

Working Draft of Proposed Rules

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

May 15, 2017

Disclaimer:

The following is a working draft concerning the Election Rules. The Secretary values your input and is seeking feedback about the proposed revisions before a formal notice of rulemaking.

Please send your feedback by 5:00 PM on May 22, 2017. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

Please note the following formatting key:

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

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

2 *Amendments to Rule 1 concerning definitions and numbering:*

3 *New Rule 1.1.10:*

4 1.1.10 "CAST VOTE RECORD" OR "CVR" MEANS THE AGGREGATED BALLOT-LEVEL DATA ON BALLOTS
5 COUNTED, CONSISTING OF A SINGLE RECORD FOR EACH BALLOT TABULATED, SHOWING THE
6 MANNER IN WHICH THE VOTING SYSTEM INTERPRETED AND TABULATED THE VOTER'S MARKINGS ON
7 THE BALLOT, AS ADJUDICATED AND RESOLVED BY ELECTION JUDGES, IF APPLICABLE.

8 *[Not shown: renumbering Current Rules 1.1.10-1.1.31 as Rules 1.1.11-1.1.32]*

9 *New Rules 1.1.33 and 1.1.34:*

10 1.1.33 "PERSONALLY IDENTIFIABLE INFORMATION" MEANS INFORMATION ABOUT AN INDIVIDUAL THAT
11 CAN BE USED TO DISTINGUISH OR TRACE AN INDIVIDUAL'S IDENTITY, SUCH AS AN ELECTOR'S
12 SOCIAL SECURITY NUMBER, DRIVER'S LICENSE NUMBER, EMAIL ADDRESS, MONTH AND DAY OF
13 BIRTH, AND SIGNATURE.

14 1.1.34 "PROPERTY OWNER BALLOT" MEANS A BALLOT THAT ONLY CERTAIN PERSONS WHO RESIDE OUTSIDE
15 OF THE CERTIFYING POLITICAL SUBDIVISION ARE ELIGIBLE TO VOTE UNDER COLORADO LAW.

16 *[Not shown: renumbering Current Rules 1.1.32-1.1.49 as Rules 1.1.35-1.1.52]*

17 *Amendments to Rule 2.3.1 concerning voter registration:*

1 2.3.1 The county must process the Help America Vote Verification file on at least a monthly basis by
2 verifying social security numbers and remove the "ID required" FLAG FROM verified records.

3 *New Rule 2.5.4 concerning affiliation in primary elections:*

4 2.5.4 IF AN UNAFFILIATED ELECTOR WHO HAS ALREADY BEEN MAILED A PRIMARY ELECTION BALLOT
5 SUBMITS AN AFFILIATION DECLARATION, THE COUNTY CLERK MUST DEFER PROCESSING THE
6 AFFILIATION CHANGE UNTIL AFTER THE PRIMARY ELECTION; EXCEPT THAT AN UNAFFILIATED
7 ELECTOR WHO APPEARS IN PERSON TO VOTE MAY AFFILIATE AND VOTE A PARTY BALLOT IF THE
8 COUNTY CLERK HAS NOT RECEIVED THE ELECTOR'S VOTED MAIL BALLOT.

9 *Amendments to Rule 2.12.1 concerning list maintenance:*

10 2.12.1 The Secretary of State will provide monthly reports to the county clerk
11 section 1-2-302.5, C.R.S., to the county clerk.

In response to ESRC comments, unaffiliated voters ought to be able to receive a replacement mail ballot packet at a VSPC without declaring an affiliation or preference. Additionally, we do not think unaffiliated voters should be able to "opt out" of primary elections. This logic could be extended to all voters in all elections. Instead, the voter may simply not return a ballot.

12 *Amendments to Rule 2.13 concerning voter registration at VSPCs:*

13 2.13 Voter registration at a voter service and polling center.

14 2.13.1—A person registering voters or updating voter registration information in a voter service and
15 polling center must:

16 (a)-2.13.1 Be an election judge, a permanent or temporary county employee, state
17 employee, or temporary staff hired by the county clerk; and

18 (b)-2.13.2 Complete a training course provided by or approved by the Secretary of State.

19 2.13.2—~~For the purpose of providing information to watchers, the person registering voters or updating~~
20 ~~voter registration information in a voter service and polling center must maintain a log that~~
21 ~~includes the name and residential address of each elector who registers or updates his or her~~
22 ~~registration record, or verbally confirm each elector's name and residential address.~~

23 *New Rules 2.14.4 and 2.14.5 concerning voter registration records and data and renumbering:*

24 2.14.4 THE COUNTY CLERK MAY NOT RUN OR SCHEDULE TO RUN SCORE REPORTS OR EXPORTS THAT
25 INCLUDE VOTER OR ELECTION DETAIL DURING VOTING HOURS, BEGINNING 22 DAYS BEFORE
26 ELECTION DAY THROUGH ELECTION DAY.

27 2.14.5 THE COUNTY CLERK MUST SUBMIT ANY REQUEST FOR SCORE STATEWIDE REPORTS OR EXPORTS TO
28 THE SECRETARY OF STATE.

29 2.14.4-2.14.6 Custodianship of Voter Registration Information

30 (a) The Secretary of State is the official custodian of the information contained in the
31 centralized statewide registration system and the computerized statewide voter
32 registration list created and maintained under section 1-2-301, C.R.S.

33 (b) Each county clerk is the official custodian of the voter registration information only for
34 electors within his or her county.

35 2.14.5-2.14.7 If a person requests a certificate of registration or other election record that contains
36 personally identifiable information, he or she must provide a copy of identification as defined in
37 section 1-1-104(19.5), C.R.S.

1 *Amendments to Rule 2.15.1 concerning SCORE username and password administration:*

2 2.15.1 The state user administrator assigns county user administrator privileges to the individual
3 designated in each county by the county clerk. The county clerk OR ELECTION ADMINISTRATOR
4 must submit a request for county user administrator privilege to the state user administrator in
5 writing. The request must specifically state the full name of the county employee that is being
6 assigned as a county user administrator.

Thank you very much! We like this change.

7 *Repeal of Rule 4.5.2(d) concerning determination of ballot issues and terms:*

8 4.5.2 Each political subdivision must determine the order of the ballot issues for their political
9 subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20
10 and Title 1.

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

17 ~~(e)-(D)~~ In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred, every
18 proposed change to the Colorado Constitution must be called an “amendment” and every
19 proposed change to the Colorado Revised Statutes must be called a “proposition”

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

22 *Amendments to Rule 4.8.3(a) concerning ballot format and printing:*

23 4.8.3 Printing primary election ballots

24 (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates more
25 than one candidate for any office, the county clerk must conduct the primary election for
26 all major political parties UNLESS THE PARTY CHOOSES TO NOMINATE CANDIDATES IN
27 ACCORDANCE WITH SECTION 1-4-702, C.R.S.

28 (1) The county clerk must include on the ballot all offices to which candidates may
29 be nominated in the primary election.

30 (2) If there are no candidates for any particular office, the county clerk must print
31 on the ballot “There are no candidates for this office”.

32 [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.1.1]

33 *Amendments to Rules 7.2.5, 7.2.7, 7.2.9, and New Rule 7.2.10 concerning ballots and ballot packets in primary*
34 *elections:*

35 7.2.5 ~~Effective January 1, 2016, each~~ EACH mail ballot return envelope and mail ballot instruction must
36 include a statement informing voters that it is a violation of law to receive more than ten ballots
37 for mailing or delivery in any election.

