



Notice of Proposed Rulemaking

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

June 15, 2012

I. Notice of hearing

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. A hearing is scheduled for **July 23, 2012 from 2:00 p.m. to 5:00 p.m.** in the Aspen Conference Room on the third floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

II. Subject of the proposed rulemaking

The Secretary is considering amendments to the election rules² in order to improve the administration and enforcement of Colorado elections law.³

Specifically, the Secretary is considering rules necessary to implement amendments to the election laws made during the 2012 second regular session of the 68th General Assembly. Additional rule revisions concern changes to an elector's voter registration status, permanent adoption of current temporary election rules, mail ballot elections, mail-in voting, procedures for processing changes to voter records in the statewide voter registration database, procedures for processing mail, mail-in, and provisional ballots, canvass board processes including the board's role and duties, and technical corrections. A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory authority for proposed rulemaking

The rule revisions and amendments are proposed in accordance with the following statutory provisions:

1. Section 1-1-107(2)(a), C.R.S., (2011), 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."

¹ Section 24-4-103(3)(a), C.R.S. (2011).

² 8 CCR 1505-1.

³ 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.

2. Section 1-1.5-104(1)(e), C.R.S., (2011), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545].”
3. Section 1-7.5-106(2), C.R.S., (2011), which authorizes the Secretary of State to “adopt rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]”
4. Section 1-8-115(5)(d), C.R.S., (2011), which authorize the Secretary of State to “prescribe by rule any procedure or requirements as may be necessary to implement the provisions of [the emergency electronic transfer statute].”
5. Section 1-8.5-112, C.R.S., (2011), which requires the Secretary of State to promulgate all appropriate rules...for the purpose of ensuring the uniform application of [Article 8.5 of Title 1, C.R.S.]”
6. Section 1-10-104.5, C.R.S. (2011), which authorizes the Secretary of State to “promulgate rules...for the purpose of establishing equitable uniformity in the appointment and operation of canvass boards.”

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State’s rules and notices of rulemaking website at:

www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearing20120723.html.

You may also contact our office to request a paper or editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 18, 2012.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process, and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

All interested persons will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

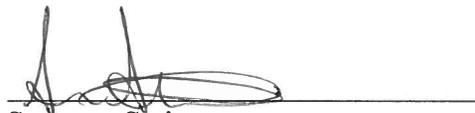
You may submit written comments by mail, email, or in person to our office anytime before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as

⁴ Section 24-4-103(3)(a), C.R.S. (2011). “Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

VII. Office contact

If you have any questions or would like to submit written comments, please contact Andrea Gyger with the Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 15th Day of June, 2012.

A handwritten signature in black ink, appearing to read 'Suzanne Staiert', is written over a horizontal line.

Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website www.sos.state.co.us/pubs/rule_making/hearings/2012/RulesHearing20120723.html. Prior to posting online, contact information including home address, email address, and telephone number(s) will be redacted from submissions unless otherwise directed by the contributor.

VI. Broadcast and audio recording of hearing

If you are unable to attend the hearing, you may listen to the live broadcast from the Aspen Conference Room online at www.sos.state.co.us/pubs/info_center/audioBroadcasts.html. After the hearing, visit the same website and click on “archived recordings” to access an audio recording of the hearing.



Proposed Statement of Basis, Purpose, and Specific Statutory Authority

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

June 15, 2012

I. Basis and Purpose

This statement is about amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws.¹ The revisions are also intended to improve the administration of elections in Colorado, to increase the transparency and security of the election process, and to answer questions arising under State election laws as follows:

- Rule 2.7.4 is repealed in accordance with changes made by section 3 of House Bill 12-1292, which amended section 1-2-204(2)(d), C.R.S., to make gender an optional response for a person registering to vote.
- New Rule 2.7.5 is adopted to implement changes made by section 6 of House Bill 12-1292. In accordance with amendments to section 1-2-509, C.R.S., if a county notifies an applicant that his or her voter registration application is incomplete, and the applicant does not provide the additional information necessary to complete the application within 24 months after notification is sent, the applicant must reapply.
- Amendments to Rule 2.11 clarify that an elector may apply through the online voter registration portal to update his or her inactive voter registration record to active status.
- Amendments to Rule 2.19.1 implement changes made by section 7 of House Bill 12-1292. Amendments to section 1-2-605(6)(b), C.R.S., provide that a confirmation card only needs to include information necessary to update registration rather than a complete voter registration application.
- Amendments to Rule 8.6, temporarily adopted on April 2, 2012, are permanently adopted.
- Rule 9.1 is amended to implement changes made by section 26 of House Bill 12-1292. Amendments to section 1-7-111, C.R.S., provide that an elector may receive assistance from an election judge or any other person the elector selects. Additionally, any person, other than an election judge, who assists an elector must first complete a voter

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.

assistance/disabled voter self-affirmation form. Amendments to the rule heading implement the people first language requirements of House Bill 10-1137.

- New Rule 10.6, temporarily adopted on April 2, 2012, is permanently adopted.
- Rules 12.4.1(a), 12.4.1(b)(2), and 12.4.2(a) are amended to implement changes made by section 32 of House Bill 12-1292 and section 10 of House Bill 12-1293. These changes harmonize mail ballot plan deadlines for elections conducted by the county clerk. The changes also adjust the deadline for a designated election official to submit a mail ballot plan for a nonpartisan recall election and for the Secretary of State to approve or disapprove the plan.
- New Rule 12.4.1(d), amendments to Rule 12.11, and new Rule 13.19 are adopted to clarify when a designated election official may mail ballots to an elector whose record is marked inactive – failed to vote. Specifically, the changes to Rules 12.4.1(d) and Rule 12.11 clarify that a county clerk may not mail a ballot in a coordinated mail ballot election to an inactive – failed to vote elector. New Rule 13.19 clarifies that, in order to receive a mail-in ballot in a polling place or vote center election, an inactive – failed to vote elector must make a timely ballot request and update his or her record to active.

The Colorado General Assembly passed the Mail Ballot Act in 1990, which provided for counties choosing to conduct a coordinated election to send ballots only to active registered electors. More recently, in 2008, the General Assembly passed House Bill 08-1329, which amended section 1-7.5-108.5(2)(b), C.R.S. The changes in House Bill 08-1329 were adopted to address concerns stemming from the 2006 general election. Election day 2006 saw unusually long lines throughout the day, leading to concerns that voters had simply given up, and become inactive – failed to vote as a result. The bill created a one-time exception requiring designated election officials to send mail ballots to all inactive – failed to vote electors for mail ballot elections conducted in November 2009. The bill also added section 1-7.5-108.5(2)(b), C.R.S., which stated that on July 1, 2011, this one-time exception was repealed.

Where the General Assembly intends for counties to mail ballots to inactive – failed to vote electors, the General Assembly specifically states that intent in the language of the statute. For example, section 1-7.5-107(3)(a)(II), C.R.S., requires mailing ballots to inactive – failed to vote electors who are affiliated with a participating party in a primary mail ballot election. In the repealed section 1-7.5-108.5(2)(b), C.R.S., the General Assembly specifically stated that counties were to mail ballots to inactive – failed to vote electors in a coordinated election. But because the requirement was for a specific period of time and has expired, county clerks may now send ballots only to active electors in a coordinated election.

