~40.13.6~~10.12.6 For tabulation of DREs, if there are no discrepancies in the test under Rule ~~40.12.3~~10.11.3, the county clerk must upload the memory cards.

Amendments to Rule 11.2.3 concerning Voting System Inventory:

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

Amendments to Rule 11.3.2:

11.3.2 Logic and Accuracy Test

- (a) The county clerk must conduct the public Logic and Accuracy Test no later than the 18th day before election day.
- (b) The county must ensure that the Logic and Accuracy Test is open to the extent allowable in accordance with section 1-7-509(2)(b), C.R.S. The

county clerk may limit the number of representatives from each group because of space limitations.

(c) Preparing for the Logic and Accuracy Test

- (1) The county must prepare a ~~sufficient number of test ballots that represent~~ TEST DECK OF BALLOTS THAT INCLUDES every ballot style and, WHERE APPLICABLE, precinct, ~~if applicable~~. THE COUNTY TEST DECK MUST INCLUDE ~~allow for~~ a sufficient number of ballots to mark every vote position for every ~~candidate on every race~~ CONTEST including write-in candidates, allow for situations where a ~~race may~~ CONTEST ~~permit~~ PERMITS an elector to vote for two or more positions, ~~where applicable~~, and include overvotes and undervotes for each ~~race~~ CONTEST.
- (2) The county must ~~create~~ CONVENE a Testing Board of one registered elector from each of the major political parties, ~~if appointed~~. Testing Board members must be registered to vote in the county.
- (3) The county must provide at least 25 ballots that are clearly marked as test ballots to each Testing Board member.
- (4) Testing Board members must ~~secretly vote~~ MARK their TEST ballots following the instructions printed on the ballots and retain a record of the tally.
- (5) The Testing Board must test the ballots on each type of voting device used in the election and each type of ballot including audio ballots.

(d) Conducting the Test

- (1) The county and Testing Board must observe the tabulation of all test ballots, compare the tabulation with the previously retained records of the test vote count, and correct any discrepancies before the device is used in the election.
- (2) The county must reset the public counter to zero on all devices and present zero tapes to the Testing Board for verification. ~~For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-1) of the firmware or software, the county clerk must verify and document the accuracy of the value for the device.~~
- (3) The county must make an appropriate number of voting devices available and the Testing Board may witness the programming and/or downloading of memory devices necessary for the test.

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

(A) Optical Scanners:

- (i) The Testing Board must ~~count test ballots on~~TEST at least one, ~~but not more than five~~, central count optical ~~scanners~~SCANNER and at least one optical scanner used at a voter service and polling center, if applicable.
- (ii) The Testing Board must randomly select the machines to test.
- (iii) The Testing Board must count the board and county's test ballot batches separately and generate reports to verify that the machine count is identical to the predetermined tally.

(B) DREs:

- (i) The Testing Board must ~~count the test ballots on at least one, but not more than five~~, DREs.TEST AT LEAST ONE DRE.
- (ii) The Testing Board must randomly select the machines to test.
- (iii) EACH MEMBER OF THE TESTING BOARD MUST SEPARATELY CAST HIS OR HER TEST BALLOTS ON THE SELECTED DRES. EACH TESTING BOARD MEMBER MUST CAST AT LEAST ONE OF HIS OR HER TEST BALLOTS USING THE AUDIO BALLOT PLAYBACK AND ACCESSIBLE INPUT DEVICES.
- ~~(iii)~~(iv) ~~The Testing Board must identify and test two ballots as audio ballots.~~ EACH TESTING BOARD MEMBER MUST EXAMINE THE TABULATION TAPE OR REPORT AND VERIFY THAT THE DRE TABULATED THE BALLOTS AND VOTES CAST IN THE SAME MANNER THAT THE TESTING BOARD MEMBER MANUALLY MARKED HIS OR HER TEST BALLOTS.
- ~~(iv)~~ ~~The Testing Board must count at least 50 of the board's ballots and a random sampling of at least 25 of the county's test ballots separately and generate reports to verify that the machine count is identical to the predetermined tally. For DREs with VVPAT~~

~~devices, the Testing Board must manually count the paper record to verify that the pre-determined totals of the Testing Board and county test ballot batches match the VVPAT total.~~

(C) BALLOT MARKING DEVICES (BMDs):

- (I) THE TESTING BOARD MUST TEST AT LEAST ONE BMD.
- (II) AT LEAST TWO MEMBERS OF THE TESTING BOARD MUST USE THE SELECTED BMD TO MARK AND PRINT AT LEAST 25 BALLOTS IN THE SAME MANNER THAT THE TESTING BOARD MEMBER MANUALLY MARKED HIS OR HER TEST BALLOTS. AT LEAST TWO MEMBERS OF THE TESTING BOARD MUST MARK AT LEAST ONE OF HIS OR HER TEST BALLOTS USING THE AUDIO BALLOT PLAYBACK AND ACCESSIBLE INPUT DEVICES.
- (III) A TESTING BOARD MEMBER OR COUNTY ELECTION OFFICIAL MUST SEPARATELY SCAN AND TABULATE THE TEST BALLOTS MARKED WITH AND PRINTED FROM THE BMD ON ONE CENTRAL COUNT OR POLLING LOCATION SCANNER, AND GENERATE A RESULTS REPORT.
- (IV) EACH TESTING BOARD MEMBER MUST VERIFY THAT THE RESULTS REPORT GENERATED FROM THE SCANNER EXACTLY CORRESPONDS TO THE TESTING BOARD MEMBER'S TALLY OF THE VOTES ON THE MANUALLY MARKED PAPER BALLOTS COMPRISING HIS OR HER TEST BALLOTS.

(e) Completing the ~~Test~~-TEST

- (1) The county must keep all test materials, when not in use, in a durable, secure box. Each member of the Testing Board must verify the seals and initial the chain-of-custody log maintained by the county clerk. If the records are opened for inspection, at least two election officials must verify the seals and initial the chain-of-custody log.
- (2) THE COUNTY MUST UPLOAD THE RESULTS FROM ALL TESTED SCANNERS AND DRES TO THE TABULATION SOFTWARE, AND SAVE THE TABULATION RESULTS FOR THE ENR TEST REQUIRED UNDER RULE 11.10.3.

- ~~(2)~~(3) After testing, the Testing Board must watch the county reset and seal each voting device.
- ~~(3)~~(4) The Testing Board and the county clerk must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.
- ~~(4) After testing, the testing board must watch the county create a backup copy of the election database.~~
- (5) The county may not change the programming of any voting device after completing the logic and accuracy test for an election, except as required to conduct a recount or as authorized by the Secretary of State.

Amendments to Rule 11.9:

11.9 Purchases and Contracts

- 11.9.1 In accordance with ~~section~~ SECTIONS 1-5-617(5) AND 1-5-623(3), C.R.S., a political subdivision may not purchase, lease, transfer, or ~~receive an~~ USE A CERTIFIED ELECTROMECHANICAL OR electronic voting SYSTEM, device, or ~~system or any~~ related component ~~of a device or system without approval~~, UNLESS THE POLITICAL SUBDIVISION FIRST APPLIES FOR AND OBTAINS APPROVAL from the Secretary of State.
- 11.9.2 IN THE CASE OF ELECTROMECHANICAL OR ELECTRONIC VOTING SYSTEMS, DEVICES, OR RELATED COMPONENTS CERTIFIED FOR USE IN COLORADO BEFORE JANUARY 1, 2016, THE SECRETARY OF STATE WILL APPROVE ~~AA~~ a political subdivision ~~may only~~ SUBDIVISION'S APPLICATION TO purchase, ~~or~~ lease, OR USE THE ~~a certified~~ voting system, DEVICE, OR RELATED COMPONENT, ONLY if:
- (a) ~~The contract contains training and maintenance costs; and~~ THE POLITICAL SUBDIVISION PURCHASED, LEASED OR USED THE SAME VOTING SYSTEM, DEVICE, OR RELATED COMPONENT, BEFORE JANUARY 1, 2016; AND
 - (b) ~~The voting system components and accessories appear complete and capable of successfully conducting an election in Colorado.~~ THE POLITICAL SUBDIVISION'S APPLICATION FOR APPROVAL IS LIMITED TO THE ACQUISITION OR USE OF VOTING SYSTEM APPLICATIONS, COMPONENTS OR VOTING DEVICES INTENDED TO REPLACE THE SAME OR SUBSTANTIALLY SIMILAR APPLICATIONS, DEVICES AND COMPONENTS THAT ARE DAMAGED, DEFECTIVE OR INOPERABLE; AND

- (C) APPROVAL OF THE APPLICATION, AND THE POLITICAL SUBDIVISION'S PURCHASE, LEASE OR USE OF THE VOTING SYSTEM COMPONENTS OR VOTING DEVICES, WILL NOT MATERIALLY IMPAIR THE POLITICAL SUBDIVISION'S FUTURE FISCAL ABILITY TO PURCHASE OR LEASE A VOTING SYSTEM CERTIFIED FOR USE IN COLORADO ON OR AFTER JANUARY 1, 2016.