38 7.2.7 A county must issue a mail ballot to any eligible elector who requests one in person at the county
39 clerk’s office or the office designated in the county’s mail ballot plan beginning 32 days before an
40 election. [Section 1-7.5-107(2.7), C.R.S.]

1 7.2.9 ~~On all ballot return envelopes printed after April 1, 2016, the~~ The county clerk must provide space on the ballot-return envelope for a witness to the elector's mark to provide his or her legal name.

(In the attachment) Revise to say "Judges of differing affiliations" instead of bipartisan teams.

4 7.2.10 *[Option 1 or 3, available in attachment #1]*

5 *New Rule 7.5.5 concerning remote drop off locations and amendments to Current Rules 7.5.5 through 7.5.10 concerning renumbering:*

We ask the SOS to propose a rule that directs counties to reject an unaffiliated voter's return envelope only if two voted ballots come back. Because the law now requires county clerks to send two separate ballots to unaffiliated voters, we think voters will return the second, blank ballot to the county. The two laws, in concert, seem to set up well-intentioned unaffiliated voters to fail.

We ask the SOS to propose a rule to have counties inform unaffiliated voters (either in the instructions or packet) that his or her preference will be an open record.

7 7.5.5 THE COUNTY CLERK MAY REQUEST A WAIVER FROM THE SECRETARY OF STATE FOR REMOTE DROP-OFF LOCATIONS, EXEMPTING THEM FROM THE BALLOT COLLECTION REQUIREMENTS IN RULE 7.5.5 IF THE SECRETARY OF STATE GRANTS THE WAIVER:

(A) THE COUNTY CLERK MUST ARRANGE FOR THE COLLECTION OF BALLOTS BY TEAMS OF ELECTION JUDGES FROM ALL EXEMPT DROP-OFF LOCATIONS AS NECESSARY, BUT AT LEAST:

- (1) ONCE EACH WEEK AFTER BALLOTS ARE MAILED UNTIL THE FRIDAY BEFORE ELECTION DAY; AND
(2) ON THE FRIDAY AND MONDAY BEFORE ELECTION DAY AND ON ELECTION DAY BEFORE 7:00 P.M. MT.

(B) THE COUNTY CLERK MUST POST A NOTICE ON EACH EXEMPT DROP BOX OF THE APPROXIMATE TIMES BALLOTS WILL BE COLLECTED.

19 7.5.5-7.5.6 Election officials must record the number of ballot packets returned as undeveloped and receive the ballot packets in SCORE upon receipt.

21 7.5.6-7.5.7 The designated election official must seal and store ballots and return envelopes in a safe, secure place until the counting of the ballots.

23 7.5.7-7.5.8 After election judges verify the elector's eligibility and signature, the county clerk must dissociate and segregate the mail ballot return envelope from the secrecy sleeve and a voted ballot in a manner that ensures no person is able to determine how an individual voted.

26 Amendments to Rules 7.5.9, 7.5.10, 7.5.11 and New Rules 7.5.12 and 7.5.13 concerning receipt and processing of ballots:

28 7.5.8-7.5.9 If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S., prohibiting any person from delivering more than 10 ballots in addition to his or her own in any election, the county clerk must refer the information to the District Attorney.

31 7.5.9-7.5.10 ~~The~~ BEFORE TABULATING BALLOTS, THE county clerk must dissociate any batch number that could trace a ballot back to the specific voter who cast it from the counted ballots or any reports generated by the tabulation software no later than the final certification of the abstract of votes cast.

35 7.5.10-7.5.11 If an elector delivers a ballot to the wrong county, that county must date stamp the ballot envelope, NOTIFY THE CORRECT COUNTY OF RECEIPT BY SECURE ELECTRONIC TRANSMISSION INCLUDING A SCANNED IMAGE OF THE OUTSIDE OF THE MAIL BALLOT ENVELOPE, and forward it to the correct county NO LATER THAN THE NEXT BUSINESS DAY. The correct county must treat the ballot as received as of the date and time of the date stamp.

We would like these changes to be struck. First, it is unclear what problem the SOS is attempting to solve. Second, this rule would be unduly burdensome on the City and County of Denver; we would have to hire judges solely to scan in ballot images. A list, instead of scanned images, achieves the same result. If this is about allowing the receiving county to verify the signature before the envelope actually receiving the envelope, we also think this is misguided because there could be two voted ballots in the envelope or some other deficiency. But under this proposal, the voter that receives a cure letter would be under the impression that his or her ballot would be counted when it actually should be rejected. Lastly, the front range counties have an in-person delivery system that works.

1 7.5.12 COUNTY CLERKS PICKING UP BALLOTS FROM THE U.S. POSTAL SERVICE ON ELECTION NIGHT MUST
2 LOG THE NUMBER OF BALLOTS COLLECTED BY COUNTY AND PROVIDE THE LOG TO THE SECRETARY
3 OF STATE'S OFFICE WITHIN 24 HOURS. THE COUNTY MUST DATE STAMP EACH BALLOT ENVELOPE
4 AND IMMEDIATELY FORWARD IT TO THE CORRECT COUNTY. THE CORRECT COUNTY MUST TREAT
5 THE BALLOT AS RECEIVED AS OF THE DATE AND TIME OF THE DATE STAMP.

6 7.5.13 [Option 2 or 3, available in attachment #1]

Please change this to 48 hours from 24 hours.
Immediately after election night is a very busy time.

7 *Amendments to Rule 7.6.1 concerning ballots returned in unofficial envelope:*

8 7.6.1 If the county timely receives a mail ballot from an eligible elector in an envelope ~~other than the~~
9 ~~official ballot return envelope~~ THAT DOES NOT HAVE AN AFFIDAVIT OR DOES NOT HAVE THE
10 CORRECT AFFIDAVIT for that particular election, the county must contact the elector in writing
11 within three calendar days of receiving the ballot but no later than two calendar days after election
12 day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a
13 copy as part of the official election record. If the county receives the completed affidavit no later
14 than the eighth day after election day, the county must count the ballot.

15 *Amendments to Rule 7.7 concerning mail ballot cure procedures:*

16 7.7 ~~Missing signature.~~ MAIL BALLOT CURE PROCEDURES

17 7.7.3 ~~Nothing in this Rule prohibits the county clerk from calling the elector, but a phone call may not~~
18 ~~substitute for written contact.~~ If the county clerk ~~calls~~ USES ANY MEANS IN ADDITION TO MAIL TO
19 CONTACT any elector he or she must attempt to ~~call~~ CONTACT all SIMILARLY SITUATED electors
20 whose affidavits are WITH unsigned OR DISCREPANT SIGNATURES.

21 *Amendments to Rule 7.8.2 concerning signature verification procedures:*

22 7.8.2 If the elector's signature appears anywhere on the back of the ballot return envelope, the election
23 judge must ~~review the~~ VERIFY THE signature IN ACCORDANCE WITH SECTION 1-7.5-107.3, C.R.S.

24 *Amendments to Rule 7.9.1(c) and 7.9.3 and New Rules 7.9.6, 7.9.8, and 7.9.9 concerning VSPCs:*

25 7.9.1 The county clerk must designate and open the minimum number of voter service and polling
26 centers. The centers must be open during reasonable business hours for the minimum number of
27 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
28 other elections.

29 (c) The county clerk must provide all services outlined in section ~~1-2-509~~ 1-5-102.9, C.R.S.,
30 at every designated voter service and polling center.