In 2011, the City and County of Denver determined that it would mail ballots to inactive – failed to vote electors in the coordinated election. The Secretary of State advised Denver that the statute contemplated mailing only to active electors in a coordinated election. Denver refused to comply, and the Secretary filed a complaint in Denver district court to enjoin Denver from mailing to inactive – failed to vote electors. Denver responded and asserted several defenses, including an allegation that the Secretary failed to comply with the rulemaking requirements of the Administrative Procedure Act (APA).

The changes to Rules 12.4.1(d) and Rule 12.11 address Denver's concern that the Secretary failed to comply with the APA.

- Amendments to Rule 26 clarify the procedures for processing provisional ballots in the statewide voter registration system to ensure uniformity and consistency in statewide elections. Specifically, the revisions to Rule 26.10 state that the county clerk must make updates to the appropriate voter registration records before coding the ballots and linking to the voter record. New Rule 26.11 provides that the county clerk must completely enter and code all provisional ballots in the statewide voter registration system before closing the election, and new Rule 26.12 requires the county clerk to process all pollbooks before tabulating provisional ballots. Repealed Rule 26.1.6 is amended and relocated to new Rule 26.12.
- Amendments to Rule 29 clarify that the designated election official must use the signature affidavit and signature verification letters and forms prescribed by the Secretary of State.
- Rule 30.1.6(a) is amended to implement changes made by Senate Bill 12-062 and House Bill 12-1292. Specifically, amendments to the definition of identification in section 1-1-104(19.5)(a), C.R.S., list two additional forms of identification: (1) a valid veteran identification card issued by the United States department of veterans affairs veterans' health administration with a photograph of the eligible elector; and (2) a valid identification card issued by a federally recognized tribal government certifying tribal membership.
- Rules 32.1, 32.2, 32.3, and 32.4 are repealed. House Bill 12-1293 re-codified Part 1 of Article 12 with respect to recall elections. As a result, the Rules are no longer necessary.
- Amendments to Rule 41 clarify the role and duties of canvass boards to ensure uniform appointment and operation of canvass boards in state and federal elections. Specifically, the amendments:
 - Clarify the makeup of the canvass board. Colorado presently has more than two major political parties. This rule affords each major party an equal number of representatives on the canvass board, provided that each party submits representatives. This rule also provides that the county clerk and recorder may appoint minor party and unaffiliated candidates to the board. For purposes of efficient elections administration and fairness, this rule also limits the number of representatives from each major party to two and requires the canvass board to consist of an odd number of members.
 - Clarify the canvass board's duties under section 1-10-101.5, C.R.S. In particular, the board is tasked with reviewing the election judges' reconciliation to account and balance the election returns. The rule clarifies that where the board identifies a discrepancy in the judges' reconciliation, it may review the ballots at issue only for the purpose of correcting and accounting for the error. The rule also clarifies that the board must certify the abstract in accordance with sections 1-10-102 and 1-10-103, C.R.S., even if that means certifying imperfect returns.
 - Clarifies the process for the Secretary of State to provide additional assistance and guidance to the county clerk and canvass boards. Specifically, the rule outlines the

Secretary's role in the event that the board certifies imperfect returns. The rule provides that where imperfect returns have the potential to affect the outcome of any race or ballot measure, the Secretary will investigate and assist the board in resolving the imperfection before the state or county certifies the election results.

- Clarifies that watchers may observe the canvass in the same manner as any other election procedure.
- Revisions to Rule 42 include technical corrections and conforms the rule to changes made by section 38 of House Bill 12-1292. Specifically, Rules 42.11.3 through 42.11.7 are repealed. Amendments to section 1-8-115, C.R.S., eliminate the requirement that the designated election official seek authority from the Secretary of State before faxing an emergency mail-in ballot to an elector. Changes to Rule 42.2 clarify the definition of electronic transfer for emergency ballots.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2011), 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)(e), C.R.S., (2011), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545].”
3. Section 1-7.5-106(2), C.R.S., (2011), which authorizes the Secretary of State to “adopt rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.].”
4. Section 1-8-115(5)(d), C.R.S., (2011), which authorize the Secretary of State to “prescribe by rule any procedure or requirements as may be necessary to implement the provisions of [the emergency electronic transfer statute].”
5. Section 1-8.5-112, C.R.S., (2011), which requires the Secretary of State to promulgate all appropriate rules...for the purpose of ensuring the uniform application of [Article 8.5 of Title 1, C.R.S.].”
6. Section 1-10-104.5, C.R.S. (2011), which authorizes the Secretary of State to “promulgate rules...for the purpose of establishing equitable uniformity in the appointment and operation of canvass boards.”

Preliminary Draft of Proposed Rules

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

June 15, 2012

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the July 23, 2012 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **July 18, 2012**.²

Proposed additions to the current rules are reflected in SMALL CAPS.
Proposed deletions from current rules are shown in ~~stricken type~~.
(*Annotations*) may be included.

1 Amendments to Rule 2.7.4:

2 2.7.4 ~~If an applicant for voter registration fails to provide his or her gender the application shall~~
3 ~~be treated as "incomplete; however, if the applicant submits a photocopy of his/her~~
4 ~~driver's license or other approved form of ID which includes the applicant's gender, then~~
5 ~~the county may enter "male" or "female" as reflected on the card into the applicant's~~
6 ~~record and consider the application "complete".~~ REPEALED.

7 New Rule 2.7.5:

8 2.7.5 IF THE COUNTY CLERK AND RECORDER NOTIFIES AN APPLICANT THAT HIS OR HER
9 APPLICATION IS INCOMPLETE, AND THE APPLICANT DOES NOT PROVIDE THE ADDITIONAL
10 INFORMATION NECESSARY TO COMPLETE THE APPLICATION WITHIN 24 MONTHS AFTER
11 THE COUNTY CLERK SENT THE NOTIFICATION, THE APPLICANT MUST REAPPLY IN ORDER
12 TO REGISTER TO VOTE. (SECTION 1-2-509(2), C.R.S.)

13 Amendments to Rule 2.11:

14 2.11 CHANGES TO AN ELECTOR'S VOTER REGISTRATION STATUS.

15 2.11.1 ~~For the purposes of section 1-2-605(4)(a), C.R.S., an AN ELECTOR MAY update to a~~
16 ~~voter's HIS OR HER INACTIVE registration information to change the voter's STATUS TO~~

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2011). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2011). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

1 ACTIVE status ~~from inactive to active must be provided~~ BY SUBMITTING to the county
2 ~~clerk and recorder by any of the following ways:~~

3 (a-) A signed written request, ~~delivered in person or by U.S. mail, fax, or PDF~~
4 ~~attachment to an email; or~~

5 (b-) AN ONLINE VOTER REGISTRATION APPLICATION; OR

6 (c) AN ~~Oral~~-IN-PERSON request ~~in person when voter presents~~ WITH identification.

7 [SECTION 1-2-605(4)(A), C.R.S.]

8 2.11.42 ~~In the case of the applicant's~~ IF AN ELECTOR IS UNABLE to sign, ANOTHER PERSON MUST
9 WITNESS the elector's mark ~~shall be witnessed by another person~~. An elector may use a
10 signature stamp because of age, disability, or other need, ~~which shall be~~. THE STAMP IS
11 treated as a signature and does not require a witness.

