

**DRAFT – PROPOSED RULE CHANGES:**

**RULES AND REGULATIONS  
GOVERNING ELECTION PROCEDURES**

8 CCR 1505-1

Revised: March 5, 2001

*At a rule-making hearing scheduled for March 22, 2001, the Secretary of State will consider deletions, amendments, and additions to the “Rules Governing Elections” as may be necessary or desirable to conform the existing rules to the current statutes and to address questions that have arisen about the interpretation or administration of the state election code.*

*The existing rules with proposed deletions, amendments, and additions are shown below. (SMALL CAPITAL letters show proposed additions, and ~~stricken type~~ letters show proposed deletions.)*

***General comments about the proposed revisions:***

- *Most of the proposed revisions are the recommendations of an interjurisdictional committee comprised of representatives of county clerk and recorders, municipal clerks, special districts, school boards, the Secretary of State’s office, and attorneys and other persons involved in the election process. Meetings of the group have been coordinated and facilitated by the Colorado Municipal League.*
- *These rules were last revised in 1993. A significant portion of the proposed revisions involves the deletion of rules, because statutes enacted since 1993 now cover the subject matter of the rules proposed for deletion.*
- *Because the proposed rule revisions include significant deletions, additions, and relocation of rules, it is anticipated that the entire rules may be renumbered as part of the revision to the rules.*

**RULES AND REGULATIONS  
GOVERNING ELECTION PROCEDURES**

*Definitions*

0. DEFINITIONS. AS USED IN THESE RULES AND THE “UNIFORM ELECTION CODE OF 1992”, UNLESS THE CONTEXT OTHERWISE REQUIRES, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:
  - 0.1 “DISTRICT OFFICE OF STATE CONCERN” MEANS ANY OF THE FOLLOWING OFFICES: MEMBER OF THE STATE BOARD OF EDUCATION, MEMBER OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, AND MEMBER OF THE BOARD OF DIRECTORS OF THE REGIONAL TRANSPORTATION DISTRICT.

**Comment:** Section 1-1-104 (9.5), C.R.S., provides that *“District office of state concern” means those elective offices, involving congressional districts or unique political subdivisions with territory in more than one county and with their own enabling legislation, as identified by rules of the secretary of state based upon the method for designating candidates for office and responsibility for identification and qualification of candidates.*” The term is used in the following sections:

- 1-4-907, concerning where to file candidate petitions
  - 1-4-1101, concerning where to file write-in candidate affidavits
  - 1-5-203 (1) and (2), concerning certification of ballot and publication of notice of vacancies
  - 1-10.5-102 and -109, concerning the SOS ordering a recount for certain offices
  - 1-11-105, concerning the SOS issuing certificates of election for certain offices
- Also, the term “district officers of state concern” appears in section 1-5-203 (1).

*Rules concerning Voter Registration*

1. Voter registration
  - 1.1 All requests for lists, printouts, DISKS, ~~and~~ tapes, AND OTHER MEDIA shall be made in writing. 1-2-301  
1-2-302
  - 1.2 After a receipt of request, the cost of ~~the printout~~ OF PROVIDING THE INFORMATION shall be determined. The cost of ~~the printout~~ must be paid prior to the request being filled.
  - 1.3 Social Security numbers shall not be considered as part of voter registration ~~lists or tapes~~ INFORMATION PROVIDED. 1-2-301  
1-2-302
  - 1.4 ~~If a person has any address which can be verified, whether it be a shelter or other temporary residence except a vacant lot, that person can be registered to vote.~~ 1-2-204
  - 1.5 ~~To facilitate the cancellation of prior voter registration after a change of residence has been filed, the new information shall be included on the tapes submitted to the secretary of state. The secretary of state shall prepare the duplicate list and mail it to the counties. The forms themselves shall be sent to the original county of registration and retained by the county clerk and recorder.~~ 1-2-303(2)
  - 1.6 If any person requires assistance in registering to vote because of difficulties with the English language, assistance in both the language in which the elector is fluent and in English shall be provided.