11.9.3 ~~The Secretary of State will maintain a list of all components used and purchased. The list will include, at minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices, and name of the voting systems that were purchased.~~ IN THE CASE OF ELECTROMECHANICAL OR ELECTRONIC VOTING SYSTEMS, DEVICES OR RELATED COMPONENTS CERTIFIED FOR USE IN COLORADO ON OR AFTER JANUARY 1, 2016, THE SECRETARY OF STATE WILL APPROVE A POLITICAL SUBDIVISION'S APPLICATION TO PURCHASE, LEASE, OR USE THE VOTING SYSTEM, DEVICE, OR RELATED COMPONENT, AFTER CONSIDERING ALL RELEVANT FACTORS, INCLUDING WITHOUT LIMITATION:

- (A) EVALUATIONS OF THE VOTING SYSTEM PERFORMED BY PUBLIC COMMITTEES ORGANIZED BY THE SECRETARY OF STATE, AND ANY RECOMMENDATIONS REGARDING THE USE OF THE VOTING SYSTEM BY ANY SUCH PUBLIC COMMITTEE;
- (B) THE VOTING SYSTEM'S ABILITY TO SUPPORT THE EFFICIENT AND UNIFORM CONDUCT OF ELECTIONS UNDER THE UNIFORM ELECTION CODE OF 1992, AS AMENDED;
- (C) THE VOTING SYSTEM'S UTILIZATION OF COMMERCIAL OFF-THE-SHELF HARDWARE COMPONENTS, RATHER THAN PROPRIETARY, PURPOSE-BUILT HARDWARE COMPONENTS;
- (D) THE VOTING SYSTEM'S INTEGRATION OF ITS DATA MANAGEMENT APPLICATION, IF ANY, WITH OTHER COMPONENTS OF ITS ELECTION MANAGEMENT SYSTEM, SO THAT SYSTEM USERS CAN OPERATE OR ACCESS ALL ELECTION MANAGEMENT SYSTEM COMPONENTS WITHIN A SINGLE INTERFACE ON THE SAME SERVER OR WORKSTATION;
- (E) THE VOTING SYSTEM'S ABILITY TO SUPPORT EFFICIENT RISK-LIMITING AUDITS, OR THE COMMITMENT OF THE VOTING SYSTEM PROVIDER TO DEVELOP SUCH CAPABILITY, IN TIME FOR THE 2017 COORDINATED ELECTION, AS REQUIRED BY SECTION 1-7-515.5, C.R.S.;
- (F) THE VOTING SYSTEM'S COMPATIBILITY, OR THE VOTING SYSTEM PROVIDER'S COMMITMENT TO DEVELOP SUCH COMPATIBILITY ON OR BEFORE DECEMBER 31, 2016, WITH DEPENDENT SYSTEMS THAT ARE NOT DIRECTLY RELATED TO THE TABULATION OF VOTES AND BALLOTS, BUT ARE NEVERTHELESS UTILIZED BY DESIGNATED ELECTION OFFICIALS IN CONDUCTING ELECTIONS IN COLORADO, INCLUDING:
 - (1) BALLOT-ON-DEMAND SYSTEMS,

- (2) ELECTION NIGHT REPORTING SYSTEMS,
 - (3) ELECTRONIC BALLOT DELIVERY SYSTEMS, AND
 - (4) ELECTION DEFINITION DATA EXPORTED FROM SCORE;
- (G) THE VOTING SYSTEM'S ABILITY TO EFFICIENTLY SUPPORT ELECTIONS PRINCIPALLY CONDUCTED BY MAIL BALLOT, IN ALL POLITICAL SUBDIVISIONS, REGARDLESS OF THEIR SIZE, NUMBER OF REGISTERED ELECTORS, OR FISCAL RESOURCES, INCLUDING:
- (1) THE VOTING SYSTEM'S INCLUSION OF APPLICATIONS ENABLING ELECTION JUDGES TO DIGITALLY, RATHER THAN MANUALLY, ADJUDICATE, RESOLVE, AND DUPLICATE BALLOTS WITH MARGINAL OR AMBIGUOUS VOTER MARKINGS, AND
 - (2) THE VOTING SYSTEM'S USE OF BALLOT SCANNERS EQUIPPED WITH AUTOMATIC DOCUMENT FEEDERS, ENABLING ELECTION JUDGES TO SCAN MULTIPLE BALLOTS RATHER THAN A SINGLE BALLOT AT A TIME;
- (H) THE VOTING SYSTEM'S ABILITY TO ENABLE VOTERS WITH DISABILITIES TO VOTE INDEPENDENTLY AND PRIVATELY, AND ON THE SAME OR SUBSTANTIALLY SIMILAR DEVICES THROUGHOUT COLORADO, WITHOUT REGARD TO THEIR COUNTY OF RESIDENCE;
- (I) THE VOTING SYSTEM'S SCALABILITY AND AFFORDABILITY, ENABLING ALL POLITICAL SUBDIVISIONS TO UTILIZE THE SAME OR SUBSTANTIALLY SIMILAR EQUIPMENT, REGARDLESS OF THEIR SIZE, NUMBER OF REGISTERED VOTERS, OR FISCAL RESOURCES;
- (J) THE VOTING SYSTEM'S PORTABILITY AS PROVIDED IN THE PROVIDER'S HARDWARE AND SOFTWARE LICENSE AGREEMENTS, ENABLING POLITICAL SUBDIVISIONS THAT PURCHASE, LEASE, OR USE THE SYSTEM TO LOAN OR BORROW VOTING DEVICES AND RELATED COMPONENTS TO OR FROM ONE ANOTHER WITHOUT CHARGE, AS EXIGENCIES AND OTHER CIRCUMSTANCES WARRANT, AND AS APPROVED BY THE SECRETARY OF STATE;
- (K) THE VOTING SYSTEM'S ABILITY TO EASILY EXPORT IMAGES OF VOTED BALLOTS, IN RESPONSE TO REQUESTS FILED UNDER SECTION 24-72-205.5(3)-(4), C.R.S., OF THE COLORADO OPEN RECORDS ACT;
- (L) THE VOTING SYSTEM PROVIDER'S PAST PERFORMANCE OF SUCCESSFULLY IMPLEMENTING ITS VOTING SYSTEM IN MULTIPLE JURISDICTIONS SIMULTANEOUSLY;

- (M) THE VOTING SYSTEM PROVIDER'S PAST PERFORMANCE OF SUCCESSFULLY TRAINING LOCAL ELECTION OFFICIALS TO USE ITS VOTING SYSTEM IN MULTIPLE JURISDICTIONS SIMULTANEOUSLY;
- (N) THE VOTING SYSTEM PROVIDER'S PAST PERFORMANCE OF POST-IMPLEMENTATION CUSTOMER AND TECHNICAL SUPPORT FOR POLITICAL SUBDIVISIONS THAT ACQUIRE ITS VOTING SYSTEM;
- (O) THE VOTING SYSTEM PROVIDER'S PAST PERFORMANCE OF COMPLIANCE WITH COLORADO LAW REGARDING VOTER ANONYMITY, AND RESPONSIVENESS TO OTHER ISSUES AND CONCERNS RAISED BY DESIGNATED ELECTION OFFICIALS AND SECRETARY OF STATE STAFF MEMBERS;
- (P) THE VOTING SYSTEM PROVIDER'S FINANCIAL STABILITY AND SUSTAINABILITY AS AN ONGOING BUSINESS CONCERN; AND
- (Q) THE EXTENT TO WHICH THE VOTING SYSTEM PROVIDER'S HARDWARE AND SOFTWARE LICENSE AGREEMENTS PERMIT THE SECRETARY OF STATE, OR POLITICAL SUBDIVISIONS THAT LICENSE THE HARDWARE AND SOFTWARE APPLICATIONS NECESSARY TO PROGRAM ELECTIONS AND VOTING DEVICES, TO PERFORM THOSE SERVICES WITHOUT CHARGE FOR OTHER POLITICAL SUBDIVISIONS THAT ARE LICENSED TO USE THE VOTING SYSTEM.