12 Amendments to Rule 2.19.1:

13 2.19.1 "Confirmation card" means a FORWARDABLE, POSTAGE PREPAID mailing USING THE FORM
14 PRESCRIBED BY THE SECRETARY OF STATE ~~by forwardable mail that includes a registration form~~
15 ~~so that the voter may update his or her registration or request a mail in ballot. The mailing shall~~
16 ~~be postage prepaid and have a returnable portion that is preaddressed to the sending county clerk~~
17 ~~and recorder.~~

18 Amendments to Rule 8.6:

19 8.6 WATCHERS ARE SUBJECT TO THE PROVISIONS OF SECTION 1-5-503, C.R.S.

20 8.6.1 THE "IMMEDIATE VOTING AREA" IS THE AREA THAT IS WITHIN SIX FEET OF THE VOTING
21 EQUIPMENT, VOTING BOOTHS, AND THE BALLOT BOX.

22 8.6.2 THE DESIGNATED ELECTION OFFICIAL MUST POSITION THE VOTING EQUIPMENT, VOTING
23 BOOTHS, AND THE BALLOT BOX SO THAT THEY ARE IN PLAIN VIEW OF THE ELECTION
24 OFFICIALS AND WATCHERS.

25 8.6.3 THE DESIGNATED ELECTION OFFICIAL MAY, WITHIN HIS OR HER DISCRETION, ALLOW
26 WATCHERS WITHIN SIX FEET OF OTHER ACTIVITIES OUTSIDE THE IMMEDIATE VOTING
27 AREA, INCLUDING BALLOT PROCESSING AND COUNTING.

28 Amendments to Rule 9.1:

29 **Rule 9. Rules Concerning VOTING Assistance to ~~Disabled Voters~~ FOR ELECTORS WITH DISABILITIES**

30 9.1 ~~A~~-THE COUNTY CLERK AND RECORDER MUST POST A sign AT THE POLLING PLACE/VOTE CENTER,
31 ~~providing substantially as follows shall be posted at the polling place/vote center~~ THAT
32 SUBSTANTIALLY STATES:

33 *NOTICE*
34 *VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES*

35 *Colorado law ~~provides that a voter has~~ PROTECTS a VOTER'S legal right to assistance in voting if*

1 ~~assistance is needed because of blindness, INABILITY TO READ OR WRITE, or other physical~~
2 ~~disability. or inability to read or write. The following procedures apply:~~

3 1. ~~The voter must~~ IF YOU REQUIRE ASSISTANCE, PLEASE inform AN ELECTION JUDGE. ~~one of~~
4 ~~the election judges that he or she needs assistance.~~

5 2. ~~The voter may be assisted by any~~ ANY election judge or ~~by any eligible elector~~ PERSON
6 ~~selected by the voter~~ MAY ASSIST YOU.

7 3. ~~The person selected~~ IF YOU SELECT A PERSON OTHER THAN AN ELECTION JUDGE, HE OR SHE
8 must complete a 'voter assistance/disabled voter self-affirmation form' ~~if all of the~~
9 ~~following apply~~ THAT STATES:

10 ● ~~The person selected is not an election judge; and~~

11 ● ~~The person selected is not the spouse, parent, grandparent, sibling or child~~
12 ~~eighteen years of age or older, of the voter requesting assistance; and~~

13 ● ~~The person selected has assisted any other voter at the same election in the same~~
14 ~~precinct. Section 1-7-111(1)(b), C.R.S.~~

15 ● ~~The self affirmation form states; 'I,, certify that I am the individual~~
16 ~~chosen by the disabled elector to assist the disabled elector in casting a ballot.'~~

17 4. ~~The person selected~~ YOU SELECT may provide any assistance ~~needed by the voter~~ YOU
18 NEED, including entering the voting booth, ~~and~~ preparing the ballot, or operating the
19 voting machine.

20 5. ~~The person providing assistance shall~~ ASSISTING YOU MAY not seek to persuade YOU or
21 induce ~~the voter~~ YOU to vote in a particular manner.

22 6. ~~The election judges~~ JUDGE ~~shall~~ MUST record the name of each ~~eligible elector assisted~~
23 VOTER WHO RECEIVES ASSISTANCE and the name of ~~each~~ THE person ~~assisting~~ WHO
24 PROVIDED ASSISTANCE ~~by making an entry in the pollbook or list of eligible electors (or by~~
25 ~~making an entry on the signature card when~~ IF preprinted signature cards are used in the
26 place of a pollbook and list of eligible electors).

27 Amendments to Rule 10.6:

28 10.6 PRINTING PRIMARY ELECTION BALLOTS.

29 10.6.1 IF A MAJOR POLITICAL PARTY, AS DEFINED IN SECTION 1-1-104(22.5), C.R.S., HAS MORE
30 THAN ONE CANDIDATE FOR ANY OFFICE, THE COUNTY CLERK AND RECORDER MUST
31 CONDUCT THE PRIMARY ELECTION FOR ALL MAJOR POLITICAL PARTIES.

32 (A) THE COUNTY CLERK MUST INCLUDE ON THE BALLOT ALL OFFICES TO WHICH
33 CANDIDATES MAY BE NOMINATED IN THE PRIMARY ELECTION.

34 (B) IF THERE ARE NO CANDIDATES FOR ANY PARTICULAR OFFICE, THE COUNTY
35 CLERK MUST PRINT ON THE BALLOT "THERE ARE NO CANDIDATES FOR THIS
36 OFFICE".

1 [SECTIONS 1-4-101 AND 1-4-104.5, C.R.S.; ELECTION RULE 10.3]

2 10.6.2 IF A MINOR POLITICAL PARTY, AS DEFINED IN SECTION 1-1-104(23), C.R.S., HAS MORE
3 THAN ONE CANDIDATE FOR ANY OFFICE, THE COUNTY CLERK AND RECORDER MAY
4 CONDUCT THE PRIMARY ELECTION FOR THAT PARTY ONLY.

5 (A) THE COUNTY CLERK MUST INCLUDE ON THE BALLOT ONLY THE OFFICES FOR
6 WHICH THERE IS MORE THAN ONE CANDIDATE DESIGNATED.

7 (B) IF THERE IS ONLY ONE MINOR PARTY CANDIDATE DESIGNATED FOR ANY OFFICE,
8 THE CANDIDATE WILL BE CERTIFIED TO THE GENERAL ELECTION BALLOT.

9 [SECTIONS 1-4-101, 1-4-104.5(3), AND 1-4-1304, C.R.S.]

10 Amendments to Rule 12.4.1(a):

11 12.4 Mail Ballot Plans

12 12.4.1 Coordinated and non-partisan elections.

13 (a) Written plan. ~~As soon as possible, but~~ THE DESIGNATED ELECTION OFFICIAL MUST
14 SUBMIT A MAIL BALLOT PLAN TO THE SECRETARY OF STATE no later than 55 days
15 prior to BEFORE any other election, not including NONPARTISAN ELECTION, AND 90
16 DAYS BEFORE ANY ELECTION THAT IS COORDINATED WITH OR CONDUCTED BY THE
17 COUNTY CLERK AND RECORDER., ~~a Primary Election, a written plan~~ THE
18 DESIGNATED ELECTION OFFICIAL must be submitted to the Secretary of State which
19 USE THE APPROVED MAIL BALLOT PLAN TEMPLATE THAT includes the following:

20 Amendments to Rule 12.4.1(b)(2):

21 (2) Recall election. If a non-partisan recall election is to WILL be held as a mail
22 ballot election, ~~the governing body~~ THE DESIGNATED ELECTION OFFICIAL
23 shall MUST submit a written plan to the Secretary of State within ~~three~~
24 ~~business-FIVE~~ CALENDAR days ~~of~~ AFTER calling the election. The Secretary
25 of State WILL ~~shall~~ notify the governing body of the approval or
26 ~~disapproval~~ APPROVE OR DISAPPROVE of the plan within ~~two business-FIVE~~
27 CALENDAR days OF RECEIPT IN ACCORDANCE WITH SECTION 1-12-111.5,
28 C.R.S.