*Rules concerning Qualified Political Organizations*

2. Qualified Political Organization by order of 10<sup>th</sup> Circuit Court of Appeals (Baer v. Meyer, 728 F2d 471, 10<sup>th</sup> Cir. 1984)
  - 2.1 A qualified political organization is one which has placed a candidate for a congressional district or state office on the ballot at a congressional vacancy or general election and whose officers have filed the required proof of organization with the secretary of state and which continues to meet the requirements of 2.3 and 2.4.
  - 2.2 The required proof of organization, which may be filed at any time after organization, shall include, but shall not be limited to:
    - a. By-laws of the Colorado political organization which shall include the method for selecting officers, selecting delegates to county, state and national conventions, and selecting candidates planning to petition onto name of the Colorado political organization;
    - b. The names, addresses, telephone numbers of the elected Colorado chairperson, vice chairperson and secretary, together with the names, addresses and telephone number of all other members elected or appointed to other offices or committees authorized by the bylaws.
  - 2.3 Qualified political organizations shall meet once a year.
    - 2.3.1 The meeting in the odd numbered year shall be held for the purpose of electing a chairperson, vice-chairperson, secretary and other officers or committees as shall be provided for in the bylaws on file with the secretary of state.
      - 2.3.1.1 For new political organizations, this meeting must take place prior to placing a candidate on the ballot. Therefore, this meeting may occur in an even numbered year.
    - 2.3.2 The chairperson and the secretary shall file a full and complete list, under oath, of the persons elected or appointed pursuant to rule 2.2 together with any amendments to the bylaws adopted at the meeting.
    - 2.3.3 The meeting in the even numbered year shall be held for the purpose of selecting candidates who wish to use the

name of the political organization on petitions for the next ensuing general election.

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

2.4 A qualified political organization shall place a candidate or candidates on the general election ballot every two years.

2.4.1 Candidates wishing to represent a qualified political organization on the general election ballot shall be placed in nomination by ~~independent~~ nominating petition pursuant of C.R.S. 1-4-802.

2.4.2 Each petition shall contain the name of one candidate and shall have attached an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form shall be approved by the secretary of state and will include the date of the meeting required in 2.3.

2.4.3 For a candidate to qualify for the ballot, the candidate must have been affiliated with the qualified political organization for one year or if the political organization has not previously been qualified, the candidate must have been registered as unaffiliated for one year.

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

2.5 A political organization shall be qualified as soon as they:

- a. File proof of organization with the secretary of state;
- b. Meet to name a candidate to the general election ballot;  
and
- c. Certify a candidate to the general election ballot.

2.6 Once a political organization becomes a qualified political organization, eligible electors shall be able to register as affiliated with the political organization.

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

2.6.2 When asking the specific questions listed in C.R.S. 1-2-204, question (2)(j) shall be expanded to read:

a. The elector’s party affiliation, if any, if the eligible elector desires to affiliate with any political party or political organization.

b. If neither a political party affiliation or political organization affiliation is declared, the elector shall continue to be registered as “unaffiliated.”

2.6.3 The opportunity ~~for transfer of~~ TO DECLARE OR CHANGE a political affiliation shall be provided exactly as the law provides for political parties in C.R.S. 1-2-204(2)(j) AND C.R.S. 1-2-219.

2.6.4 At any time a declaration or change in affiliation Requested, the same procedure shall be used for declaring a political party or political organization affiliation.

2.6.5 In recording the information on the voter registration page, or affidavit, the affiliation with a political organization shall be listed by the name entry of the organization followed by (Pol.O.).

2.6.6 In converting information on the voter registration page to lists, submissions for data entry, the secretary of state’s master voter registration list, etc., standard abbreviations shall be used and will be furnished to the county clerks and recorders by the Secretary of State.

2.6.7 When an individual requests affiliation with a political organization which has not met the requirements of 2.1, the entry on the voter registration page shall be placed under “remarks”.