11.9.4 THE SECRETARY OF STATE WILL APPROVE A COUNTY'S APPLICATION FOR THE PURCHASE, LEASE, OR USE OF AN ELECTROMECHANICAL OR ELECTRONIC VOTING SYSTEM, DEVICE, OR RELATED COMPONENT, CERTIFIED ON OR AFTER JANUARY 1, 2016, ONLY IF:

- (A) THE VOTING SYSTEM INCLUDES, AND THE COUNTY ACQUIRES, DIGITAL BALLOT RESOLUTION AND ADJUDICATION CAPABILITY;
- (B) THE VOTING SYSTEM INCLUDES, AND THE COUNTY ACQUIRES, CENTRAL COUNT BALLOT SCANNERS EQUIPPED WITH AUTOMATIC DOCUMENT FEEDERS CAPABLE OF SCANNING MULTIPLE BALLOTS RATHER THAN A SINGLE BALLOT AT A TIME;
- (C) THE VOTING SYSTEM INTEGRATES ALL COMPONENTS OF THE ELECTION MANAGEMENT SYSTEM, INCLUDING THE DATA MANAGEMENT APPLICATION, IF ANY, INTO A SINGLE USER INTERFACE THAT IS OPERABLE OR ACCESSIBLE FROM THE SAME SERVER OR WORKSTATION;
- (D) THE VOTING SYSTEM IS CAPABLE OF SUPPORTING EFFICIENT RISK-LIMITING AUDITS, OR THE COMMITMENT OF THE VOTING SYSTEM PROVIDER TO DEVELOP SUCH CAPABILITY, ON OR BEFORE DECEMBER 31, 2016, IN THE MANNER REQUIRED BY RULE 21.4.14;
- (E) THE VOTING SYSTEM IS COMPATIBLE, OR THE VOTING SYSTEM PROVIDER COMMITS TO DEVELOP SUCH COMPATIBILITY ON OR BEFORE DECEMBER 31,

2016, WITH DEPENDENT SYSTEMS THAT ARE NOT DIRECTLY RELATED TO THE TABULATION OF VOTES AND BALLOTS, BUT ARE NEVERTHELESS UTILIZED BY DESIGNATED ELECTION OFFICIALS IN CONDUCTING ELECTIONS IN COLORADO, INCLUDING:

- (1) BALLOT-ON-DEMAND SYSTEMS,
 - (2) ELECTION NIGHT REPORTING SYSTEMS,
 - (3) ELECTRONIC BALLOT DELIVERY SYSTEMS, AND
 - (4) ELECTION DEFINITION DATA EXPORTED FROM SCORE;;
- (F) THE VOTING SYSTEM PROVIDER'S SOFTWARE AND HARDWARE LICENSE AGREEMENTS EXPRESSLY PERMIT POLITICAL SUBDIVISIONS THAT PURCHASE, LEASE, OR USE THE SYSTEM TO LOAN OR BORROW VOTING DEVICES AND RELATED COMPONENTS TO OR FROM ONE ANOTHER, WITHOUT CHARGE, AS EXIGENCIES AND OTHER CIRCUMSTANCES WARRANT, AND AS APPROVED BY THE SECRETARY OF STATE; AND
- (H) THE VOTING SYSTEM PROVIDER'S SOFTWARE AND HARDWARE LICENSE AGREEMENTS EXPRESSLY PERMIT THE SECRETARY OF STATE, OR POLITICAL SUBDIVISIONS THAT LICENSE THE HARDWARE AND SOFTWARE APPLICATIONS NECESSARY TO PROGRAM ELECTIONS AND VOTING DEVICES, TO PERFORM THOSE SERVICES WITHOUT CHARGE FOR OTHER POLITICAL SUBDIVISIONS THAT ARE LICENSED TO USE THE VOTING SYSTEM.

11.9.5 DUE TO THEIR UNSUITABILITY FOR RISK-LIMITING AUDITS, THE SECRETARY OF STATE WILL NOT APPROVE A COUNTY'S APPLICATION TO PURCHASE, LEASE OR USE A BALLOT SCANNER CERTIFIED FOR USE ON OR AFTER JANUARY 1, 2016, THAT IS NOT EQUIPPED WITH AN AUTOMATIC DOCUMENT FEEDER, WHETHER INTENDED FOR USE BY VOTERS AT POLLING LOCATIONS, OR BY ELECTION JUDGES AT CENTRAL COUNT LOCATIONS.

11.9.6 A POLITICAL SUBDIVISION'S CONTRACT TO PURCHASE OR LEASE A VOTING SYSTEM UNDER RULE 11.9.1 MUST PROVIDE FOR USER TRAINING AND PREVENTATIVE MAINTENANCE.

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

~~11.9.3~~ 11.9.8 The Secretary of State will maintain a list of all CERTIFIED ELECTROMECHANICAL OR ELECTRONIC VOTING SYSTEMS, DEVICES AND RELATED components, PURCHASED, LEASED, OR used ~~and purchased~~ BY COLORADO POLITICAL SUBDIVISIONS. The list will include, at minimum, the name of the jurisdiction, THE NAME AND VERSION OF THE

VOTING SYSTEM, the date of ~~purchase~~ ACQUISITION, AND the serial number(s) of voting devices. ~~and name of the voting systems that were purchased.~~

Amendments to Rule 11.10:

11.10 Election Night Reporting (ENR). The county must report election night results for all primary, general, coordinated and recall elections.

11.10.1 A data entry county must program the election to support the exporting of election night results in accordance with the following upload requirements:

[Current Rules 11.10.1(a) through (h) are retained; unaltered]

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

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

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

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

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

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

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

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

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

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

Amendments to Rule 20.3.1 concerning physical locking mechanisms and seals:

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

[The remainder of Rule 20.3.1 is retained; unaltered]

Amendments to Rule 20.6:

20.6 ~~Temperature controlled storage.~~ The county must ~~maintain~~KEEP all components of the voting system, and ballots, SERVERS, WORKSTATIONS, DREs, OPTICAL SCANNERS, BMDs, VVPAT RECORDS, AND VIDEO DATA RECORDS in a temperature-controlled storage environment THAT MAINTAINS A MINIMUM TEMPERATURE OF 50 DEGREES FAHRENHEIT AND A MAXIMUM TEMPERATURE OF 90 DEGREES FAHRENHEIT. THE STORAGE ENVIRONMENT MUST BE DRY WITH STORAGE AT LEAST FOUR INCHES ABOVE THE FLOOR. The county must ~~attest to the temperature control settings used with the following components of a voting system.~~ Information submitted to the Secretary of State must indicate the specifics for each type of component, as well as PROVIDE THE SECRETARY OF STATE WITH A DESCRIPTION OF the specific environment used FOR EACH TYPE OF COMPONENT., which may include, but is not limited to controlled offices, controlled vaults, and controlled warehouses. The county must ~~maintain the following required temperature settings:~~

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

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

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

Amendments to Rule 21.4.2 concerning voting system standards:

21.4.2 All voting systems must meet the REQUIREMENTS OF THE 2002 Voting Systems Standards, PARTS 5 – 7 OF ARTICLE 5 OF TITLE 1, C.R.S., AS AMENDED, AND THIS RULE 21.

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

- (f) The election management system must ensure that an election setup RECORD may not be changed once ballots are printed and/or election media devices are downloaded without proper authorization and acknowledgement by the application administrative account. The application and database audit transaction logs must accurately reflect the name of the system operator making the change(s); AND the date and time of the change(s); ~~and.~~ THE APPLICATION AND DATABASE AUDIT

TRANSACTION LOGS MUST SUPPORT USER'S ABILITY TO EXAMINE the "old" and "new" values of the change(s).