29 New Rule 12.4.1(d):

30 (D) REQUEST FOR BALLOT BY INACTIVE – FAILED TO VOTE ELECTOR. IN A
31 COORDINATED OR NONPARTISAN ELECTION, THE DESIGNATED ELECTION OFFICIAL
32 MAY NOT MAIL A BALLOT TO AN ELECTOR WHOSE REGISTRATION RECORD IS
33 MARKED INACTIVE – FAILED TO VOTE UNTIL THE ELECTOR SUBMITS A REQUEST
34 FOR A BALLOT UNDER SECTION 1-7.5-107(3), C.R.S., AND RULE 12.11.

35 Amendments to Rule 12.4.2(a):

36 12.4.2 Primary Elections conducted as a mail ballot election.

1 (a) Written plan. Pursuant to Article 7.5 of Title 1, C.R.S., no later than 120 days prior
2 to the election the county clerk and recorder must submit a written MAIL BALLOT
3 plan to the Secretary of State NO LATER THAN 90 DAYS BEFORE THE ELECTION. THE
4 COUNTY CLERK MUST USE THE APPROVED MAIL BALLOT PLAN TEMPLATE that
5 includes the following:

6 Amendments to Rule 12.11:

7 12.11 Request for a replacement ballot by an active elector and request for a ballot by an inactive
8 elector

9 12.11.1 ~~Requests may be made~~ AN ELECTOR MAY REQUEST A REPLACEMENT BALLOT in-person
10 beginning on the twenty-second day before the election and ~~until~~ ENDING AT 7:00 p.m.,
11 MT on election day. If the elector ~~wishes~~ REQUESTS to receive the ballot by mail, the
12 HE OR SHE MUST MAKE THE request ~~must be received~~ no later than the close of business
13 on the seventh day before the election.

14 (a) ~~An active elector may request a replacement ballot in person, by mail, fax, email,~~
15 ~~or telephone.~~

16 (i) ~~The elector shall complete a self affidavit, as required by section 1-7.5-~~
17 ~~107(3)(d)(I), C.R.S., on a form provided by the designated election official.~~

18 (ii) ~~If the elector requests that the replacement ballot be mailed, the self-~~
19 ~~affidavit may be included in the ballot packet, and must be completed and~~
20 ~~received by the designated election official on or before 7:00 p.m. MT on~~
21 ~~election day.~~

22 (iii) ~~The outside of the return envelope shall indicate that the self affidavit~~
23 ~~required by this Rule must be returned with the voted ballot. No~~
24 ~~replacement ballot shall be counted until it has been determined that an~~
25 ~~affidavit has been completed and returned by the deadline.~~

26 (b) ~~Except as otherwise provided in section 1-7.5-107(3)(e), C.R.S., an inactive elector~~
27 ~~may make a written request for a ballot in person, by mail, fax, or email. The~~
28 ~~request must include the elector's name, date of birth, residence address, and~~
29 ~~signature, and must be received by the designated election official before the ballot~~
30 ~~is issued. At the time the request is received the elector's record will be marked~~
31 ~~active.~~

32 12.11.2 If an elector moved at least 30 days before the election, he or she may include the
33 address change with the ballot request.

34 12.11.3 REQUEST FOR A REPLACEMENT BALLOT BY AN ACTIVE ELECTOR. AN ACTIVE ELECTOR
35 MAY REQUEST A REPLACEMENT BALLOT IN PERSON, BY MAIL, FAX, EMAIL, OR
36 TELEPHONE.

37 (A) THE ELECTOR MUST COMPLETE THE SELF-AFFIDAVIT ON THE APPROVED FORM.

38 (B) IF THE ELECTOR REQUESTS TO RECEIVE THE REPLACEMENT BALLOT BY MAIL,
39 THE DESIGNATED ELECTION OFFICIAL MAY INCLUDE THE SELF-AFFIDAVIT IN THE

1 MAIL BALLOT PACKET. THE ELECTOR MUST COMPLETE AND RETURN THE SELF-
2 AFFIDAVIT NO LATER THAN 7:00 P.M. ON ELECTION DAY.

- 3 (C) THE DESIGNATED ELECTION OFFICIAL MUST INDICATE ON THE OUTSIDE OF THE
4 RETURN ENVELOPE THAT THE ELECTOR MUST COMPLETE AND RETURN THE SELF-
5 AFFIDAVIT. (D) THE DESIGNATED ELECTION OFFICIAL MAY NOT COUNT A
6 REPLACEMENT BALLOT UNLESS THE ELECTOR COMPLETED AND RETURNED THE
7 SELF-AFFIDAVIT BY THE DEADLINE.

8 12.11.4 REQUEST FOR A BALLOT BY AN INACTIVE ELECTOR IN A NONPARTISAN MAIL BALLOT
9 ELECTION.

- 10 (A) THE INACTIVE ELECTOR MUST SUBMIT A WRITTEN REQUEST FOR A BALLOT
11 BEFORE THE DESIGNATED ELECTION OFFICIAL MAY MARK THE ELECTOR'S
12 RECORD ACTIVE AND ISSUE THE BALLOT.

- 13 (B) THE ELECTOR MAY SUBMIT THE WRITTEN REQUEST FORM IN PERSON, BY MAIL,
14 FAX, OR EMAIL.

- 15 (C) THE WRITTEN REQUEST FORM MUST INCLUDE THE ELECTOR'S NAME, DATE OF
16 BIRTH, RESIDENCE ADDRESS, AND SIGNATURE.

17 12.11.5 IF A COUNTY CLERK AND RECORDER CONDUCTS A PRIMARY ELECTION BY MAIL
18 BALLOT, HE OR SHE MUST MAIL A BALLOT TO AN ELECTOR WHOSE RECORD IS MARKED
19 INACTIVE – FAILED TO VOTE IN ACCORDANCE WITH SECTION 1-7.5-107(3)(A)(II)(A),
20 C.R.S.

21 New Rule 13.19:

22 13.19 FOR ANY ELECTION THAT IS NOT A PRIMARY MAIL BALLOT ELECTION, THE DESIGNATED
23 ELECTION OFFICIAL MAY NOT ISSUE A MAIL-IN BALLOT TO AN ELECTOR WHOSE RECORD IS
24 MARKED INACTIVE – FAILED TO VOTE UNTIL THE ELECTOR SUBMITS A TIMELY APPLICATION FOR
25 A MAIL-IN BALLOT.