31 7.9.3 In order to assist applicants and electors efficiently, a county clerk must configure voter service
32 and polling centers to provide: sufficient election judges, WebSCORE work stations, voting
33 equipment, A SUFFICIENT NUMBER OF mail and in-person ballots THAT CAN BE TABULATED BY THE
34 COUNTY'S VOTING SYSTEM WITHOUT FURTHER DUPLICATION, and other supplies.

35 7.9.6 AN UNAFFILIATED ELECTOR VOTING IN PERSON AT A VOTER SERVICE AND POLLING CENTER IN A
36 PRIMARY ELECTION MUST STATE WHICH PARTY'S ELECTION HE OR SHE CHOOSES TO VOTE IN, AND
37 THE COUNTY CLERK MUST INDICATE THE VOTER'S SELECTION IN SCORE AND PROVIDE THE VOTER
38 WITH THAT PARTY'S BALLOT.

39 7.9.8 DURING EACH GENERAL ELECTION, A COUNTY WITH AT LEAST TWENTY-FIVE THOUSAND ACTIVE
40 ELECTORS MUST MEASURE AND RECORD THE WAIT TIME AT EACH OF ITS VOTER SERVICE AND

We would like the SOS to re-phrase this. Under the plain meaning of the words in Title 1, there is only one primary election, not multiple. Therefore, we would like to see this rule be tweaked to say "... which party's ballot he or she chooses to cast ..." (See Gessler v Williams declaratory action in 2012)

1 POLLING CENTERS, AT LEAST ONCE PER HOUR, FROM THE TIME A PERSON ENTERS THE LOCATION OR
2 THE LINE TO THE TIME THAT THE PERSON BEGINS THE CHECK-IN PROCESS.

3 7.9.9 EACH COUNTY REQUIRED TO MEASURE UNDER RULE 7.9.8 MUST REPORT ITS RESULTS TO THE
4 SECRETARY OF STATE NO LATER THAN 30 DAYS AFTER THE ELECTION.

5 *New Rule 7.16 concerning voter registration post-election scanning:*

6 7.16 FOLLOWING EACH ELECTION, THE COUNTY CLERK MUST SCAN MAIL BALLOT RETURN ENVELOPES INTO
7 SCORE AND CROP THE ELECTOR'S MOST RECENT SIGNATURE.

8 *Amendments to Rule 8 concerning watchers:*

9 8.1.5 A watcher must complete a training provided by or approved by the Secretary of State before
10 observing election activities where confidential or personally identifiable information may be
11 within view. To verify completion of the training, a watcher must provide his or her training
12 certificate of completion with the Certificate of Appointment. A TRAINING CERTIFICATE OF
13 COMPLETION IS VALID UNTIL DECEMBER 31 OF THE FOLLOWING YEAR. AN APPROVED TRAINING
14 MAY BE USED FOR ONE CALENDAR YEAR FROM THE DATE APPROVED.

15 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot
16 limit in Rule ~~4-1-27~~-1.1.28 applies only to voting.

17 8.15.8 HAVE IN HIS OR HER POSSESSION ANY MOBILE PHONE OR OTHER ELECTRONIC DEVICE WHILE
18 WATCHING ELECTION ACTIVITIES WHERE VOTERS' CONFIDENTIAL OR PERSONALLY IDENTIFIABLE
19 INFORMATION MAY BE WITHIN VIEW.

20 ~~8.15.8~~-8.15.9 Attempt to determine how any elector voted.

21 ~~8.15.9~~-8.15.10 Disclose or record any confidential voter information as defined in section 24-72-204(8),
22 C.R.S., that he or she may observe.

23 ~~8.15.10~~-8.15.11 Disclose any results before the polls have closed.

24 *Amendments to Rule 10.3.2(b) concerning correcting cross-reference:*

25 10.3.2 The canvass board's duties are to:

26 (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and
27 Election Rule ~~11.3.3(k)~~-25.3.2;

28 *New Rule 10.4 concerning the date for conducting canvass:*

29 10.4 NO COUNTY MAY CONDUCT ITS CANVASS OR CERTIFY OFFICIAL RESULTS UNTIL AUTHORIZED TO DO SO BY
30 THE SECRETARY OF STATE. THE SECRETARY OF STATE MAY EXTEND THE CANVASS DEADLINE FOR ONE OR
31 MORE COUNTIES IN ORDER TO COMPLETE THE RISK-LIMITING AUDIT IN ACCORDANCE WITH RULE 25.2.
32 BEFORE CERTIFYING OFFICIAL RESULTS, THE COUNTY MUST MANUALLY ADJUST THE RESULTS OF THE
33 AUDITED CONTESTS TO REFLECT ALL VARIANCES AND DISCREPANCIES IDENTIFIED IN THE RISK-LIMITING
34 AUDIT.

35 *Amendments to Rule 10.5 concerning procedures for canvass:*

36 ~~10.4~~-10.5 Procedures for the day of the Canvass

1 ~~10.4.1~~-10.5.1 The designated election official must provide the following information to the canvass
2 board:

- 3 (a) The name of each candidate, office, and votes received;
- 4 (b) The number or letter of each ballot issue or question and votes received;
- 5 (c) The number of ballots cast, ~~including the number of accepted and rejected mail ballots~~;
- 6 (d) The number of provisional ballots cast, including the number accepted and rejected;
- 7 (e) The number of mail ballots counted and the number rejected;
- 8 (f) The number of in-person ballots counted;
- 9 (g) THE NUMBER OF EMERGENCY BALLOTS COUNTED AND THE NUMBER REJECTED;
- 10 ~~(g)~~(h) The number of provisional ballots counted and the number rejected listed by each
11 rejection code; and
- 12 ~~(h)~~(i) The number of damaged and spoiled ballots.

13 ~~10.4.2~~-10.5.2 Any written documentation regarding official results must be included as part of the
14 canvass.

15 ~~10.4.3~~-10.5.3 Written Complaints

- 16 (a) The designated election official must provide the canvass board with any written
17 complaint submitted by a registered elector about a voting device.
- 18 (b) If the complaint is resolved, the designated election official must provide the details of
19 the resolution.
- 20 (c) If the complaint is pending resolution when the board meets to conduct the canvass, the
21 designated election official must provide a proposal for how the issue will be resolved.

22 *[Not shown: current Rules 10.5 through 10.13 are renumbered as Rules 10.6 through 10.14]*

23 *Additional cross reference amendments to current Rules 10.13.1 and 10.13.6 (renumbered as 10.13.1 and 10.13.6)*
24 *follow:*

25 ~~10.12.4~~-10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the
26 test under Rule ~~10.11~~-10.12, the recount must be conducted in the same manner as the ballots were
27 counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in
28 the test, the recount must be conducted as a hand count under Rule ~~10.12.5~~-10.13.5.

29 ~~10.12.6~~-10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule ~~10.11.3~~
30 10.12.3, the county clerk must upload the memory cards.

31 *Amendments to Rule 11.3 concerning hardware diagnostic testing and LAT:*

32 11.3 The clerk must perform a hardware diagnostic test; AND a logic and accuracy test, ~~and a post-election audit.~~

33 11.3.2 Logic and Accuracy Test

1 (c) Preparing for the Logic and Accuracy Test

- 2 (1) The county must prepare a test deck of ballots that includes every ballot style
- 3 and, where applicable, precinct. The county test deck must include a sufficient
- 4 number of ballots to mark every vote position for every contest including write-
- 5 in candidates, allow for situations where a contest permits an elector to vote for
- 6 two or more positions, and include overvotes and undervotes for each contest.
- 7 THE COUNTY TEST DECK MUST INCLUDE AT LEAST ONE WRITE-IN VOTE FOR EACH
- 8 QUALIFIED WRITE-IN CANDIDATE SO THAT ALL QUALIFIED WRITE-IN CANDIDATE
- 9 NAMES WILL APPEAR IN THE LAT RESULT UPLOADED TO ENR AS REQUIRED BY
- 10 RULE 11.10.3.