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

- (d) The ballot definition subsystem must:
 - (1) Provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates; ~~and~~
 - (2) Generate all required masters and distributed copies of the ballot definition files.; AND
 - (3) PERMIT A USER TO PROGRAM THE ELECTION, BUILD THE ELECTION DATABASE, GENERATE AND LAYOUT BALLOTS, AND REPORT RESULTS, BY BALLOT STYLE OR PRECINCT, AS PERMITTED OR REQUIRED BY SECTION 1-7.5-208, C.R.S.
- (E) DATA MANAGEMENT APPLICATIONS THAT COLLECT, CONVERT, MANAGE OR EXPORT ELECTION DEFINITION INFORMATION IN ONE OR MORE FORMAT(S) SUITABLE FOR IMPORT INTO THE ELECTION MANAGEMENT SYSTEM , ARE AN ESSENTIAL COMPONENT OF, AND MUST BE INTEGRATED WITH AND OPERATE IN THE SAME USER INTERFACE AND ON THE SAME SERVER OR WORKSTATION, AS THE ELECTION MANAGEMENT SYSTEM.
- (F) THE VOTING SYSTEM MAY NOT ADD ANY CAPTION OR ENDORSEMENT TO BALLOT ARTWORK GENERATED BY THE VOTING SYSTEM, INCLUDING WITHOUT LIMITATION COPYRIGHT NOTICES OR THE NAME OF THE VOTING SYSTEM PROVIDER. THE COUNTY MUST HAVE THE ABILITY TO SUPPRESS ANY CAPTIONS AND ENDORSEMENTS GENERATED BY THE VOTING SYSTEM THAT ARE NOT AUTHORIZED BY SECTION 1-5-407(1), C.R.S.

Repeal of duplicate Rule 21.4.8 from publication:

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

Amendments to Rule 21.4.10(g):

- (g) All voting systems must meet the following minimum requirements for removable storage media with data controls:
 - (1) All ~~voting~~ data stored that includes, ballot images, tally data, and cast vote records must be authenticated, ENCRYPTED OR SECURED AGAINST TAMPERING, and validated.

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

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

Amendments to Rule 21.4.11:

21.4.11 Telecommunications requirements

- (a) Telecommunications includes all components of the system that transmit data outside of the closed network as defined in this Rule.
- (b) All electronic transmissions from a voting system must meet the 2002 Voting System Standards.
- ~~(c) Modems from remote devices must be programmed to be “dial only” and not receive a call;~~
- ~~(d) Any modem that fails to meet the requirements of this Rule may not be used by any voting system.~~
- ~~(e)~~(C) Line of sight infrared technology may only be used in a closed environment where the transmission and reception is shielded from external infrared signals and can only accept infrared signals generated from within the system.
- ~~(f)~~(D) All systems that transmit data over public telecommunications networks must maintain an audit trail when election results are transmitted.
- ~~(g)~~(E) Voting systems that transmit data through any telecommunications medium must be able to recover, either automatically or with manual intervention, from incomplete or failed transmission sessions and resume transmissions when telecommunications are reestablished.
 - (1) Recovery of transmissions must include notations of the interrupted transmission session and the resumed transmission session in the system and application transaction logs.
 - (2) Failure and recovery of transmissions must not cause any error in data transmitted from the voter service and polling centers to the central election site during a recovered transmission session.

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

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

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

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

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

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

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

- ~~(l) The voting system provider must publish and specify processing standards for each component of the voting system as part of the documentation required for certification.~~
- ~~(m)~~(L) For the purpose of evaluating software, the voting system provider must provide detailed information as to the type of hardware required to execute the software.
- ~~(n)~~(M) The documentation supplied by the voting system must include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other facility or resource required for the installation, operation and storage of the voting system.
- ~~(o)~~(N) The voting system provider must provide any available data on problems caused for persons who experience epileptic seizures due to the DRE voting device's screen refresh rate.
- ~~(p)~~(O) The voting system provider must deliver to the Secretary of State documentation detailing estimated time of battery operation for each type of device submitted for certification, assuming continuous use of the devices by voters during an interruption of normal electrical power.
- ~~(q)~~(P) The voting system provider must deliver to the Secretary of State documentation specifying the steps and times required for charging batteries for each type of device submitted for certification.
- ~~(r)~~(Q) The voting system provider must submit documentation containing a list of minimum EQUIPMENT, services, and executables required to run the election management system.

New Rules 21.4.14, 21.4.15, and 21.4.16:

21.4.14 **BALLOT-LEVEL CAST VOTE RECORDS AND EXPORTS.** ALL VOTING SYSTEMS CERTIFIED BY THE SECRETARY OF STATE FOR USE IN COLORADO ON OR AFTER JANUARY 1, 2016 MUST MEET THE FOLLOWING REQUIREMENTS FOR BALLOT-LEVEL CAST VOTE RECORDS AND EXPORTS ON OR BEFORE DECEMBER 31, 2016:

- (A) THE VOTING SYSTEM MUST CAPTURE A BALLOT-LEVEL CAST VOTE RECORD (CVR) CONSISTING OF A SINGLE RECORD FOR EACH BALLOT TABULATED, SHOWING THE MANNER IN WHICH THE VOTING SYSTEM INTERPRETED AND TABULATED THE VOTER'S MARKINGS ON THE BALLOT, AS ADJUDICATED AND RESOLVED BY ELECTION JUDGES, IF APPLICABLE.

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

- (C) THE CVR EXPORT MUST CONTAIN THE FOLLOWING FIELDS, WITH VALUES OR DATA POPULATED BY THE VOTING SYSTEM:
 - (1) CVR NUMBER. A SEQUENTIAL NUMBER FROM ONE TO THE NUMBER OF CVRS IN THE EXPORT FILE. THIS CAN BE USED AS AN ALTERNATE METHOD TO IDENTIFY EACH CVR.

 - (2) BATCH ID. IDENTIFIES THE BATCH IN WHICH THE PAPER BALLOT CORRESPONDING TO THE CVR IS LOCATED.

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

 - (4) IMPRINTED ID. IF THE SCANNER MODEL SUPPORTS IMPRINTING A UNIQUE CHARACTER STRING ON THE BALLOT DURING THE SCANNING PROCESS, THE VOTING SYSTEM MUST POPULATE THIS FIELD WITH THE UNIQUE CHARACTER STRING.

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

 - (6) DEVICE ID. IDENTIFIES THE SCANNING DEVICE BY MODEL, SERIAL NUMBER, AND/OR SCANNING STATION IDENTIFIER.

 - (7) CONTEST AND CHOICE NAMES. EACH CONTEST AND CHOICE ON ANY BALLOT IN THE ELECTION MUST HAVE ITS OWN FIELD SO THAT VOTERS' CHOICES IN ALL CONTESTS CAN BE EASILY AND INDEPENDENTLY TABULATED AFTER THE CVR EXPORT IS IMPORTED INTO A SPREADSHEET APPLICATION.

- (A) THE HEADER OR FIELD NAMES IN THE CVR EXPORT MUST UNAMBIGUOUSLY CORRESPOND TO NAMES OF THE CONTESTS AND CHOICES ON THE PAPER

BALLOTS. THE USE OF CHOICE ID AND CONTEST ID TO IDENTIFY EACH CHOICE MUST BE AVOIDED BECAUSE THEY REQUIRE CROSS-REFERENCING TO OTHER SOURCES TO DETERMINE THE CHOICE AND CONTEST NAMES.

- (B) THE CONTESTS AND CHOICES MUST BE LISTED IN THE SAME ORDER AS THEY APPEAR ON THE BALLOTS.
- (C) A VOTE FOR A CHOICE MUST BE INDICATED BY A "1". NO VOTE FOR A CHOICE OR AN OVERVOTED CONDITION MUST BE INDICATED BY A "0". CHOICES THAT ARE NOT APPLICABLE TO THE CVR MUST BE LEFT BLANK.