26 Repeal and relocate Rule 26.1.6

27 26.1.6 ~~Voter Access to Provisional Ballot Information Required by section 1-8.5-111, C.R.S.~~

28 ~~26.1.6.1 The system shall be made available to the voter for no less than thirty (30) days~~
29 ~~following the date of the election.~~

30 ~~26.1.6.2 The system shall provide access to information at no cost to the voter, regardless~~
31 ~~of the voter's location, by toll free telephone call, internet website, or other~~
32 ~~suitable medium, pursuant to 1-8.5-111, C.R.S. REPEALED.~~

33 *[This rule is relocated to new Rule 26.13]*

34 Amendments to Rule 26.10:

35 26.10 Treatment of the provisional ballot affidavit as an application for, or a change to registration

1 26.10.1 If AN ELECTOR IS NOT REGISTERED TO VOTE AND HE OR SHE COMPLETES a provisional
2 ballot affidavit, ~~is treated as~~ THE COUNTY CLERK AND RECORDER MUST TREAT THE
3 AFFIDAVIT AS an application for registration for future elections. ~~in accordance with~~
4 ~~section 1-8.5-103(2), C.R.S., such~~ THE application ~~shall be~~ IS subject to the requirements
5 ~~for~~ OF any other voter registration application.

6 26.10.2 ~~In the case of an~~ IF A REGISTERED elector ~~who is registered, if the~~ COMPLETES A
7 provisional ballot affidavit THAT contains changes to the elector's registration, ~~his or her~~
8 ~~record shall be updated~~ THE COUNTY CLERK AND RECORDER MUST UPDATE THE
9 ELECTOR'S REGISTRATION RECORD accordingly BEFORE MARKING THE PROVISIONAL
10 BALLOT AS ACCEPTED OR REJECTED IN THE STATEWIDE VOTER REGISTRATION DATABASE
11 AND BEFORE LINKING IT TO THE ELECTOR'S RECORD.

12 26.10.3 If THE COUNTY CLERK AND RECORDER COUNTS a provisional ballot ~~is counted~~ because it
13 ~~was determined that an~~ THE elector was cancelled or consolidated in error, THE CLERK
14 MUST REINSTATE OR UNCONSOLIDATE AND UPDATE the elector's record ~~shall be~~
15 ~~reinstated or unconsolidated and updated~~ accordingly BEFORE MARKING THE
16 PROVISIONAL BALLOT AS ACCEPTED OR REJECTED IN THE STATEWIDE VOTER
17 REGISTRATION DATABASE AND BEFORE LINKING IT TO THE ELECTOR'S RECORD.

18 New Rule 26.11:

19 26.11 PROCESSING PROVISIONAL BALLOT AFFIDAVITS IN THE STATEWIDE VOTER REGISTRATION
20 DATABASE. BEFORE CLOSING AN ELECTION, THE COUNTY CLERK AND RECORDER MUST:

21 26.11.1 ENTER ALL PROVISIONAL BALLOT AFFIDAVITS INTO THE PROVISIONAL MODULE OF THE
22 STATEWIDE VOTER REGISTRATION DATABASE.

23 26.11.2 LINK ALL PROVISIONAL BALLOT AFFIDAVITS TO THE APPROPRIATE ELECTOR'S RECORD.

24 New Rule 26.12:

25 26.12 THE COUNTY CLERK AND RECORDER MUST PROCESS ALL POLLBOOKS OR SIGNATURE CARDS IN
26 THE STATEWIDE VOTER REGISTRATION DATABASE BEFORE TABULATING PROVISIONAL BALLOTS.

27 New Rule 26.13:

28 26.13 VOTER ACCESS TO PROVISIONAL BALLOT INFORMATION

29 26.13.1 THE SECRETARY OF STATE WILL PROVIDE A PROVISIONAL BALLOT LOOKUP ON THE
30 SECRETARY'S WEBSITE.

31 26.13.2 THE COUNTY CLERK AND RECORDER MUST NUMBER THE PROVISIONAL BALLOT STOCK
32 USING THE STANDARD NUMBERING CONVENTION APPROVED BY THE SECRETARY OF
33 STATE.

34 26.13.3 AN ELECTOR MAY ACCESS THE SYSTEM DURING THE 30 DAYS FOLLOWING THE ELECTION.

35 [SECTION 1-8.5-111, C.R.S.]

36 Amendments to Rule 29.1.1:

1 29.1.1 ~~When the election judge reviews the~~ IF A mail, MAIL-IN, OR PROVISIONAL ballot return
2 envelope ~~pursuant to section 1-7.5-107.3, C.R.S., or mail-in ballot return envelope~~
3 ~~pursuant to section 1-8-114.5, C.R.S., or the provisional ballot return envelope pursuant~~
4 ~~to section 1-8.5-105(3)(a), C.R.S., and notices that the envelope lacks a signature, the~~
5 election judge shall ~~MUST~~ contact the eligible elector in writing no later than two calendar
6 days after election day. THE DESIGNATED ELECTION OFFICIAL MUST USE THE LETTER AND
7 FORM PRESCRIBED BY THE SECRETARY OF STATE AND KEEP A COPY ~~of the written~~
8 ~~notification shall be kept in an official file, which shall become~~ AS part of the official
9 election record. Nothing in this rule ~~shall be construed to prohibits~~ the designated
10 election official from calling the elector; ~~however,~~ BUT a phone call shall ~~MAY~~ not
11 substitute for ~~notification to the elector in writing~~ THE WRITTEN CONTACT.

12 [SECTIONS 1-7.5-107.3, 1-8-114.5, AND 1-8.5-105(3)(A), C.R.S.]

13 Amendments to Rules 29.1.3 and 29.1.4:

14 29.1.3 The letter AND MISSING SIGNATURE AFFIDAVIT FORM ~~sent by the election official shall~~
15 DOES not ~~constitute a violation of~~ VIOLATE section 1-13-801, C.R.S.

16 29.1.4 The LETTER OR MISSING SIGNATURE AFFIDAVIT form shall ~~MUST~~ include the following
17 language:

18 “Any person who knowingly violates any of the provisions of the election code relative to
19 the casting of ballots or who aids or abets fraud in connection with any vote cast, or to be
20 cast, or attempted to be cast shall be punished by a fine of not more than five thousand
21 dollars or by imprisonment in the county jail for not more than eighteen months, or by
22 both such fine and imprisonment. Section 1-13-803, C.R.S.”

23 Amendments to Rule 29.8:

24 29.8 The ELECTION OFFICIAL MUST USE THE ~~form of the letter as well as~~ AND the SIGNATURE
25 VERIFICATION form ~~sent to the elector shall be approved by the Secretary of State. pursuant to~~
26 ~~section 1-1-109, C.R.S.~~

27 29.9 The letter AND SIGNATURE VERIFICATION FORM ~~sent by the election official shall~~ DOES not
28 ~~constitute a violation of~~ VIOLATE section 1-13-801 C.R.S.