11 *[Current Rule 11.3.3 is amended and recodified as New Rule 25.3.]*

12 *Amendments to Rule 11.10.1(b)(2) concerning renumbering of cross-reference and 11.10.3 concerning election*

13 *night reporting:*

14 11.10.1 A data entry county must upload a results data file to ENR containing the election results on the

15 dates and times specified in Rules 11.10.3 through 11.10.5. The county must program its election

16 database so that the results file exported from the voting system is formatted in accordance with

17 the following requirements:

18 (b) Contest order: Except as otherwise provided in subsections (1) – (4) of this Rule, the

19 results file must list the contests in the same order as they are certified for the ballot.

- 20 (2) The results file must list ballot measures in the order certified by the Secretary
- 21 of State, followed by the ballot measures certified by other participating political
- 22 subdivisions in the order and using the numbering conventions specified in Rule
- 23 4.5.2(f)4.5.2(E).

24 11.10.3 No later than 14 days before the election, a data entry county must upload the LAT results file to

25 ENR. At a minimum, the LAT results file must contain the results of the complete county test

26 deck required under Rule 11.3.2(c)(1).~~The county must also provide the Secretary of State with a~~

27 ~~summary results report for the LAT results file.~~

28 *Repeal of Rule 13.1.7 and Amendment of Rule 13.2.9(a) concerning election complaint procedures:*

29 ~~13.1.7 The Secretary of State’s determination is a final agency action.~~

30 13.2.9 Hearing and Resolution of HAVA complaints

31 (a) ~~If the complainant requests, the~~ THE Secretary of State or his or her designee will hold a

32 hearing ~~IF THE COMPLAINANT REQUESTS ONE AT THE TIME OF FILING THE COMPLAINT.~~

33 *Amendments to Rules 14.1.1(a) and New Rule 14.3.4 concerning voter registration drives:*

34 14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter Registration Drive

35 (“VRD”) must file a Statement of Intent and Training Acknowledgment Form with the Secretary

36 of State to conduct a voter registration drive. The Statement of Intent and Training

37 Acknowledgment Form must include the following information:

- 38 (a) The name of the group conducting the VRD, and the name ~~and contact information,~~
- 39 ADDRESS, EMAIL ADDRESS, AND TELEPHONE NUMBER of the individual organizing the
- 40 VRD;

We like this change.

1 14.3.4 THE VRD MUST PROVIDE THE SECRETARY OF STATE WITH THE NAME OF THE CIRCULATOR
2 ASSOCIATED WITH A PARTICULAR IDENTIFICATION NUMBER, UPON REQUEST.

3 *Amendments to Rule 16.1.6 concerning military and overseas electors:*

4 16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the
5 FIRST Primary Election to each elector whose record is marked "Inactive." The correspondence
6 may be sent by email or mail and, at a minimum, must notify the electors of:

- 7 (a) The status of the elector's record and ballot request;
- 8 (b) The upcoming federal elections;
- 9 (c) How to update the elector's mailing information and request a ballot; and
- 10 (d) Any other information the county clerk deems appropriate.

11 *Amendments to Rules 20.13.1(c)(8) and 20.16.3(a) concerning correction of cross-references:*

12 20.13.1 If a seal is broken, or there is another discrepancy, the election official must immediately notify
13 the county, who must remedy the discrepancy as follows:

- 14 (c) If the evidence indicates that the discrepancy occurred after votes were cast on the
15 device:
 - 16 (8) Before certifying election results, the county must conduct a full (all races) post-
17 election audit on the device and report results to the Secretary of State as
18 required by Rule 11-25. This requirement is in addition to the random selection
19 conducted by the Secretary of State.

20 20.16.3 Ballot reconciliation

- 21 (a) The county must reconcile ballots printed on demand in accordance with Rules ~~10.4 and~~
22 ~~10.5-10.1.1 AND 10.1.2.~~
- 23 (b) The county must maintain damaged, misprinted, or unusable ballots as election records.

24 *Amendments to Rule 20.17.3 concerning voting system conditions for use:*

- 25 20.17.3 The county must create a backup copy of the election setup records on a read-only, write-once ~~CD~~
26 ELECTRONIC STORAGE MEDIA, immediately after completing the Logic and Accuracy Test.
 - 27 (a) The county must identify the master database name and date of election on the label of
28 the backup ~~CD~~.
 - 29 (b) The county must store the backup ~~CD~~ in a sealed container. Two election officials of
30 different party affiliations must sign and date entries to the chain-of-custody log for the
31 sealed container.

32 *Amendments to Rule 21.4.5(e) and New Rule 21.4.14(c)(8) concerning voting system standards for certification:*

33 21.4.5 Functional Requirements

Thank you very
much! We like this
change.

1 (e) The voting system must include hardware or software to enable the closing of ~~the voting~~
2 ~~location and disabling the acceptance of ballots on~~ all vote tabulation devices AT POLLING
3 LOCATIONS to allow for the following:

4 21.4.14 Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary of State
5 for use in Colorado on or after January 1, 2016 must meet the following requirements for ballot-
6 level cast vote records and exports on or before December 31, 2016:

7 (c) The CVR export must contain the following fields, with values or data populated by the
8 voting system:

9 (8) NUMBER OF VALID CHOICES. THE NUMBER OF VALID CHOICES (E.G., "VOTE FOR
10 3") FOR EACH CONTEST.

11 *New Rule 24 concerning presidential electors:*

12 **RULE 24. PRESIDENTIAL ELECTORS**

13 24.1 OATH

14 24.1.1 AS USED IN SECTION 1-4-304 (1), C.R.S., "THE OATH REQUIRED BY LAW FOR PRESIDENTIAL
15 ELECTORS" MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

16 "I,, DO SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION
17 OF THE UNITED STATES AND OF THE STATE OF COLORADO, THAT I WILL FAITHFULLY
18 PERFORM THE DUTIES OF THE OFFICE OF PRESIDENTIAL ELECTOR THAT I AM ABOUT TO
19 ENTER, AND THAT I WILL VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-
20 PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE
21 PRECEDING GENERAL ELECTION IN THIS STATE."

22 24.1.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO TAKE AND SUBSCRIBE THE
23 OATH IN RULE 24.1.1, THE REFUSAL OR FAILURE CREATES A VACANCY IN THE OFFICE OF
24 PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED
25 BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

26 24.2 VOTING

27 24.2.1 AS SPECIFIED IN SECTION 1-4-304 (5), C.R.S., EACH PRESIDENTIAL ELECTOR MUST VOTE FOR THE
28 PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST
29 NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE.

30 24.2.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO VOTE FOR THE PRESIDENTIAL
31 CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES
32 AT THE PRECEDING GENERAL ELECTION IN THIS STATE, THE REFUSAL OR FAILURE CONSTITUTES A
33 "REFUSAL TO ACT" AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A
34 VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH
35 THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN
36 SECTION 1-4-304 (1), C.R.S.

37 24.3 FILLING VACANCIES

38 24.3.1 AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S., THE PRESIDENTIAL ELECTORS PRESENT MUST
39 IMMEDIATELY PROCEED TO FILL ANY VACANCY IN THE ELECTORAL COLLEGE. A QUORUM IS NOT
40 REQUIRED TO FILL A VACANCY. IN THE EVENT OF A TIE VOTE, THE VACANCY WILL BE FILLED BY
41 LOT.