2.7 Political organizations shall lose their statue as qualified political organizations by failing to do any one of the following:

a. Meet in odd numbered years and file their list of officers

with the secretary of state;

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

~~e.~~ Place a candidate on a general election ballot through ~~an independent~~ A nominating petition.

2.8 The secretary of state will notify the county clerks and recorders by June 1 of each odd numbered year of the loss of qualified status of a political organization. Upon receiving notification, the county clerk and recorders shall indicate on every affected voter registration record “not qualified as of (date).”

2.9 Print-outs, lists, tapes, etc. of voter registration records shall be furnished to qualified political organizations at the same rate or cost as charged to political parties. The only exception to this provision shall be the list furnished to the major political parties prior to the statutory precinct caucus day.

2.10 On all summary reports of voter registration by political party, a supplemental report shall be provided which separates the “unaffiliated” category into unaffiliated and those registered with a qualified political on file with the secretary of state and certified to the county clerks and recorders.

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

*Rules concerning Circulation of Candidate Petitions*

3. Circulation of non-partisan candidate petitions.

3.1 No petition for candidacy for a non-partisan office shall be circulated prior to ~~the call for nominations being published by the political subdivision or~~ 90 days before the election, whichever occurs first. 1-4-904  
1-5-204

~~3.2 Unless otherwise provided by the political subdivision when setting a date for an election of successor following the~~ 1-12-118  
1-4-901, et

successful recall of an officer, the timeline for the election shall be as follows: seq.

- a. ~~The first business day after the certification of results, the designated election official shall set the date for the election of the successor.~~
- b. ~~Call for nominations shall be made the first business day after the certification of the results of the recall election.~~
- c. ~~Candidates shall have 20 days from the date of the call to circulate their petitions and submit them to the designated election officer.~~
- d. ~~Notice of the election shall be given by the designated election official no less than ten business days prior to the election.~~ 1-5-205

*Comment: House Bill 95-1241 amended section 1-12-118 (1) to provide that for all recall elections the election of a successor will occur at the same election as the recall election. Thus, Rule 3.2 is no longer necessary.*

*Rules concerning non-partisan elections*

4. ~~Rules concerning non-partisan election~~

4.1 ~~For non-partisan elections, either postcard notice or notice by publication must be given.~~ 1-5-206

4.1.1 ~~If a postcard notice is mailed to the electors either by the county clerk and recorder pursuant to 1-5-206 (2)(a), publication pursuant to 1-5-206 (2) (b) shall not be required.~~

4.2 ~~The prohibition in 1-5-208 (4) from canceling an election in part precludes a political subdivision which has certified both candidates and ballot issues and/or questions to the ballot from canceling wither one or the other part of the ballot. If the political subdivision has only certified one or more ballot issues or questions to the ballot and has not certified any candidates, 1-5-208 (4) shall not preclude a political subdivision from withdrawing one or more of the REFERRED ballot ISSUES OR QUESTIONS which have been previously certified to the ballot. If the ISSUE or question is withdrawn prior to the printing of the ballot, the ballot issues and questions shall be deemed to have not been submitted and votes cast on the ballot issues and ballot~~ 1-5-208

~~questions shall either not be counted or shall be deemed invalid by action of the governing body.~~