29 Amendments to Rule 30.1.6(a):

30 30.1.6 “ID” as used in these rules shall ~~means~~ A COPY OF ANY OF THE FOLLOWING identification
31 as defined in ~~compliance with~~ section 1-1-104(19.5), C.R.S., ~~as a copy of one of the~~
32 ~~following:~~

33 (a) A valid Colorado driver’s license;

34 (b) A valid identification card issued by the Department of Revenue in accordance
35 with the requirements of Part 3 of Article 2 of Title 42, C.R.S.;

36 (c) A valid U.S. passport;

- 1 (d) A valid employee identification card with a photograph of the eligible elector
2 issued by any branch, department, agency, or entity of the United States
3 government or of this state, or by any county, municipality, board, authority, or
4 other political subdivision of this state;
- 5 (e) A valid pilot's license issued by the federal aviation administration or other
6 authorized agency of the United States;
- 7 (f) A valid U.S. military identification card with a photograph of the eligible elector;
- 8 (g) A copy of a current utility bill, bank statement, government check, paycheck, or
9 other government document that shows the name and address of the elector. For
10 example:
- 11 (I-I) A cable bill or telephone bill,
- 12 (II) ~~Documentation from a public institution of higher education in Colorado~~
13 ~~containing at least the name, date of birth, and legal residence address of~~
14 ~~the student elector;~~
- 15 (III-II) A paycheck from a government institution or private company; OR
- 16 (IV-III) A Certificate of Degree of Indian or Alaskan Native Blood.; ~~or~~
- 17 (V) ~~A valid identification card issued by a federally recognized tribal~~
18 ~~government certifying tribal membership.~~
- 19 (h) A valid Medicare or Medicaid card issued by the Centers for Medicare and
20 Medicaid Services (formerly the United States Health Care Financing
21 Administration);
- 22 (i) A certified copy of a U.S. birth certificate for the elector issued in the United
23 States;
- 24 (j) Certified documentation of naturalization; or
- 25 (k) A valid student identification card with a photograph of the eligible elector issued
26 by an institute of higher education in Colorado, as defined in section
27 23-3.1-102(5), C.R.S.
- 28 (L) A VALID VETERAN IDENTIFICATION CARD ISSUED BY THE UNITED STATES
29 DEPARTMENT OF VETERANS AFFAIRS VETERANS HEALTH ADMINISTRATION WITH
30 A PHOTOGRAPH OF THE ELIGIBLE ELECTOR.
- 31 (M) A VALID IDENTIFICATION CARD ISSUED BY A FEDERALLY RECOGNIZED TRIBAL
32 GOVERNMENT CERTIFYING TRIBAL MEMBERSHIP.

33 Repeal and renumber Rules 32.1, 32.2, 32.3, and 32.4:

34 32.1 ~~In any recall election of a partisan office, the successor nominee's party affiliation shall be listed~~
35 ~~with his or her name on the ballot. REPEALED.~~

36 32.23 ~~Petition sufficiency occurs when upon review, it is established that the petition contains the~~

1 ~~required number of valid signatures. REPEALED.~~

2 32.34 ~~When a protest is filed, petition sufficiency is sustained upon conclusion of the protest when the~~
3 ~~designated election official or the district judge maintains that there are sufficient valid~~
4 ~~signatures. REPEALED.~~

5 32.45 ~~When an officer subject to being recalled resigns within the five days after the sufficiency of the~~
6 ~~recall petition has been sustained, the recall election does not go forward, and the position is~~
7 ~~declared vacant and filled according to statute. REPEALED.~~

8 Amendments to Rule 41:

9 **Rule 41. Rules Concerning Canvassing**

10 41.1 Definitions

11 (a)41.1.1 ~~“Canvass” shall means the audit function of the election and the process of~~
12 ACCOUNTING AND BALANCING OF THE ELECTION, AND THE CERTIFICATION OF THE
13 OFFICIAL ABSTRACT OF VOTES. CANVASS INCLUDES reconciling the number of ballots
14 counted to the number of BALLOTS CAST, AND RECONCILING THE NUMBER OF BALLOTS
15 CAST TO THE NUMBER OF voters who voted. ~~The canvass also includes the process of~~
16 BY REVIEWING THE ~~reconciling~~ RECONCILED detailed ballot logs and Statement of
17 Ballots Forms. (SECTION 1-10-101.5, C.R.S.)

18 41.1.2 “CANVASS BOARD” MEANS A COMMITTEE COMPOSED OF THE COUNTY CLERK AND
19 RECORDER AND THE REGISTERED ELECTORS APPOINTED BY THE COUNTY CLERK AND
20 RECORDER THAT RECONCILES THE STATEMENT OF BALLOTS FORMS AND CERTIFIES
21 THE ABSTRACT OF VOTES CAST.

22 (b)41.1.3 “Canvass workers” ~~shall~~ means workers appointed or hired by the designated election
23 official to assist in the preparation and conduct of the canvass.

24 (e)41.1.4 “DETAILED BALLOT LOG” MEANS A LOG THAT ACCOUNTS FOR EVERY BALLOT
25 RECEIVED AND DISTRIBUTED, INCLUDING THE BALLOT STYLE, POLLING LOCATION, AND
26 PRECINCT NUMBER.

27 41.1.5 “Statement of Ballots Forms” ~~shall~~ means the form used at the polling location
28 pursuant to sections 1-7-505(2) and 1-7-601(2), C.R.S., that accounts for all ballots at
29 that location AND INCLUDES ALL INFORMATION REQUIRED BY THIS RULE. ~~The form~~
30 ~~includes information required by this rule.~~

31 41.2 APPOINTMENT TO THE CANVASS BOARD

32 41.2.1 FOR A PARTISAN ELECTION, EACH MAJOR PARTY MAY HAVE NO MORE THAN TWO
33 REPRESENTATIVES ON THE CANVASS BOARD. THE BOARD MUST INCLUDE AN EQUAL
34 NUMBER OF REPRESENTATIVES FROM EACH MAJOR PARTY, UNLESS A MAJOR PARTY
35 FAILS TO CERTIFY REPRESENTATIVES FOR APPOINTMENT.

36 41.2.2 THE COUNTY CLERK AND RECORDER MAY ACCEPT APPLICATIONS FROM, AND
37 SUBSEQUENTLY APPOINT, ADDITIONAL REPRESENTATIVES FROM AMONG MINOR PARTY
38 AND UNAFFILIATED ELECTORS.