1 24.3.2 IF A REMAINING PRESIDENTIAL ELECTOR REFUSES TO FILL A VACANCY IN THE ELECTORAL COLLEGE,
2 THE REFUSAL CONSTITUTES A “REFUSAL TO ACT” AS THAT TERM IS USED IN SECTION 1-4-304 (1),
3 C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED
4 IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS
5 PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

6 24.3.3 NOMINEES TO FILL VACANCIES MUST BE SELECTED IN ACCORDANCE WITH SECTION 1-4-302 (2),
7 C.R.S. THE PARTY SELECTING NOMINEES TO FILL VACANCIES MUST SELECT AT LEAST ONE MORE
8 PERSON THAN THERE ARE VACANCIES.

9 *New Rule 25 concerning post-election audit:*

10 **RULE 25. POST-ELECTION AUDIT**

11 25.1 DEFINITIONS. AS USED IN THIS RULE, UNLESS STATED OTHERWISE:

12 25.1.1 “AUDIT CENTER” MEANS THE PAGE OF THE SECRETARY OF STATE’S WEBSITE DEVOTED TO RISK-
13 LIMITING AUDITS.

14 25.1.2 “AUDITED CONTEST” MEANS A CONTEST SELECTED BY THE SECRETARY OF STATE FOR A RISK-
15 LIMITING AUDIT. THE AUDITED CONTEST DETERMINES THE NUMBER OF BALLOTS THAT MUST BE
16 EXAMINED AND VERIFIED DURING THE RLA.

17 25.1.3 “BALLOT POLLING AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD
18 EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON RANDOMLY SELECTED
19 BALLOTS.

20 25.1.4 “COMPARISON AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD
21 EXAMINES AND COMPARES VOTER MARKINGS ON RANDOMLY SELECTED BALLOTS TO THE VOTING
22 SYSTEM’S TABULATION AS REFLECTED IN THE CORRESPONDING CAST VOTE RECORDS.

23 25.1.5 “DILUTED MARGIN” OF AN AUDITED CONTEST MEANS THE SMALLEST REPORTED MARGIN IN VOTES
24 BETWEEN THE REPORTED CONTEST WINNER WITH THE LEAST VOTES IN THE CONTEST, AND THE
25 REPORTED CONTEST LOSER WITH THE MOST VOTES IN THE CONTEST, DIVIDED BY THE NUMBER OF
26 BALLOTS COUNTED IN THAT CONTEST. FOR EXAMPLE, IF THE VOTING SYSTEM TABULATED 10,000
27 BALLOTS IN AN AUDITED CONTEST, AND THE REPORTED WINNING CANDIDATE WITH THE LEAST
28 NUMBER OF VOTES RECEIVED 4,000 VOTES, AND THE REPORTED LOSING CANDIDATE WITH THE MOST
29 NUMBER OF VOTES RECEIVED 3,500 VOTES, THE DILUTED MARGIN OF THE CONTEST IS 5% [(4,000 –
30 3,500) / 10,000].

31 25.1.6 “MARGIN OVERSTATEMENT” MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD’S
32 INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE WINNER WITH THE LEAST NUMBER OF
33 VOTES RECEIVED FEWER VOTES THAN THE VOTING SYSTEM’S INTERPRETATION OF THE SAME
34 MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF THE CVR REFLECTS AN UNDERVOTE IN
35 THE AUDITED CONTEST, AND THE AUDIT BOARD’S INTERPRETATION OF THE CORRESPONDING PAPER
36 BALLOT REFLECTS A VOTE FOR THE LOSER WITH THE MOST VOTES IN THAT CONTEST, THE CVR
37 CONTAINS A ONE-VOTE OVERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR THE WINNER WITH
38 THE LEAST VOTES, AND THE AUDIT BOARD’S INTERPRETATION OF THE PAPER BALLOT REFLECTS A
39 VOTE FOR THE LOSER WITH THE MOST VOTES, THE PRELIMINARY RESULTS CONTAIN A TWO-VOTE
40 OVERSTATEMENT.

41 25.1.7 “MARGIN UNDERSTATEMENT” MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD’S
42 INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE CONTEST WINNER WITH THE LEAST
43 NUMBER OF VOTES RECEIVED MORE VOTES THAN THE VOTING SYSTEM’S INTERPRETATION OF THE
44 SAME MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF THE CVR REFLECTS AN UNDERVOTE

1 IN THE AUDITED CONTEST, AND THE AUDIT BOARD'S INTERPRETATION OF THE CORRESPONDING
2 PAPER BALLOT REFLECTS A VOTE FOR THE WINNER WITH THE LEAST NUMBER OF VOTES IN THAT
3 CONTEST, THE CVR CONTAINS A ONE-VOTE UNDERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR
4 THE LOSER WITH THE MOST VOTES, AND THE AUDIT BOARD'S INTERPRETATION OF THE PAPER
5 BALLOT REFLECTS A VOTE FOR THE WINNER WITH THE LEAST VOTES, THE CVR CONTAINS A TWO-
6 VOTE UNDERSTATEMENT.

7 25.1.8 "REPORTED OUTCOME" MEANS THE WINNING AND LOSING CANDIDATES OR VOTING CHOICES OF A
8 BALLOT CONTEST AS REFLECTED IN PRELIMINARY RESULTS.

9 25.1.9 "RISK LIMIT" MEANS THE LARGEST STATISTICAL PROBABILITY THAT AN INCORRECT REPORTED
10 OUTCOME IS NOT DETECTED AND CORRECTED IN A RISK-LIMITING AUDIT.

11 25.1.10 "RISK-LIMITING AUDIT" OR "RLA" MEANS A POST-ELECTION AUDIT CONDUCTED IN ACCORDANCE
12 WITH SECTION 1-7-515, C.R.S., AND RULE 25.3, WHICH HAS A PRE-SPECIFIED MINIMUM CHANCE OF
13 REQUIRING A FULL HAND COUNT IF THE REPORTED OUTCOME OF AN AUDITED CONTEST IS
14 INCORRECT.

15 25.1.11 "RLA TOOL" MEANS THE SOFTWARE AND USER INTERFACE PROVIDED BY THE SECRETARY OF
16 STATE IN ORDER FOR COUNTIES TO CONDUCT COMPARISON AUDITS.

17 25.2 RISK LIMITING AUDIT. THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT A RISK-LIMITING AUDIT IN
18 ACCORDANCE WITH SECTION 1-7-515, C.R.S. AND THIS RULE.

19 25.2.1 RLA METHODS

20 (A) COUNTIES THAT USE A VOTING SYSTEM CAPABLE OF EXPORTING CVRS MUST CONDUCT A
21 COMPARISON AUDIT.

22 (B) COUNTIES THAT USE A VOTING SYSTEM INCAPABLE OF EXPORTING CVRS MUST CONDUCT
23 A BALLOT POLLING AUDIT.

24 25.2.2 PREPARING FOR THE AUDIT

25 (A) RISK LIMIT. NO LATER THAN 30 DAYS BEFORE ELECTION DAY, THE SECRETARY OF STATE
26 WILL ESTABLISH AND PUBLISH ON THE AUDIT CENTER THE RISK LIMIT(S) THAT WILL APPLY
27 IN RLAs FOR THAT ELECTION. THE SECRETARY OF STATE MAY ESTABLISH DIFFERENT RISK
28 LIMITS FOR COMPARISON AUDITS AND BALLOT POLLING AUDITS, BUT IN NO EVENT WILL
29 THE RISK LIMIT EXCEED FIVE PERCENT.