4. RULES CONCERNING NON-PARTISAN ELECTIONS
  - 4.1 FOR ELECTIONS CONDUCTED ON DAYS OTHER THAN ARE DESCRIBED IN SECTION 1-7-116 (1), C.R.S., NOTHING SHALL PRECLUDE THE DESIGNATED ELECTION OFFICIAL FROM MAILING THE NOTICE REQUIRED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION TO PERSONS WHO ARE ELIGIBLE ELECTORS IF SUCH MAILING IS DONE AT THE “LEAST COST” POSSIBLE.
  - 4.2 IF THERE ARE NO APPROPRIATE POLLING PLACE LOCATIONS WITHIN THE POLITICAL SUBDIVISION CONDUCTING THE ELECTION, A POLLING PLACE MAY BE DESIGNATED OUTSIDE OF THE POLITICAL SUBDIVISION IN A LOCATION THAT IS CONVENIENT FOR THE ELIGIBLE ELECTORS OF SUCH POLITICAL SUBDIVISION.
  - 4.3 FOR ELECTIONS NOT COORDINATED WITH THE COUNTY CLERK AND RECORDER, THE DESIGNATED ELECTION OFFICIAL OF SUCH POLITICAL SUBDIVISION CONDUCTING THE ELECTION SHALL DETERMINE THE METHOD OF NUMBERING OR LETTERING EACH BALLOT ISSUE AND BALLOT QUESTION TO BE SUBMITTED TO THE ELECTORS OF SUCH POLITICAL SUBDIVISION. THE DESIGNATED ELECTION OFFICIAL MAY CONFER WITH THE DESIGNATED ELECTION OFFICIALS OF OTHER POLITICAL SUBDIVISIONS CONDUCTING NON-COORDINATED ELECTIONS ON THE SAME DAY WHICH HAVE OVERLAPPING BOUNDARIES OR THE ELIGIBLE ELECTORS FOR EACH SUCH ELECTION ARE THE SAME OR SUCH POLITICAL SUBDIVISIONS ARE LOCATED WITHIN THE SAME COUNTY, TO DETERMINE THE METHOD OF LETTERING OR NUMBERING EACH BALLOT ISSUE AND BALLOT QUESTION TO BE SUBMITTED BY EACH SUCH POLITICAL SUBDIVISION.
  - 4.4 ELECTIONS AUTHORIZED UNDER PART 1, ARTICLE 45 OF TITLE 37, C.R.S. (WATER CONSERVANCY ACT), SHALL BE CONDUCTED IN ACCORDANCE WITH ARTICLES 1 THROUGH 14 OF TITLE 1, C.R.S., WHERE APPLICABLE, UNLESS OTHERWISE ORDERED BY THE DISTRICT COURT HAVING JURISDICTION OVER THE WATER CONSERVANCY DISTRICT, PURSUANT TO SECTION 37-45-103 (3), C.R.S. (“COURT”)
    - 4.4.1 THE FORM AND VERIFICATION OF ANY PETITION REQUESTING AN ELECTION CONDUCTED BY A WATER CONSERVANCY DISTRICT PURSUANT TO SECTION 37-45-114 (2), C.R.S. (PETITION), SHALL CONFORM WITH THE REQUIREMENTS OF SECTIONS 1-40-113 AND



1-40-116, C.R.S. AND THE SECTIONS CITED THEREIN, AND RULE 14 AND RULE 15 OF THESE RULES; EXCEPT THAT NO PRIOR APPROVAL OF THE FORM OF SUCH ELECTION PETITION NEEDS TO BE PROVIDED BY THE SECRETARY OF STATE, THE PETITION SHALL BE FILED WITH THE COURT AND THE VERIFICATION PROCESS SHALL BE DIRECTED BY THE WATER CONSERVANCY DISTRICT NAMED IN THE PETITION RATHER THAN THE SECRETARY OF STATE AND THE “WARNING” LANGUAGE APPEARING ON THE PETITION SHALL BE APPLICABLE TO THE ELECTION REQUESTED TO BE CONDUCTED.

4.4.2 THE PROCEDURES FOR ISSUING THE STATEMENT OF SUFFICIENCY OR INSUFFICIENCY OF THE PETITION SHALL CONFORM WITH THE REQUIREMENTS OF SECTION 1-40-117, C.R.S. AND RULE 16 OF THESE RULES; EXCEPT THAT SUCH STATEMENT SHALL BE ISSUED BY THE WATER CONSERVANCY DISTRICT NAMED IN THE PETITION, UNLESS OTHERWISE ORDERED BY THE COURT.

4.4.3 THE PROCEDURES FOR CURE OF A PETITION DEEMED INSUFFICIENT SHALL CONFORM WITH THE REQUIREMENTS OF SECTION 1-40-117, C.R.S. AND RULE 17 OF THESE RULES; EXCEPT ANY ADDENDUM TO THE PETITION SHALL BE FILED WITH BOTH THE COURT AND THE WATER CONSERVANCY DISTRICT NAMED IN THE PETITION, UNLESS OTHERWISE ORDERED BY THE COURT.