21.4.15 ELECTION NIGHT REPORTING DATA AND EXPORTS. ALL VOTING SYSTEMS CERTIFIED BY THE SECRETARY OF STATE FOR USE IN COLORADO ON OR AFTER JANUARY 1, 2016 MUST MEET THE FOLLOWING REQUIREMENTS FOR ELECTION NIGHT REPORTING DATA AND EXPORTS BY DECEMBER 31, 2016:

- (A) THE VOTING SYSTEM MUST BE ABLE TO GENERATE AND EXPORT RESULTS DATA SUITABLE FOR USE IN THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING (ENR) SYSTEM, AS SPECIFIED IN THE REMAINING SUBSECTIONS OF THIS RULE.
- (B) THE ENR EXPORT FILE MUST BE IN A TABULAR FORMAT THAT USES COMMA-SEPARATED VALUE (CSV) FORMAT, OR A FORMAT BASED ON A RANGE OF CHARACTER POSITIONS WITHIN A LINE.
- (C) THE ENR EXPORT FILE MUST CONTAIN A HEADER LINE THAT DEFINES ALL OF THE FIELDS CONTAINED IN THE EXPORT FILE.
 - (1) THE HEADER NAMES NEED NOT EXACTLY CORRESPOND TO THE FIELD NAMES SPECIFIED SUBSECTION (D) OF THIS RULE, BUT MUST UNAMBIGUOUSLY IDENTIFY THE CONTENT OF EACH FIELD.
 - (2) THE ORDER OF THE FIELDS WITHIN THE EXPORT FILE MAY DEVIATE FROM THE ORDER SPECIFIED IN SUBSECTION (D) OF THIS RULE.
 - (3) ADDITIONAL FIELDS CONTAINED IN THE ENR EXPORT FILE BUT NOT SPECIFIED OR ADDRESSED IN SUBSECTION (D) OF THIS RULE MUST NOT CONTAIN ONLY ALPHANUMERIC CHARACTERS.
- (D) THE ENR EXPORT FILE MUST INCLUDE THE FOLLOWING ITEMS OR FIELDS:
 - (1) PRECINCT NAME. IF THE COUNTY DEFINES THE ELECTION TO REPORT RESULTS BY PRECINCT, AN ALPHANUMERIC STRING CONSISTING OF A 10-DIGIT PRECINCT CODE.
 - (2) BALLOT STYLE NAME. IF THE COUNTY DEFINES THE ELECTION TO REPORT RESULTS BY BALLOT STYLE OR DISTRICT, A UNIQUE, ALPHANUMERIC STRING FOR EACH BALLOT STYLE.

- (2) **PRECINCT ID.** IF THE COUNTY DEFINES THE ELECTION TO REPORT RESULTS BY PRECINCT, A UNIQUE INTEGER FOR EACH PRECINCT OR PRECINCT SPLIT.
- (3) **REGISTERED VOTERS.** THE NUMBER OF REGISTERED VOTERS ELIGIBLE TO VOTE EACH UNIQUE BALLOT STYLE, OR IN EACH PRECINCT OR PRECINCT SPLIT, AS APPLICABLE.
- (4) **BALLOTS CAST.** THE NUMBER OF BALLOTS CAST OF EACH UNIQUE BALLOT STYLE, OR IN EACH PRECINCT OR PRECINCT SPLIT, AS APPLICABLE.
- (5) **CONTEST NAME.** THE CONTEST NAME AS IT APPEARS ON THE BALLOTS. IF THE CONTEST NAME CONTAINS CARRIAGE RETURN(S) FOR BALLOT FORMATTING PURPOSES, THEN THE CARRIAGE RETURN(S) MUST NOT APPEAR IN THE EXPORT.
- (6) **CONTEST ID.** A UNIQUE INTEGER FOR EACH CONTEST.
- (7) **CONTEST SEQUENCE NUMBER.** A UNIQUE INTEGER THAT DEFINES THE SEQUENCE OF CONTESTS AS THEY APPEAR ON THE BALLOTS.
- (8) **VOTES ALLOWED.** THE MAXIMUM NUMBER OF CHOICES THAT A VOTER MAY SELECT IN EACH CONTEST (E.G., “VOTE FOR 2”).
- (9) **CHOICE NAME.** THE CHOICE NAME AS IT APPEARS ON THE BALLOTS. PARTY AFFILIATION MAY NOT BE INCLUDED IN THE CHOICE NAME.
- (10) **CHOICE ID.** A UNIQUE INTEGER FOR EACH CHOICE WITHIN A CONTEST.
- (11) **PARTY CODE.** AN INDICATOR OF PARTY AFFILIATION FOR EACH CHOICE, IF APPLICABLE.
- (12) **VOTE COUNT.** THE TOTAL NUMBER OF VOTES CAST FOR EACH CHOICE.
- (13) **REPORTING FLAG.** THE REPORTING FLAG FIELD MUST CONTAIN A VALUE OF “0”.

21.4.16 **CENTRAL BALLOT COUNTING FUNCTIONALITY.** ALL VOTING SYSTEMS CERTIFIED FOR USE IN COLORADO BY THE SECRETARY OF STATE ON OR AFTER JANUARY 1, 2016, MUST MEET THE FOLLOWING FUNCTIONAL REQUIREMENTS FOR CENTRALLY COUNTING BALLOTS:

- (A) **DIGITAL BALLOT ADJUDICATION:** THE VOTING SYSTEM MUST INCLUDE A DIGITAL BALLOT ADJUDICATION SOFTWARE APPLICATION, ENABLING ELECTION JUDGES TO RESOLVE, ADJUDICATE, AND DUPLICATE BALLOTS

WITH MARGINAL OR AMBIGUOUS VOTER MARKINGS DIGITALLY RATHER THAN MANUALLY.

- (B) **BALLOT SCANNERS.** THE VOTING SYSTEM MUST INCLUDE CENTRAL COUNT BALLOT SCANNERS EQUIPPED WITH AUTOMATIC DOCUMENT FEEDERS, ENABLING ELECTION JUDGES TO SCAN MULTIPLE BALLOTS RATHER THAN A SINGLE BALLOT AT A TIME.

Amendments to Rule 21.5.2(e)(2):

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

II. Basis, Purpose, and Specific Statutory Authority

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

III. Effective Date of Adopted Rules

These new and amended rules will become permanently effective twenty days after publication in the Colorado Register.⁵

Dated this 9th day of February, 2016,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State

⁵ Section 24-4-103(5), C.R.S. (2015).



Statement of Basis, Purpose, and Specific Statutory Authority

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

February 9, 2016

I. Basis and Purpose

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

On December 1, 2015, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: http://www.sos.state.co.us/pubs/rule_making/ruleComments.html. Additional comments received during the formal rulemaking are available online at: http://www.sos.state.co.us/pubs/rule_making/hearings/2016/ElectionsRulesHearing20160114.html. All comments are incorporated into the official rulemaking record.

Specific proposed changes include:

- Amendments to Rule 2.10.2 to reflect current processes and in response to comments received from the Office of Legislative Legal Services.
- New Rule 2.14.5 to ensure that each voter who requests his or her certificate of registration shows identification before receiving the certificate.
- New Rule 4.1.3 to require county clerks to update the statewide voter registration database (SCORE) with new coordinating districts before conducting coordinated elections.
- New Rule 4.8.6 to require county clerks to use the Secretary of State approved naming convention for naming ballot styles in the county's Election Management System, SCORE, and .pdfs, and contest names in the election night reporting system.

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

- Amendments to Rule 6.1.1 to clarify application only to elections conducted under the Uniform Election Code.
- Amendments to Rule 6.1.2 (formerly Rule 6.1.3) to clarify that the county clerk must exhaust the list of judges the parties provide under Rule 6.1.1 before supplementing with additional major party judges or minor party or unaffiliated judges.
- New Rule 6.1.3 to require the county clerk to notify the Secretary of State if a major political party fails to provide an adequate list of election judges; and clarifies that the rule does not restrict the clerk from considering a supplemental list after the deadlines specified in Rule.
- New Rule 6.1.4 to require the county clerk to confer with major political parties regarding election judge assignments at certain times prior to an election.
- New Rule 6.1.5 to prohibit a county clerk from asking an election judge or staff member to change his or her party affiliation.
- Amended Rule 6.2.1 (formerly Rule 6.1.2) to allow major political parties to object to the county clerk's initial election judge assignments and recommend replacements.
- New Rule 6.2.2 to outline when a county clerk may remove or reassign a signature verification election judge.
- New rule 6.3 to prohibit a county clerk from personally conducting signature verification.
- New Rule 6.4 to restrict the use of regular county clerk staff from conducting signature verification in certain circumstances.
- Amendments to Rule 6.7 (formerly Rule 6.4) to clarify supervisor judge training requirements.
- New Rule 6.8 to require signature verification judges to complete a training course.
- New Rule 7.1.2 to require the county clerk to list all materials it will include in the mail ballot packet in its mail ballot plan.
- Amended Rule 7.2.6 to make the statement under the rule an optional component of the ballot return envelope and to clarify that if the voter leaves the statement blank, the county clerk must still accept a ballot for counting if it is otherwise valid.
- New Rule 7.2.8 to provide that the county must print the elector's full name under or near the self-affirmation line on the ballot return envelope where practicable. If not practicable, the county clerk must explain why in its mail ballot plan.
- New Rule 7.2.9 to require that on ballot return envelopes printed after April 1, 2016, the county clerk must provide a space on the ballot return envelope for a witness's full legal name.