30 (B) RANDOM SEED. NO LATER THAN 30 DAYS BEFORE ELECTION DAY, THE SECRETARY OF
31 STATE WILL CONVENE A PUBLIC MEETING TO ESTABLISH A RANDOM SEED FOR USE WITH
32 THE SECRETARY OF STATE'S RLA TOOL'S RANDOM NUMBER GENERATOR BASED ON
33 PHILIP STARK'S ONLINE TOOL, *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256*.
34 THIS MATERIAL IS INCORPORATED BY REFERENCE IN THE ELECTION RULES AND DOES NOT
35 INCLUDE LATER AMENDMENTS OR EDITIONS. THE FOLLOWING MATERIAL INCORPORATED
36 BY REFERENCE IS POSTED ON THE SECRETARY OF STATE WEBSITE AND AVAILABLE FOR
37 REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT THE COLORADO
38 SECRETARY OF STATE'S OFFICE: *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256*
39 AVAILABLE AT
40 [HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/SHA256RAND.HTM](https://www.stat.berkeley.edu/~stark/java/html/sha256rand.htm). THE
41 SECRETARY OF STATE WILL GIVE PUBLIC NOTICE OF THE MEETING AT LEAST SEVEN
42 CALENDAR DAYS IN ADVANCE. THE SEED IS A NUMBER CONSISTING OF AT LEAST 20 DIGITS,
43 AND EACH DIGIT WILL BE SELECTED IN ORDER BY SEQUENTIAL ROLLS OF A 10-SIDED DIE.
44 THE SECRETARY OF STATE WILL RANDOMLY SELECT MEMBERS OF THE PUBLIC WHO

1 ATTEND THE MEETING TO TAKE TURNS ROLLING THE DIE, AND DESIGNATE ONE OR MORE
2 STAFF MEMBERS TO TAKE TURNS ROLLING THE DIE IN THE EVENT THAT NO MEMBERS OF
3 THE PUBLIC ATTEND THE MEETING. THE SECRETARY OF STATE WILL PUBLISH THE SEED ON
4 THE AUDIT CENTER IMMEDIATELY AFTER IT IS ESTABLISHED.

5 (C) AUDIT BOARD. NO LATER THAN 15 DAYS BEFORE ELECTION DAY, THE DESIGNATED
6 ELECTION OFFICIAL MUST APPOINT AN AUDIT BOARD TO CONDUCT THE RISK-LIMITING
7 AUDIT. THE AUDIT BOARD MUST CONSIST OF ELECTORS NOMINATED BY THE MAJOR
8 POLITICAL PARTY COUNTY CHAIRPERSONS. AT LEAST TWO CANVASS BOARD MEMBERS
9 MUST OBSERVE THE RLA. THE DESIGNATED ELECTION OFFICIAL, MEMBERS OF HIS OR HER
10 STAFF, AND OTHER DULY APPOINTED ELECTION JUDGES MAY ASSIST THE AUDIT BOARD IN
11 CONDUCTING THE AUDIT.

12 (D) BALLOT MANIFEST. WHILE TABULATING BALLOTS, THE COUNTY MUST MAINTAIN AN
13 ACCURATE BALLOT MANIFEST IN A FORM APPROVED BY THE SECRETARY OF STATE. AT A
14 MINIMUM, THE BALLOT MANIFEST MUST UNIQUELY IDENTIFY FOR EACH TABULATED
15 BALLOT THE SCANNER ON WHICH THE BALLOT IS SCANNED, THE BALLOT BATCH OF WHICH
16 THE BALLOT IS A PART, THE NUMBER OF BALLOTS IN THE BATCH, AND THE STORAGE
17 CONTAINER IN WHICH THE BALLOT BATCH IS STORED AFTER TABULATION. THE COUNTY
18 MUST SECURE AND MAINTAIN IN SEALED BALLOT CONTAINERS ALL TABULATED BALLOTS
19 IN THE BATCHES AND ORDER THEY ARE SCANNED. THE COUNTY MUST MAINTAIN AND
20 DOCUMENT UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH BALLOT STORAGE
21 CONTAINER.

22 (E) SELECTION OF AUDITED CONTESTS. NO LATER THAN 5:00 P.M. MT ON THE FRIDAY AFTER
23 ELECTION DAY, THE SECRETARY OF STATE WILL SELECT FOR AUDIT AT LEAST ONE
24 STATEWIDE CONTEST, AND FOR EACH COUNTY AT LEAST ONE COUNTYWIDE CONTEST. THE
25 SECRETARY OF STATE WILL SELECT OTHER BALLOT CONTESTS FOR AUDIT IF IN ANY
26 PARTICULAR ELECTION THERE IS NO STATEWIDE CONTEST OR A COUNTYWIDE CONTEST IN
27 ANY COUNTY. THE SECRETARY OF STATE WILL PUBLISH A COMPLETE LIST OF ALL AUDITED
28 CONTESTS ON THE AUDIT CENTER. THE SECRETARY OF STATE WILL CONSIDER THE
29 FOLLOWING FACTORS IN DETERMINING WHICH CONTESTS TO AUDIT:

- 30 (1) THE DILUTED MARGIN OF THE CONTESTS; AND
31 (2) THE ABILITY OF THE COUNTY CLERKS TO COMPLETE THE AUDIT BEFORE THE
32 CANVASS DEADLINE.

33 (F) RLA TABULATION. ON THE NINTH DAY AFTER ELECTION DAY, THE COUNTY MUST FINISH
34 TABULATING ALL BALLOTS EXCEPT FOR PROVISIONAL BALLOTS AND PROPERTY OWNER
35 BALLOTS. IMMEDIATELY AFTER COMPLETING THE RLA TABULATION, AND TO THE EXTENT
36 PERMITTED BY ITS VOTING SYSTEM, THE COUNTY MUST ALSO GENERATE AND PRESERVE:

- 37 (1) A SUMMARY RESULTS REPORT;
38 (2) A RESULTS FILE EXPORT SUITABLE FOR UPLOADING TO THE SECRETARY OF
39 STATE'S ELECTION NIGHT REPORTING SYSTEM; AND
40 (3) A CVR EXPORT.

41 (G) CVR EXPORT VERIFICATION. COUNTIES CONDUCTING A COMPARISON AUDIT MUST VERIFY
42 THAT:

- 1 (1) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE AGGREGATE
2 NUMBER OF BALLOTS REFLECTED IN THE COUNTY’S BALLOT MANIFEST AS OF THE
3 NINTH DAY AFTER ELECTION DAY;
- 4 (2) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE NUMBER OF
5 BALLOTS TABULATED AS REFLECTED IN THE SUMMARY RESULTS REPORT FOR THE
6 RLA TABULATION;
- 7 (3) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE NUMBER OF
8 IN-PERSON BALLOTS ISSUED PLUS THE NUMBER OF MAIL BALLOTS IN VERIFIED-
9 ACCEPTED STAGE IN SCORE; AND
- 10 (4) THE VOTE TOTALS FOR ALL CHOICES IN ALL BALLOT CONTESTS IN THE CVR
11 EXPORT EQUALS THE VOTE TOTALS IN THE SUMMARY RESULTS REPORT FOR THE
12 RLA TABULATION.
- 13 (5) AFTER VERIFYING THE ACCURACY OF THE CVR EXPORT, THE COUNTY MUST
14 APPLY A HASH VALUE TO THE CVR EXPORT FILE USING THE HASH VALUE UTILITY
15 PROVIDED BY THE SECRETARY OF STATE.
- 16 (H) COMPARISON AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY AFTER
17 ELECTION DAY, EACH COUNTY CONDUCTING A COMPARISON AUDIT MUST UPLOAD:
- 18 (1) ITS BALLOT MANIFEST TO THE RLA TOOL;
- 19 (2) ITS VERIFIED AND HASHED CVR EXPORT TO THE RLA TOOL; AND
- 20 (3) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE’S
21 ELECTION NIGHT REPORTING SYSTEM.
- 22 (I) BALLOT POLLING AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY
23 AFTER ELECTION DAY, EACH COUNTY CONDUCTING A BALLOT POLLING AUDIT MUST
24 UPLOAD:
- 25 (1) ITS BALLOT MANIFEST TO THE COUNTY’S RLA FOLDER IN THE SECRETARY OF
26 STATE’S SECURE FILE TRANSFER PROTOCOL (SFTP) SYSTEM; AND
- 27 (2) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE’S
28 ELECTION NIGHT REPORTING SYSTEM.
- 29 (J) NUMBER OF BALLOTS TO AUDIT. THE SECRETARY OF STATE WILL DETERMINE THE
30 NUMBER OF BALLOTS TO AUDIT TO SATISFY THE RISK LIMIT FOR THE AUDITED CONTESTS
31 BASED ON THE BALLOT MANIFESTS SUBMITTED BY THE COUNTIES. THE NUMBER OF
32 BALLOTS TO AUDIT WILL BE DETERMINED ACCORDING TO THE FORMULAS AND PROTOCOLS
33 PUBLISHED BY MARK LINDEMAN AND PHILIP B. STARK IN *A GENTLE INTRODUCTION TO*
34 *RISK-LIMITING AUDITS*, AS APPLIED IN PHILIP STARK’S *TOOLS FOR COMPARISON RISK-*
35 *LIMITING ELECTION AUDITS*, AND *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION*
36 *AUDITS*. THESE MATERIALS ARE INCORPORATED BY REFERENCE IN THE ELECTION RULES
37 AND DO NOT INCLUDE LATER AMENDMENTS OR EDITIONS OF THE INCORPORATED
38 MATERIAL. THE FOLLOWING MATERIALS INCORPORATED BY REFERENCE ARE POSTED ON
39 THE SECRETARY OF STATE WEBSITE AND AVAILABLE FOR REVIEW BY THE PUBLIC DURING
40 REGULAR BUSINESS HOURS AT THE COLORADO SECRETARY OF STATE’S OFFICE:
- 41 (1) MARK LINDEMAN AND PHILIP B. STARK, *A GENTLE INTRODUCTION TO RISK-*
42 *LIMITING AUDITS*, IEEE SECURITY AND PRIVACY, SPECIAL ISSUE ON ELECTRONIC

1 VOTING, (MAR. 16, 2012), AT
2 [HTTP://WWW.STAT.BERKELEY.EDU/~STARK/PREPRINTS/GENTLE12.PDF.](http://www.stat.berkeley.edu/~stark/preprints/gentle12.pdf)

3 (2) PHILIP B. STARK, *TOOLS FOR COMPARISON RISK-LIMITING ELECTION AUDITS*,
4 (FEB. 26, 2017), AT
5 [HTTP://WWW.STAT.BERKELEY.EDU/~STARK/VOTE/AUDITTOOLS.HTM.](http://www.stat.berkeley.edu/~stark/vote/audittools.htm)

6 (3) PHILIP B. STARK, *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION AUDITS*,
7 (FEB. 16, 2017), AT
8 [HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/BALLOTPOLLTOOLS.HT](https://www.stat.berkeley.edu/~stark/java/html/ballotpolltools.htm)
9 [M.](https://www.stat.berkeley.edu/~stark/java/html/ballotpolltools.htm)

10 (K) RANDOM SELECTION OF BALLOTS FOR AUDIT. FOR COMPARISON AUDITS, THE SECRETARY
11 OF STATE WILL RANDOMLY SELECT THE INDIVIDUAL BALLOTS TO AUDIT. FOR BALLOT
12 POLLING AUDITS, THE SECRETARY OF STATE WILL RANDOMLY SELECT BALLOT BATCHES
13 TO AUDIT. THE SECRETARY OF STATE WILL USE A RANDOM NUMBER GENERATOR WITH
14 THE SEED ESTABLISHED UNDER SUBSECTION (B) OF THIS RULE TO IDENTIFY INDIVIDUAL
15 BALLOTS OR BALLOT BATCHES AS REFLECTED IN THE COUNTY BALLOT MANIFESTS. THE
16 SECRETARY OF STATE WILL NOTIFY EACH COUNTY OF, AND PUBLISH ON THE AUDIT
17 CENTER, THE RANDOMLY SELECTED BALLOTS OR BALLOT BATCHES THAT EACH COUNTY
18 MUST AUDIT NO LATER THAN 11:59 P.M. MT ON THE TENTH DAY AFTER ELECTION DAY.

19 25.2.3 CONDUCTING THE AUDIT

20 (A) THE COUNTY MUST COMPLETE THE AUDIT ON OR BEFORE 5:00 P.M. MT ON THE BUSINESS
21 DAY BEFORE THE CANVASS DEADLINE.

22 (B) THE AUDIT BOARD MUST LOCATE AND RETRIEVE FROM THE APPROPRIATE STORAGE
23 CONTAINER EACH RANDOMLY SELECTED BALLOT OR BATCH. THE AUDIT BOARD MUST
24 VERIFY THAT THE SEALS ON THE APPROPRIATE STORAGE CONTAINERS ARE THOSE
25 RECORDED ON THE APPLICABLE CHAIN-OF-CUSTODY LOGS.

26 (C) IN COUNTIES CONDUCTING COMPARISON AUDITS, THE AUDIT BOARD MUST RETRIEVE EACH
27 RANDOMLY SELECTED BALLOT AND COMPARE THE VOTER MARKINGS ON THE PAPER
28 BALLOT TO THE VOTING SYSTEM'S INTERPRETATION OF THOSE MARKINGS AS REFLECTED
29 IN THE CORRESPONDING CVR. IF THE SCANNED BALLOT WAS DUPLICATED PRIOR TO
30 TABULATION, THE AUDIT BOARD MUST ALSO RETRIEVE THE ORIGINAL BALLOT AND
31 COMPARE THEM TO THE MARKINGS ON THE SCANNED BALLOT. THE AUDIT BOARD MUST
32 PREPARE A SEPARATE AUDIT REPORT FOR THE AUDITED STATEWIDE CONTEST AND THE
33 AUDITED COUNTYWIDE OR OTHER CONTEST, DETAILING THE RESULTS OF ITS COMPARISON
34 OF VOTER MARKINGS ON SCANNED BALLOTS TO CVRS, AND ON ORIGINAL BALLOTS TO
35 SCANNED BALLOTS.

36 (D) IN COUNTIES CONDUCTING BALLOT POLLING AUDITS, THE AUDIT BOARD MUST RECORD ITS
37 INTERPRETATION OF THE VOTER MARKINGS ON EACH BALLOT CONTAINED IN THE
38 RANDOMLY SELECTED BALLOT BATCHES. IF A BALLOT WITHIN THE BATCH WAS
39 DUPLICATED PRIOR TO TABULATION, THE AUDIT BOARD MUST ALSO RETRIEVE, EXAMINE,
40 AND COMPARE THE VOTER MARKINGS ON THE ORIGINAL BALLOT TO THE MARKINGS ON
41 THE SCANNED BALLOT. THE AUDIT BOARD MUST PREPARE A SEPARATE AUDIT REPORT FOR
42 THE AUDITED STATEWIDE CONTEST AND THE AUDITED COUNTYWIDE OR OTHER CONTEST
43 DETAILING ITS INTERPRETATION OF THE VOTER MARKINGS IN THE AUDITED CONTESTS ON
44 EACH BALLOT IN THE RANDOMLY SELECTED BATCH OR BATCHES.