4.4.4 THE PROCEDURES FOR PROTESTING THE DETERMINATION THAT A PETITION IS INSUFFICIENT SHALL CONFORM WITH THE REQUIREMENTS OF SECTION 1-40-188, C.R.S. AND RULE 18 HEREOF, UNLESS OTHERWISE ORDERED BY THE COURT.

4.4.5 UPON FINAL DETERMINATION OF THE SUFFICIENCY OF A PETITION, THE COURT SHALL ORDER, REGARDLESS OF THE ACTUAL EXPIRATION DATE OF THE TERM OF THE OFFICE SUBJECT TO THE COURT-ORDERED ELECTION, THE HOLDING OF THE ELECTION TO BE CONDUCTED NO MORE THAN 100 DAYS NOR LESS THAN 60 DAYS FROM THE DATE OF SUCH COURT ORDER, UNLESS THE WATER CONSERVANCY DISTRICT HAS NOTIFIED THE COURT THAT SUCH ELECTION IS TO BE CONDUCTED AS A COORDINATED ELECTION PURSUANT TO SECTION 1-7-116, C.R.S.

4.4.6 THE FORM AND PROCEDURES FOR FILING CANDIDATE NOMINATION FORMS AND CALL FOR NOMINATIONS OF PERSONS DESIRING TO BE A CANDIDATE FOR THE OFFICE TO BE VOTED UPON AT THE COURT-ORDERED ELECTION DESCRIBED IN RULE 4.4.5 OF THESE RULES, SHALL BE IN CONFORMANCE WITH THE FORM AND PROCEDURES REQUIRED FOR SPECIAL DISTRICTS UNDER ARTICLE 1, TITLE 32, C.R.S., UNLESS OTHERWISE ORDERED BY THE COURT.

*Rules concerning Coordinated Elections*

5. Rules concerning coordinated elections.

5.1 Participation in coordinated elections:

~~5.1.1 The following political subdivisions conducting elections must participate in coordinated elections if more than one political subdivision conducts an election on the same day in November unless authorized to conduct a separate election by mail ballot: elections authorized by Title 22 (school districts), Title 23 (community colleges), Title 30 (public improvement districts), Title 31 (municipal elections), Title 32 (special districts), and any other political subdivision which conducts its elections pursuant to Title 1 either by statutory requirement or resolution passed by the political subdivision.~~

~~5.1.2 For elections authorized by other titles or home rule cities or counties, where the electors are registered electors, political subdivisions are permitted and encouraged but not required to participate in full coordinated elections and must coordinate with the coordinated election official any notice required by Article X, Section 20 of the Colorado Constitution which governs ballot issues concerning fiscal matters.~~

~~5.1.3 For elections authorized by other titles where the electors do not need to be registered electors, political subdivisions may conduct their own elections and must coordinate with the coordinated election official any BALLOT ISSUE notice required by Article X, Section 20 of the Colorado Constitution., which governs ballot issues concerning fiscal matters.~~

~~5.1.4 For each coordinated election, a coordinated election official must be named who is responsible for assuring that each elector is able to vote for all ballot issues and candidates at one polling place and for publishing any notice required by Article X, Section 20 of the Colorado Constitution.~~

1-7-116(3)

5.1.5 The affected political subdivisions shall enter into intergovernmental agreements which delineate which tasks

shall be the responsibility of the designated election official of the political subdivision and which shall be the responsibility of the coordinated election official.

5.2 Form of coordinated election for November coordinated elections.

5.2.1 The county clerk and recorder is the coordinated election official for coordinated elections which are held in November of each year.