- Amendments to Rule 7.5.1(c) to clarify the signage required at drop-off locations.
- Amendments to Rule 7.5.1(d) to correct a cross-reference.
- New Rule 7.8.1 to clarify that a single election judge may conduct the first level of signature verification.
- New Rule 7.8.2 to allow the election judge to review an elector's signature if it appears anywhere on the back of the ballot.
- Amended Rule 7.8.3 (formerly Rule 7.8.1) to provide for signature verification in accordance with the Secretary of State's Signature Verification Guide.
- Amended Rule 7.8.4 (formerly Rule 7.8.2) to clarify the additional research component of signature verification.
- Repealed Rule 7.8.5 as duplicative of statute.
- Amended Rule 7.8.5 to apply to a single election judge.
- Amended Rule 7.8.6 to address household swap of a ballot return envelope and allow the county clerk to process and count the ballot if it is otherwise valid, even if the other household member does not return a ballot.
- Amended Rule 7.8.7 (formerly Rule 7.8.3) to clarify information required in the signature discrepancy log.
- New Rule 7.8.8 to require county clerks to periodically audit signature verification judges and take action if the audit reveals a problem.
- Amended Rule 7.8.9 (formerly Rule 7.8.4) to repeal unnecessary language.
- Amended Rule 7.8.10 (formerly Rule 7.8.6) to repeal unnecessary language.
- Amended Rule 7.8.11 (formerly Rule 7.8.7) to clarify testing versus auditing of signature verification devices.
- New Rule 7.8.13 to require the county clerk to report to the Secretary of State the number of discrepant signatures forwarded to the District Attorney after each election.
- Amended Rule 7.9.1(d) (formerly Rule 7.8.9) to clarify language required on Voter Service and Polling Center signage.
- Amended Rule 7.9.5 to reflect current SCORE processes.
- Amended Rule 7.11 to repeal unnecessary language.

- Amended Rule 7.12 (formerly Rule 7.11.2) to clarify what services must be provided at Voter Service and Polling Centers.
- Amended Rules 7.13 and 7.14 (formerly Rules 7.12 and 7.13) to repeal unnecessary language.
- Reorganized Rule 8 to provide clarity to watcher processes and in response to recommendations received from the Secretary of State's Election Watcher Advisory Panel.
- Amended Rule 8.1 to clarify that the county clerk must accept appointments of all eligible watchers.
- Amended Rule 8.1.1 to allow only the registered agent or designated filing agent of an issue committee to appoint watchers on behalf of the issue committee.
- Amended Rule 8.1.2 to require the county clerk to confirm a watcher's eligibility before allowing the watcher to watch.
- Amended Rule 8.1.3 to permit a watcher to provide confirmation of voter registration to satisfy the county clerk's eligibility check.
- Amended Rule 8.1.4 to allow an issue committee watcher to provide the issue committee's registration to confirm the committee's eligibility to appoint watchers.
- Amended Rule 8.1.5 to require watchers to complete a training before observing election activities where confidential or personally identifiable information may be in view.
- Amended Rule 8.2 (formerly Rule 8.2) to allow interested parties to appoint watchers for recall elections.
- Repealed Rule 8.3 as inapplicable under Colorado's mail ballot election scheme.
- Amended Rule 8.4 (formerly Rule 8.13) to clarify the certificate of appointment process. (Current Rules 8.1.1, 8.1.2, and 8.1.3 are amended and recodified as New Rules 8.4.1, 8.4.2, and 8.4.3)
- Amended Rule 8.5 to require watchers to take the oath required by statute.
- Amended Rule 8.6 (formerly Rule 8.12) to clarify the watcher-removal process.
- Amended Rule 8.7 to require that the county clerk submit a watcher accommodation plan to the Secretary of State before each election.
- Amended Rule 8.8 to require that county clerks accommodate a minimum number of watchers for certain outlined activities.
- Amended Rule 8.9 to outline accommodation of watchers at group residential facilities.

- Amended rule 8.10.1 (formerly Rule 8.4.3) to repeal unnecessary language.
- Amended Rule 8.10.2 (formerly Rule 8.4.2) to clarify which election activities watchers may watch.
- Amended Rule 8.11 (formerly Rule 8.10) to repeal unnecessary language and clarify when the clerk must make available a list of voters who voted.
- Amended Rule 8.12 (formerly Rule 8.4.5) to repeal unnecessary language.
- Amended Rule 8.13 to provide for an optional escalation process from first level signature review to second level review by election judges.
- Amended Rule 8.14 (formerly Rule 8.5) to clarify what elements are added to the watcher oath.
- Amended Rule 8.15 (formerly Rule 8.6) to clarify what a watcher is not permitted to do.
- Amended Rule 8.16 to provide for a watcher contact if the watchers disputes a decision of an election judge.
- Amended Rule 8.17 (formerly Rule 8.7) to repeal unnecessary language.
- Repealed Rule 8.8 as now provided for in Rule 8.10.
- Amended Rule 10.5.2 to require counties to upload certain abstract and election night reporting information in the format approved by the Secretary of State.
- Amended Rule 10.8.3 to clarify procedures during a recount.
- Repealed Rule 10.11 as duplicative of recount procedures now outlined in Rule 8.
- Amended Rules 10.12.1 and 10.12.6 (formerly Rules 10.13.1 and 10.13.6) to correct cross-references.
- Amended Rule 11.2.3 to repeal unnecessary language.
- Amended Rule 11.3.2 to clarify Logic and Accuracy test procedures and add procedures for ballot marking devices.
- Amended Rule 11.9 to clarify the Secretary of State's approval of purchase or lease of certified voting systems.
- Amended Rule 11.10.1(i) to clarify election night reporting requirements for primary elections.
- Amended Rule 11.10.2 to extend the deadline and outline requirements for data entry counties providing zero file to Secretary of State.

- Amended Rule 11.10.3 to set requirements for data entry counties to upload Logic and Accuracy Test results file to Election Night Reporting.
- Amended Rules 11.10.4 and 11.10.5 (formerly Rules 11.10.3 and 11.10.4) to distinguish between election night results uploads and post-canvass uploads.
- Amended Rule 20.6 to condense and clarify requirements for storage of voting equipment.
- Amended Rule 21.4.5(f) to clarify requirements of the application and database audit transaction logs.
- Amended Rule 21.4.7(d) and New Rule 21.4.7(e) to clarify requirements for the ballot definition subsystem.
- Repealed duplicate Rule 21.4.8 from publication.
- Amended Rule 21.4.10(g) to clarify voting system removable storage media security requirements.
- Amended Rule 21.4.11 to repeal unnecessary requirements.
- Amended Rule 21.4.12 to add ballot marking devices.
- Amended Rule 21.4.13 to delete unnecessary language.
- New Rule 21.4.14 to provide for requirements for single-ballot-cast vote records and exports for voting systems certified for use on or after January 1, 2016.
- New Rule 21.4.15 to provide for election night reporting requirements for voting systems certified for use on or after January 1, 2016
- Amended rule 21.5.2(e)(2) to provide for requirements for ballot marking devices.