- 1 41.2.3 EACH MAJOR AND MINOR PARTY REPRESENTATIVE ON THE CANVASS BOARD MUST BE
2 REGISTERED TO VOTE IN THE COUNTY WHERE THE REPRESENTATIVE WILL SERVE AND
3 AFFILIATED WITH THE PARTY HE OR SHE REPRESENTS.
- 4 41.2.4 EACH UNAFFILIATED REPRESENTATIVE ON THE CANVASS BOARD MUST BE REGISTERED
5 TO VOTE IN THE COUNTY WHERE THE REPRESENTATIVE WILL SERVE.
- 6 41.2.5 IN A CANVASS OF A NON-PARTISAN ELECTION, THE COUNTY CLERK AND RECORDER
7 MUST ACCEPT THE APPOINTMENT OF ONE REGISTERED ELECTOR APPOINTED BY ANY
8 PARTICIPATING JURISDICTION, UNLESS THE JURISDICTION FAILS TO SUBMIT A
9 REPRESENTATIVE FOR APPOINTMENT.
- 10 41.2.6 A CANDIDATE FOR OFFICE AND MEMBERS OF THE CANDIDATE'S IMMEDIATE FAMILY
11 MAY NOT SERVE ON THE CANVASS BOARD.
- 12 41.2.7 IN ALL CASES, THE CANVASS BOARD MUST CONSIST OF AN ODD NUMBER OF MEMBERS,
13 AND EACH MEMBER HAS EQUAL VOTING RIGHTS.
- 14 41.3 DUTIES OF THE CANVASS BOARD
- 15 41.3.1 THE CANVASS BOARD'S SOLE DUTY IS TO CONDUCT THE CANVASS AS DEFINED IN RULE
16 41.1.1.
- 17 41.3.2 THE CANVASS BOARD MUST CONFIRM THAT THE NUMBER OF BALLOTS CAST IS LESS
18 THAN OR EQUAL TO THE NUMBER OF PEOPLE WHO ACTUALLY VOTED IN THE ELECTION
19 BY REVIEWING AND VERIFYING THE JUDGES RECONCILIATION. 41.3.4 IF THE BOARD
20 IDENTIFIES A DISCREPANCY IN THE STATEMENT OF BALLOTS, THE BOARD MAY REVIEW
21 THE PARTICULAR BALLOTS AT ISSUE TO IDENTIFY, CORRECT, AND ACCOUNT FOR THE
22 ERROR.
- 23 41.3.4 THE CANVASS BOARD MUST CERTIFY AND TRANSMIT THE RESULTS TO THE SECRETARY
24 OF STATE REGARDLESS OF WHETHER THE BOARD IS ABLE TO RESOLVE ERRORS OR
25 INACCURACIES IN THE STATEMENT OF BALLOTS FORMS OR DETAILED BALLOT LOGS.
- 26 41.3.5 THE CANVASS BOARD MAY NOT PERFORM DUTIES TYPICALLY RESERVED FOR ELECTION
27 JUDGES, INCLUDING DETERMINING VOTER INTENT, EVALUATING VOTER ELIGIBILITY,
28 AND REVIEWING LOGS OR REPORTS THAT WERE NOT GENERATED WHILE CONDUCTING
29 THE ELECTION.
- 30 41.24 Detailed Ballot Log
- 31 41.24.1 The designated election official ~~shall~~ MUST keep a detailed BALLOT log of all ballots.
32 ~~The designated election official shall beginING the log as soon as~~ WHEN ballots are
33 ordered and received. ~~The log shall include the polling location and/or precinct~~
34 ~~number(s), ballot style(s), and account for every ballot that is received and distributed.~~
35 The ELECTION JUDGES MUST RECONCILE THE ~~detailed ballot log shall be reconciled at~~
36 the conclusion of each workday.
- 37 41.24.2 The designated election official ~~shall~~ MUST keep and reconcile daily logs of mail-in,
38 mail, and early voting ballots.

1 41.24.3 The designated election official ~~shall~~MUST indicate in the detailed log the number of
2 paper ballots that are sent to each polling location for use on election day.

3 41.24.4 THE DESIGNATED ELECTION OFFICIAL MAY KEEP All-required logs ~~may be kept either~~
4 ~~by~~IN electronic or manual ~~means~~FORMAT.

5 *[The details of what the log must include in Rule 41.4.1 are relocated to New Rule 41.1.5 in the*
6 *definitions]*

7 41.35 Election Day Tracking Process

8 41.35.1 The designated election official ~~shall~~MUST supply each polling location with a
9 Statement of Ballots Form. -Combined precincts may use one form. -The form MUST
10 include a place for the judges to account for the following information:

11 (a) The name or number(s) of the precinct or vote center;

12 (b) The number of ballots provided to the polling location;

13 (c) The number of ballots cast;

14 (d) The number of unvoted ballots;

15 (e) The number of damaged or spoiled ballots; and

16 (f) The number of voted provisional ballots.

17 41.35.2 The ELECTION JUDGE MUST RECONCILE THE total number of voted ballots ~~should be~~
18 ~~reconciled~~to the number of voters who voted.

19 41.35.3 The ELECTION JUDGE MUST VERIFY THAT THE total number of voted ballots, spoiled or
20 damaged ballots, provisional ballots, and unvoted ballots ~~should be reconciled to be the~~
21 ~~same as~~IS THE SAME AS the number of total ballots ~~received at~~SUPPLIED TO the polling
22 location ~~before voting begins~~.

23 41.35.4 The designated election official ~~shall~~MUST ~~ensure that the total of~~RECONCILE the
24 number of people who signed the pollbook ~~is reconciled~~to the total of the number of
25 ballots cast.

26 41.35.5 If there is a discrepancy in the numbers on the Statement of Ballots form, the judge
27 ~~shall~~MUST EXPLAIN THE DISCREPANCY IN WRITING. ~~make written notation explaining~~
28 ~~why the numbers do not balance~~(for example, THE voter signed in but left the polling
29 place without voting, etc.).

30 41.35.6 The ~~judges~~JUDGE ~~shall~~MUST return the completed Statement of Ballots form to the
31 designated election official with the other precinct supplies and mail a duplicate copy
32 ~~pursuant to section 1-7-505, C.R.S.~~TO THE DESIGNATED ELECTION OFFICIAL'S OFFICE.

33 41.46 Designated Election Official's Disposition of Forms

34 41.46.1 The designated election official ~~shall~~MUST review the Statement of Ballots form ~~and~~
35 ~~ensure that it is complete and correct~~FOR COMPLETION AND ACCURACY.

- 1 41.46.2 If the designated election official or the canvass board discovers a problem with the
2 Statement of Ballots form that cannot be easily resolved, he or she shall have the right
3 to ~~MAY~~ contact the election judges and ~~ensure that~~ FOR AN EXPLANATION OR
4 CORRECTION ~~the~~ discrepancy is explained or corrected.
- 5 41.57 Procedures for the Day of the Canvass
- 6 41.57.1 ~~In order for the canvass board established pursuant to section 1-10-101, C.R.S., to~~
7 ~~perform its duties, pursuant to section 1-10-101.5, C.R.S.,~~ THE designated election
8 official shall ~~MUST~~ provide the following information TO THE CANVASS BOARD:
- 9 (a) The name of each candidate ~~receiving votes, the office, and the total number of~~
10 votes received;
- 11 (b) The number/letter of each ballot issue or question and ~~the~~ votes received;
- 12 (c) The number of voters who voted early;
- 13 (d) The number of mail-in or mail ballots cast, including the number accepted and
14 rejected;
- 15 (e) The number of provisional ballots counted.
- 16 41.5.2 ~~The canvass board shall confirm that the number of ballots cast is less than or equal to~~
17 ~~the number of people who actually voted in each precinct or vote center.~~
- 18 41.5.3 ~~The designated election official shall use a canvass form that is approved by the~~
19 ~~Secretary of State.~~
- 20 41.57.4-2 Any written documentation regarding official numbers shall ~~be~~ IS included as part of
21 the canvass.
- 22 41.68 Official Abstract
- 23 41.68.1 The designated election official shall ~~MUST ensure that~~ INCLUDE the number of active
24 ELIGIBLE voters on election day pursuant to section 1-10-105(5)(e), C.R.S., is the
25 ~~number used~~ on the official abstract.
- 26 41.68.2 The CANVASS BOARD MUST CERTIFY THE official abstract shall ~~be compiled on~~ IN a
27 format approved by the Secretary of State.
- 28 41.68.3 The official abstract shall ~~MUST~~ include, by precinct/ballot style or vote center, where
29 applicable:
- 30 (a) The statement of votes counted by race and ballot question or issue;
- 31 (b) The total active registered electors in the precinct and the total for the jurisdiction
32 holding the election;
- 33 (c) The total number of electors voting in each precinct, and the total for the
34 jurisdiction holding the election;

- 1 (d) The number of voters who voted early;
- 2 (e) The number of emergency registrations;
- 3 (f) The number of mail-in or mail ballots counted and the number rejected;
- 4 (g) The number of provisional ballots counted and the number rejected listed by each
- 5 rejection code ~~pursuant to Rule 26.5.4~~; and
- 6 (h) The number of damaged and spoiled ballots.