45 (E) THE AUDIT BOARD MUST INTERPRET VOTER MARKINGS ON BALLOTS SELECTED FOR AUDIT
46 IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT GUIDE.

- 1 (F) NO LATER THAN 5:00 P.M. MT ONE BUSINESS DAY BEFORE THE CANVASS DEADLINE, THE
 2 AUDIT BOARD MUST SUBMIT ITS AUDIT REPORTS TO THE SECRETARY OF STATE. THE AUDIT
 3 REPORTS MUST CONTAIN OR IDENTIFY:
- 4 (1) THE AUDITED CONTESTS;
- 5 (2) THE NUMBER OF BALLOTS AUDITED;
- 6 (3) FOR COUNTIES CONDUCTING COMPARISON AUDITS, ANY DISCREPANCY BETWEEN
 7 THE AUDIT BOARD'S INTERPRETATION OF VOTER MARKINGS ON THE PAPER
 8 BALLOT AND THE VOTING SYSTEM'S INTERPRETATION OF THOSE MARKINGS AS
 9 REFLECTED IN THE CORRESPONDING CVR, AND IN THE CASE OF AUDITED
 10 CONTESTS, WHETHER THE DISCREPANCY RESULTED IN A ONE-VOTE OR TWO-VOTE
 11 MARGIN OVERSTATEMENT OR MARGIN UNDERSTATEMENT;
- 12 (4) FOR COUNTIES CONDUCTING BALLOT POLLING AUDITS, THE AUDIT BOARD'S
 13 INTERPRETATION OF VOTER MARKINGS IN AUDITED CONTESTS ON EACH BALLOT
 14 CONTAINED IN THE RANDOMLY SELECTED BATCHES; AND
- 15 (5) THE DATE OF THE REPORT AND THE NAMES AND SIGNATURES OF THE AUDIT
 16 BOARD, THE CANVASS BOARD MEMBERS WHO OBSERVED THE AUDIT, AND THE
 17 COUNTY CLERK.
- 18 (G) THE RLA WILL CONTINUE UNTIL THE RISK LIMIT FOR THE AUDITED CONTESTS IS MET OR
 19 UNTIL A FULL HAND COUNT RESULTS. IF THE COUNTY AUDIT REPORTS REFLECT THAT THE
 20 RISK LIMIT HAS NOT BEEN SATISFIED IN AN AUDITED CONTEST, THE SECRETARY OF STATE
 21 WILL RANDOMLY SELECT ADDITIONAL BALLOTS FOR AUDIT.

22 25.2.4 FOR THE 2017 COORDINATED ELECTION, THE SECRETARY OF STATE MAY, BY ORDER, ALTER ANY OF
 23 THE REQUIREMENTS OUTLINED IN RULE 25.3.

24 *Current Rule 11.3.3 is amended and recodified as New Rule 25.3 as follows:*

25 ~~11.3.3-25.3~~ ~~Post-Election-RANDOM Audit.~~ ~~The~~ IF THE SECRETARY OF STATE WAIVES THE REQUIREMENT TO
 26 CONDUCT AN RLA UNDER SECTION 1-7-515(2)(B), C.R.S., THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT THE
 27 ~~post-election~~ RANDOM audit mandated by sections 1-7-509(1)(b) and 1-7-514, C.R.S., in accordance with
 28 this rule.

29 ~~(a)-25.3.1~~ Selected voting devices

30 ~~(1)-(A)~~ No later than 48 hours after the close of polls on election night, the Secretary of State
 31 must notify the designated election official of the voting devices randomly selected for
 32 audit, based on the submitted hardware inventory list referred to in Rule 11.2.

33 ~~(2)-(B)~~ The Secretary of State will randomly select, from the voting devices used in the election,
 34 at least five percent of the central count ballot scanners; at least one ballot scanner used at
 35 a polling location; and five percent of DREs.

36 ~~(b)-25.3.2~~ The designated election official must appoint an audit board to conduct the post-election
 37 audit in accordance with section 1-7-509(1)(c), C.R.S. At least two canvass board members must
 38 observe the random audit. The designated election official, members of his or her staff, and other
 39 duly appointed election judges, may assist with the audit.

40 ~~(e)-25.3.3~~ Number of ballots to audit

- 1 ~~(1)~~(A) Paper ballots tabulated on ballot scanners. The board must audit at least 500 ballots or 20
2 percent of the ballots tabulated on each selected ballot scanner, whichever is less. The
3 board may audit more than the minimum number of ballots required.
- 4 ~~(2)~~(B) Electronic ballots tabulated on DREs. The board must audit all ballots tabulated on the
5 selected DREs.
- 6 ~~(d)~~25.3.4 Conducting the audit
- 7 ~~(1)~~(A) Paper ballots tabulated on ballot scanners
- 8 ~~(A)~~(1) If the voting system is capable of generating batch-level tabulation reports for a
9 selected ballot scanner, the board must randomly select a number of ballot
10 batches tabulated on the ballot scanner that, in the aggregate, contain the
11 minimum number of ballots to be audited. The board must manually verify that
12 the votes on the ballots contained in each randomly selected batch match the
13 voting system's tabulation of votes for that batch.
- 14 ~~(B)~~(2) If the voting system is not capable of generating batch-level tabulation reports
15 for a selected ballot scanner, the board can choose to audit all of the ballots that
16 were tabulated on the selected scanner, or randomly select and rescan the
17 minimum number of ballots to be audited. If the board chooses to rescan the
18 minimum number of ballots, the board also must:
- 19 ~~(i)~~(A) Reset the selected ballot scanner's results to zero and generate a zero
20 report;
- 21 ~~(ii)~~(B) Rescan the randomly selected ballots for audit and generate a tabulation
22 report from the selected ballot scanner; and
- 23 ~~(iii)~~(C) Manually verify that the votes on the randomly selected ballots match
24 the tabulation report for those ballots generated from the selected ballot
25 scanner.
- 26 ~~(2)~~(B) Ballots tabulated on DREs. The board must examine the VVPAT record of each selected
27 DRE and manually verify that the votes reflected on the VVPAT match the tabulation
28 report.
- 29 ~~(e)~~25.3.5 If the board discovers discrepancies during the audit, the board must:
- 30 ~~(1)~~(A) Confirm that the manual count of the votes contained in the audited ballots is correct;
- 31 ~~(2)~~(B) Confirm that the manual count of the votes contained in the audited ballots properly
32 reflects overvotes, stray marks on the ballot, and other indications of voter intent;
- 33 ~~(3)~~(C) Determine whether any discrepancy is attributable to a damaged ballot; and
- 34 ~~(4)~~(D) Take any other action necessary in accordance with the canvass board's powers as
35 described in Part 1, Article 10 of Title 1, C.R.S.
- 36 ~~(f)~~25.3.6 The designated election official must report the results of the audit in writing to the
37 Secretary of State by 5:00 p.m. on the last day to canvass. The audit report may be submitted by
38 mail, fax, or email. The audit report must contain:
- 39 ~~(1)~~(A) The make, model, and serial number of the voting devices audited;