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

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2015), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”

2. Section 1-1.5-104(1)(b), C.R.S., (2015), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
3. Section 1-2-217.7(7), C.R.S., (2015), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
4. Section 1-5-616(1), C.R.S., (2015), which requires the Secretary of State to “adopt rules in accordance with article 4 of title 24, C.R.S., that establish minimum standards” for voting systems.
5. Section 1-5-616(4), C.R.S., (2015), which requires the Secretary of State to “adapt the standards for certification” of voting systems “to ensure that new technologies that meet the requirements for such systems are certified in a timely manner and available for selection by political subdivisions and meet user standards.”
6. Section 1-5-617(5), C.R.S., (2015), which requires a political subdivision to apply to the Secretary of State for approval of the purchase, installation, and use of a certified electronic or electromechanical voting system, and requires the Secretary of State to promulgate rules prescribing the form and procedure of the application.
7. Section 1-5-623(3), C.R.S., (2015), which sets forth factors the Secretary of State must consider when reviewing a political subdivision’s application to purchase an electronic voting device or system.
8. Section 1-7.5-104, C.R.S. (2015), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
9. Section 1-7.5-106, C.R.S., (2015), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]”

III. Official Notice

In accordance with section 24-4-103 (4)(a), C.R.S., the Secretary adds to this rulemaking record the following matter of which he has taken official notice during the promulgation of these rules:

- The decision to adopt amendments to Election Rule 11.9 that refer or relate to the implementation of a uniform voting system was informed by the work, proceedings, and recommendations of the Pilot Election Review Committee. The Secretary therefore takes

notice of the materials submitted to and considered by the committee, and the recordings of its public meetings and recommendations, which are available here:

<http://www.sos.state.co.us/pubs/elections/VotingSystems/reviewCommittee.html>

- The Secretary also takes notice of comments made by Daniel Bentley of the United States Postal Service at the Joint Elections Officials Liaison Committees meeting on January 6, 2016.² Specifically, Mr. Bentley indicated that first class mail delivery times are extending from one-to-three days to two-to-five days. In the event of a recount, constitutional deadlines would make it nearly impossible to conduct the election by mail. Even if a county did attempt to conduct the recall election by mail, many voters may choose to vote in person at a Voter Service and Polling Center. Therefore sufficient equipment must be available to process all or a majority of voters who would vote in person.

IV. Matters Considered

In accordance with section 24-4-103 (4)(a), C.R.S., the Secretary adds to this rulemaking record the following matters that he considered during the promulgation of these rules. Specifically, the Secretary considered the following matters when amending Rule 11.9:

- The Secretary considered the need for every county to have the same voting system so that other counties or the Secretary of State's Office can provide additional equipment or personnel should a county require assistance in administering its election. For example, should a county experience a natural disaster or high staff turnover, a uniform voting system will allow counties to cross-train and support each other. Currently, such support is limited to the other counties with the same system provider.
- The proposed rule will allow the Secretary of State's office to better support counties in the programming, use, and security of the voting system, at no cost to counties. The proposed rule will allow the Secretary of State's office to develop a streamlined, online training for the programming, use, and security of a single voting system, minimizing the need for onsite training by the voting system provider, which will reduce costs to counties.
- As noted above, due to mail delivery times, many voters in a recall election may by choice or necessity choose to vote in person at VSPCs. Therefore sufficient equipment must be available to process all or a majority of voters who would vote in person.

² Attachment A.

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USPS (Daniel Bentley's) remarks

Current Issues –

Q: Need communication method to know the questions/requests we forward to you are answered and what the answer is.

A: The USPS Election Mail Task Force has been re-established for the 2016 election cycle. Issues are now being tracked and reported on through conclusion. Many of the issues previously raised are as follows:

State Updates

Q: CO & OH status updates, ID and WA issues – sent samples – what is the response?

A: Checking status – OH (OH is providing additional samples for each county for USPS to review design and automation compatibility)

CO -- We pulled an entire set of data for CO and provided that to the CO contact provided

ID -- The file containing “uncancelled postage” are flat-size envelopes. Both envelopes do not include address block barcodes. Un-barcoded flats processed on the AFSM100 will include a “FICS” label applied by the AFSM100 and affixed at one of the four edges depending on how the piece is faced prior to induction.

WA -- First Class flats are cancelled on the AFSM100 however; this is a process that must be activated based on the operation. The second flat does not include the FICS label and I can only surmise that due to short postage (one Forever Stamp) the piece did not process on the AFSM100.

File “uncancelled envelope” is a letter-size envelope and should have included a cancellation. I cannot explain the reason for no cancellation other than the piece did not process through the AFSC. There are two noted signs of the AFCS, the stamp cancellation and the ID Tag on the non-address side at the lower left corner.

Note: Please provide the Election Mail Program Manager Sample pieces that are exact facsimiles of the ballot materials with postmarking or other issues with an enclosed pdf of the front and back of the actual piece.

2016 Election Prep

Q: List of Election Mail Coordinators to be shared

A: Completing 2016 Election Mail Coordinator list, updates will be sent out within the week.

Q: Design of official logo, placement – need to review and get the word out

A: Pub 631 was updated March 2015. Will send link to Pub 631 within the week

Q: 2016 Election Official Toolkit status

A: The 2016 Election Official Toolkit is in USPS stakeholder review – I am requesting to have this published by the end of January 2016 and mailed out before the middle of February

Postmarks

Q: Use of different size envelope? Which size of envelopes get automatically postmarked - this was one of the Ohio solutions

A: We are proposing the use of letter size First-Class Mailpieces. FC Letter Mail is an automated cancellation process. Flats are cancelled in a manual operation. Please note First-Class Mail Letter compliance can be validated by Postal Service Mailpiece Design Specialists.

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Postmarks contd.

Q: Business Reply -Why the delay in processing? Getting Postmarks?

Regarding Business Reply Mail – Election mailers have noted delays in processing, inconsistent postmark application, and late delivery.

Q: Do we apply a date time stamp (cancel) all BRM mail?

A: Yes

Q: Does this occur before it is culled out for payment processing?

A: Yes

Q: Do we have a Standard Operating Procedure for BRM election absentee ballots to be culled, counted, billed and turned over to election officials at a specific time Election Day?

A: Yes

Q: Can this be sent out frequently?

A: Yes, we can send out/remind as many times as necessary

Q: Before state primaries and the general election?

A: Yes – We will just need to append the project timeline

Q: Does any of this manual processing affect the overall delivery time as compared to other First-Class Mail?

A: No

Military Ballots

Expediting of Military ballots

Q: Will this be available for the Primary Elections or just the General Election

A: MPOs will process voted absentee ballots for General elections. Absentee ballots for Special and Primary elections will not receive an Express Mail Label 11-DoD.

Q: APO/FPO if we use the old format – will this get to the voter?

A: Yes

Q: Will these code correctly – how resolved?

A: USPS will run sort plans for both old and new address formats for letters and flats through 2016

Q: Box ranges?

A: Currently assigned box ranges (PSC and CMR) and the newly assigned UNIT box ranges should be included in APO/FPO addresses, but mail will still be delivered if not included.

UOCAVA Military Mail Addressing format change

All APO/FPO/DPO addresses must now conform to domestic addressing standards. The delivery line (the second line from the bottom in the address) must show the word "UNIT", "CMR" or "PSC" and number; and box number assigned. The bottom line of the address must contain APO, FPO, or DPO as the "city" designation and the appropriate two-letter "state" abbreviation (AA, AE, or AP) followed by the ZIP Code or ZIP+4 Code. See the full April 30, 2015 Postal Bulletin article [here](#). Examples of a UNIT and PSC designation:

SEAMAN JOHN DOE
UNIT 100100 BOX 4120
FPO AP 96691
JOHN DOE
PSC 5698 BOX 2002
APO AE 09400

Communications on this matter to date are as follows:

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Military Ballots contd.

Navy CNO notified Navy by ALNAV message November 2014.

Public and mailers notified via DMM --April 2015.

USPS Industry Alert -- May 28th 2015

CLASSIFICATION: UNCLASSIFIED

This information was published in the 30 April Postal Bulletin Kevin. Most of the info is accurate with the exception of:

1. Ship and unit names are not prohibited, they're optional
2. We continue to standardize addresses however; there are some units overseas without a CMR, PSC, or Unit number. We're told mail will still be accepted regardless if CMR, PSC, or Unit is included.

Jurisdictions Requests

Q: Definitive date from USPS to mail by?

A: The USPS Delivery Standards for First-Class Mail 2-5 days.

Q: What can jurisdictions tell their voters?

A: 5 business days prior to the election date

Q: USPS publishes mail by dates for holiday mail.

A: For the general election 5 business days for the absentee ballot to be returned by Election Day. We will update and republish this collateral.