7 41.79 The Abstract ~~shall be~~ IS the Official, Permanent Record.

8 41.79.1 The designated election official ~~shall~~ MUST keep all official canvass reports and forms

9 as part of the official permanent election record.

10 41.9.2 ONCE THE CANVASS BOARD CERTIFIES THE ABSTRACT MAY NOT WITHDRAW THE

11 CERTIFICATION. IN THE EVENT OF A RECOUNT, THE CANVASS BOARD MAY ONLY

12 AFFIRM OR AMEND THE ABSTRACT.

13 41.810 Appointment of Canvass Workers. ~~41.10.1~~—The designated election official may ~~utilize~~

14 APPOINT canvass workers to ~~assist in the preparation~~ HELP PREPARE and conduct of the

15 canvass.

16 41.911 Voter History

17 41.911.1 After the canvass ~~process is completed~~, the designated election official ~~shall~~ MUST give

18 credit to each voter who votes by mail, at an early voting site, or at a polling location.

19 41.911.2 If the voter history records do not match the number of voters who voted at that

20 election, the designated election official ~~shall~~ MUST ensure the following:

21 (a) Each voter ~~was given~~ RECEIVED credit for voting; and

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

23 41.911.3 All research concerning discrepancies ~~shall~~ MUST be explained and documented.

24 41.1012 Written Complaints. ~~In accordance with section 1-7-514(2)(b), C.R.S., the~~ THE designated

25 election official ~~shall~~ MUST provide to the canvass board WITH any written complaint about a

26 voting device submitted by a registered elector, and, if resolved, how it was resolved and if

27 pending, a proposal for how the issue will be resolved.

28 41.13 ROLE OF WATCHERS. THE CANVASS BOARD MUST GRANT WATCHERS A REASONABLE

29 OPPORTUNITY TO OBSERVE THE BOARD WHILE IT PERFORMS ITS DUTIES, SUBJECT TO RULE 8.

30 41.14 ROLE OF THE SECRETARY OF STATE

31 41.14.1 THE COUNTY CLERK AND RECORDER OR A MAJORITY OF THE APPOINTED CANVASS

32 BOARD MEMBERS MAY REQUEST THAT THE SECRETARY OF STATE PROVIDE GUIDANCE

33 AND SUPPORT TO THE CANVASS BOARD IN THE EXERCISE OF THE BOARD'S DUTIES.

1 41.14.2 IF, IN THE COURSE OF ASSISTING A CANVASS BOARD, THE SECRETARY OF STATE
2 DISCOVERS AN ERROR OR ABNORMALITY THAT THE SECRETARY BELIEVES MAY AFFECT
3 THE CONDUCT OF OTHER CANVASS BOARDS, THE SECRETARY MAY PROVIDE NOTICE TO
4 OTHER COUNTIES REGARDING THE NATURE OF THE ERROR OR ABNORMALITY.

5 41.14.3 INVESTIGATION OF CANVASS BOARD'S CERTIFICATION OF IMPERFECT RETURNS BEFORE
6 STATEWIDE CERTIFICATION.

7 (A) IMPERFECT RETURNS WITH NO POTENTIAL TO AFFECT RESULT. IF THE CANVASS
8 BOARD CERTIFIES IMPERFECT RETURNS THAT DO NOT HAVE THE POTENTIAL TO
9 CHANGE THE OUTCOME OF ANY RACE OR BALLOT MEASURE, THE SECRETARY OF
10 STATE AND COUNTY CLERK MUST CERTIFY THE ELECTION AND ORDER
11 RECOUNTS, IF ANY.

12 (B) IMPERFECT RETURNS WITH POTENTIAL TO AFFECT RESULT. IF THE CANVASS
13 BOARD CERTIFIES IMPERFECT RETURNS THAT HAVE THE POTENTIAL TO CHANGE
14 THE OUTCOME OF ANY RACE OR BALLOT MEASURE, THE SECRETARY OF STATE
15 WILL CONDUCT AN INVESTIGATION TO IDENTIFY THE NATURE OF, AND ADVISE
16 THE COUNTY CLERK AND RECORDER IN CORRECTING, THE INACCURACY.

17 Amendments to Rule 42.2:

18 42.2 "Electronic Transfer" shall mean ~~the use of facsimile and shall not include the use of FAX OR e-~~
19 ~~mail under (section 1-8-115, C.-R.-S.).~~

20 Amendments to Rule 42.6:

21 42.6 The transmission shall ~~MUST~~ also include a mail-in ballot self-affirmation pursuant to 1-8-114 (1)
22 ~~C. R. S.~~

23 Amendments to Rule 42.11.2:

24 42.11.2 If the designated election official is unable to provide a mail-in ballot to an elector by any
25 other means, the designated election official may ~~seek authority from the Secretary of~~
26 ~~State to provide a~~ SEND AN EMERGENCY mail-in ballot to the elector ~~under section~~
27 ~~1-8-115(4), C.R.S., and this Rule.~~

28 Repeal Rules 42.11.3, 42.11.4, 42.11.5, 42.11.6, and 42.11.7:

29 42.11.3 ~~No later than 21 days prior to the election, the Secretary of State will post on its website~~
30 ~~and email counties a designated point of contact for each election for Emergency~~
31 ~~Electronic Transfer Requests. REPEALED.~~

32 42.11.4 ~~A request to send a ballot by electronic transfer must be submitted to the designated point~~
33 ~~of contact via email using the approved Emergency Electronic Transfer form posted on~~
34 ~~the Secretary of State website. If possible, the designated election official should attempt~~
35 ~~to consolidate requests to the Secretary of State. REPEALED.~~

36 42.11.5 ~~At a minimum, a request for an emergency electronic transfer shall include:~~

37 (a) ~~Contact information, including name, address, phone number, fax number, and e-~~

- 1 mail address for the designated election official or their designee;
- 2 (b) ~~Date and time of request sent by designated election official;~~
- 3 (c) ~~Confirmation e-mail to designated election official by Secretary of State upon~~
4 ~~receipt of request~~
- 5 (d) ~~Justification as to why the ballot(s) need to be sent by fax, which includes the~~
6 ~~following required information:~~
- 7 (i) ~~The elector's name;~~
- 8 (ii) ~~When the elector applied for the mail-in ballot;~~
- 9 (iii) ~~The date when the designated election official sent the mail-in ballot to~~
10 ~~the elector (if applicable);~~
- 11 (iv) ~~The date the elector contacted the designated election official with~~
12 ~~information regarding failure to receive the ballot;~~
- 13 (v) ~~A suggested timeframe for the Secretary of State to respond;~~
- 14 (vi) ~~The quantity of ballots to be sent by fax; and~~
- 15 (vii) ~~Approval or disapproval by the Secretary of State; if denied, reason for~~
16 ~~the denial.~~
- 17 (e) ~~Confirmation e-mail from the designated election official to Secretary of State~~
18 ~~upon receipt of approval or disapproval. REPEALED.~~
- 19 42.11.6 ~~The Secretary of State shall respond in writing to the designated election official as soon~~
20 ~~as possible, but no later than eight business hours after receipt of the request. REPEALED.~~
- 21 42.11.7 ~~The Secretary of State shall have the ability to issue a blanket approval by electronic~~
22 ~~transfer. REPEALED.~~