Q: From AK – Request for a legal determination - Postmasters are the only ones authorized to witness signatures, can any Postal Employee witness this signature?

A: We have reviewed the Voter Certificate and Identification material from Alaska, attached hereto. << File: [Untitled].pdf >>

USPS has a regulation that authorizes "postmasters" in Alaska to "to administer oaths and affirmations, take acknowledgments and make and execute certificates thereof, and perform all other functions of a notary public within Alaska when a certification is necessary to meet any Act of Congress or the Legislature of Alaska." 39 CFR 222.2(c). So, we have consented to allowing postmasters to perform this role pursuant to Alaska state law.

Also, note that a postal official is an authorized, but not required, signature. If there is no postmaster available (or the postmaster does not want to sign), the voter has readily available alternatives. (Notary Public)

System Realignment Issues

Q: Load leveling – Tuesday slump documented – what is the update?

A: Returned absentee ballots are First-Class mailpieces. Recommend First-Class Mail Letter size to take advantage of the automation processes. Plan on and communicate having the voter return the absentee ballot 5 business days before the election date.

Q: Update on Rationalization of offices and processing plants.

A: Network Rationalizations remain deferred

Continued/Ongoing Impact of FCM service standard changes

Q: Request a determination/ interpretation interface standard mail would still qualify if directs voter to website to correct any errors in registration since USPS interpret the return card duplicitous for the solicitation to vote, and standard mail can only have one solicitation.

A: Decision pending

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NCOA

NCOA Code 19 definitions now (since 2013) including not just temporarily away, but also zip-4s that don't code (for OH SOS office)

A Return Code 19 indicates a change-of-address is on file. If the COA was filed as a Permanent order then a RC-19 is set when we are unable to recreate the new address because the new address could not be matched to a ZIP+4 Code or the primary address could not be validated as a delivery point. A RC-19 is also set when a Temporary COA order was processed. Since we cannot provide the new address for a Temporary COA it falls into the same category as the Permanent COAs where we are unable to recreate the new address. Because of privacy policy we purposely don't want to identify when a COA was filed as a Temporary order so this is why it is combined together with the Permanent COAs.

In any case, a RC-19 indicates that an active change-of-address exists for the customer. A Temporary COA will be dropped from the product once the End-Date is within 15 days of the product build date.

The statement that RC-19 was expected to only be a Temporary COA which then prompted a specific mailing is confusing. If the mailing is being sent to the original address it will be forwarded regardless of whether it is a Temporary or a Permanent COA, assuming the forwarding period has not expired. I'd suggest the State also use ACS on the mailing to get feedback on whether the mail is forwarded or not. If it is a Temporary COA the ACS notice will indicate this. If it is Permanent COA then the ACS notice will provide the new address information.

Q: Follow up from Huston – review of the USPS stance on privacy of the temporary away/perm away for electronic NCOA data. We can get it on paper now.

NCOA product – for election use that would have the address the voter is moving FROM and the address they are moving TO. Could be used for Outreach purposes should the new jurisdiction choose to use it.

A: We are reviewing this internally. We have discussed making the digital COA records provided by customers (submitted via usps.com) available electronically to the Current Registrar of Voters and possibly the new Registrar of voters, for outreach and verification efforts. This is only a partial solution as many people change submit paper COA Forms at their local post office. This opportunity is still being reviewed for development.

ERIC

Q: Follow up on the ERIC mailing templates that were sent to New York. This is to see if there is a standard template ERIC can recommend states use to get the very best rates.

A: Decision pending

Ballot Delivery

Q: Challenges with the class of service required for the ballots; associated limitations on the use of intelligent mail barcode that impede ballot tracking for many voters -- limitations to IMB to only 6 digits causes issues of uniqueness for smaller jurisdictions and results in oddities in ballot tracking (9 digits being reserved for larger mailers/jurisdictions)

A: USPS recommends the use of full service automation compatible First-Class Mail, letter format for outbound mailpieces and the use of IMb Tracing on the return letter format mailpieces.

Regarding 6 vs 9 digit MID assignment; best practice is to use a 9 digit MID or additional 9 digit MIDS if necessary to segregate mailings for tracking purposes. It is a best practice and additional level of security to not include identification information that is transcodable into actual voter identification numbers.

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Ballot Delivery contd.

Q: Consistent timing of delivery-- the consistent timing refers to ballots all going out in a single mailing (IE first day to mail) with wide disparity in when voters get their ballots (in the same household even). This can be understood for subsequent days of mailing with possible ballot printing and packet generation being done off of an affidavit number or something other than a last name or address, but for an initial mailing is harder to explain.

A: First-Class letter mail delivery standard is 2-5 days (Contiguous 48 United States). First-Class Mail is also likely to be entered into the mailstream on the first day. Standard Mail letter mail delivery standard is 2-9 days (Contiguous 48 United States). Standard Mail may not be entered into the mailstream on the day it was received. E.g. Standard Mail Load leveling.

Ballot Return

Q: Inconsistencies in local information provided to election officials depending upon which post office they visit and the timeliness of delivery

A: USPS preparations for the 2016 election cycle

- Establishing Election Mail teams in each area and district to serve as your local points of contact;
- Conducting national webinars for each functional area of the Postal Service, and issuing standardized employee talks and operating procedures;
- Reviewing past election cycle best practices and refining processes where needed, and
- Continuously monitoring mail entry, processing and delivery operations by tracking entered volumes to ensure that delivery standards are met.

Q: Changes in the postal service's delivery methods causing late ballot deliveries. Business Reply Mail resulting in additional delays for ballot return.

--on return, many jurisdictions are reporting variation in volumes on Tuesdays which impacts those states that require Election Day return for counting (those is the data we've provided as examples from WA & CO). --business reply is still causing delays in places where there is a shortage of staff that resolve those pieces (staff on vacation w/o backup, additional days in processing, etc)

A: We will use this feedback to plan frequency of Postal training and staffing efforts. Regarding Business Reply Mail – For ballot in hand states the Postal Service recommendation is for each jurisdiction to contact their local Election Mail Coordinator, setup a conference call to discuss all aspects of mailpiece design, preparation, entry, processing and PO Box or Caller service at each location that services that jurisdiction. The result of this is that ballot in hand states may have one or more points to setup PO Boxes or Caller Service for plant or center sweeps that would need to occur at the regulated date time. This requires a high degree of coordination between election officials and USPS staff.

Postmarking

Q: Inconsistency with the application of a postmark/cancellation on election mail which may result in the rejection of ballots under State law

A: In response to election officials and municipal mailer requests, the Postal Service began applying a cancellation mark to all letter pieces processed on USPS Letter Automation Compatible Postage Cancellation Systems in March 2014

USPS recommends the use of full service automation compatible First-Class Mail, letter format for outbound mailpieces and the use of IMb Tracing on the return letter mailpiece

Changing Infrastructure

Q: The consolidation of post offices and new load leveling requirements contributing to delays in ballot delivery and increased transit times for ballots.

- Clarification point: The Postal Service is revising the service standards for Standard Mail that is eligible for Destination Sectional Center Facility (DSCF) rates.
 - These changes will allow a more balanced distribution of DSCF Standard Mail across delivery days. Standard Mail pieces that qualify for the Destination Sectional Center Facility rate generally are delivered in three days.

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Changing Infrastructure contd.

-
- With its new rules, USPS is extending delivery expectation to four days for mail entered on Friday and Saturday.
- This change will improve delivery efficiency and reduce the traditional heavy Monday workload by spreading the delivery of these Standard Mail pieces across the week. This change does not affect First-Class Mail or Periodicals Mail and the Postal Service is not proposing any other revisions to its service standards at this time.
- Load Leveling STC Business -- April 2014
 - ▶ DSCF Standard Mail entered after the Critical Entry Time (CET) of 1600 on Thursday and before the CET of 1600 on Saturday will have an extra day added to the service standard
- First-Class Mail Delivery Standard Change Effective January 2015
 - First-Class letter mail delivery standard is 2-5 days (Contiguous 48 United States)

A: Delivery Standard changes have been well documented and communicated prior to and since the effective dates. We have opportunities to notify the public with regards to suggested mail dates for return pieces. E.g. Including a reminder for the voter in the ballot materials package may be the best method.

Q&A New opportunities