5.2.1.1 The county clerk and recorder shall be responsible for mailing the Article X, Section 20 BALLOT ISSUE notice. ~~as required by statute for all political subdivisions.~~

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

~~5.2.2 The various political subdivisions who expect to participate in the November coordinated election shall notice each affected county clerk and recorder of their preference for the form of coordinated election by 110 days prior to the election.~~

~~5.2.3 If all political subdivisions wish to hold the election as a polling place election or as a mail ballot election, then the county clerk and recorder shall run the election in the form requested by the political subdivisions.~~

~~5.2.4 If the political subdivisions do not agree as to the form of the election, the county clerk and recorder shall be responsible for determining whether the coordinated election will be held as a mail ballot or polling place election.~~

~~5.2.5 If the county clerk and recorder, after consultation With the other political subdivisions, elects to conduct a Polling place election, other political subdivisions may elect to conduct separate mail ballot elections.~~

~~5.2.6 If the county clerk and recorder, after consultation With the other political subdivisions, elects to conduct a Mail ballot election, upon application to and approval by The secretary of state showing why a separate mail ballot election is needed and will benefit the electorate, a political~~

~~subdivision may conduct its own mail ballot election.~~

5.2.7 School districts THAT HAVE THE OPPORTUNITY TO PARTICIPATE IN A COORDINATED ELECTION may not elect to hold separate mail ballot elections but must participate in the form of election chosen by the county clerk and recorder. 22-31-103(2) C.R.S.

5.3 Form of coordinated elections held other than in November.

5.3.1 For all other elections where political subdivisions hold an election on the same day, ~~and~~ the electors or boundaries overlap AND BALLOT ISSUES, AS DEFINED IN SECTION 1-104 (2.3), C.R.S., APPEAR ON THE BALLOTS OF OVERLAPPING JURISDICTIONS, the governing bodies OR THE DESIGNATED ELECTION OFFICIALS OF SUCH OVERLAPPING JURISDICTIONS must name a coordinated election official who is responsible for assuring that the Article X, Section 20 notice is given, ~~if required~~.

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

5.4 Determination of ballot issues and texts.

5.4.1 ~~Each political subdivision is responsible for determining which candidates and which ballot issues will appear on the ballot.~~

5.4.2 Each political subdivision shall prepare the list of candidates and the ballot title and text for ballot issues AND BALLOT QUESTIONS, as required by law.

5.4.2.1 The coordinated election official shall assure that the ballot title is on each ballot as required by law.

5.4.2.2 Political subdivisions may only require the coordinated election official to print the entire text of a ballot issue OR BALLOT QUESTION on the ballot if they pay for any additional cost associated with printing and if sufficient space is on the voting equipment to print the entire text given the other issues, QUESTIONS, and candidate on the ballot. The coordinated election official shall tell the political subdivision how much space is available for text for each position on the ballot. If the required ballot title and text is too long for the voting equipment, the coordinated election official may choose to conduct the election with a different form of ballot.

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

5.4.2.4 For counties where election material is not required to be printed in languages other than English, the political subdivisions are not required to provide translation of all election material nor pay a pro-rata share of the printing costs unless they so agree.

5.4.3 Each political subdivision shall determine the order of the ballot issues for their political subdivision in accordance with the requirements of Article X, Section 20 and Title 1. 1-40-115

5.4.3.1 Initiatives AND REFERRED MEASURES shall be designated by THE NAME OF THE JURISDICTION SUBMITTING THE BALLOT ISSUE OR BALLOT QUESTION, FOLLOWED BY a number, IN THE CASE OF INITIATIVES ~~referred measures shall be designated~~ OR by a letter, IN THE CASES OF REFERRED MEASURES. 1-40-115  
**[PROPOSAL IN LIEU OF RULE 5.4.3.5]**

5.4.3.2 For each grouping of ballot issues AND BALLOT QUESTIONS by political subdivision, all initiatives and shall precede all referred measures.

5.4.3.3 For each grouping of ballot issues AND BALLOT QUESTIONS, the order shall be as follows:

- a. Initiatives to increase taxes;
- b. Initiatives to increase debt;
- c. Other citizen petitions;
- d. Referred measures to increase taxes;
- e. Referred measures to increase debt;
- f. Other referred measures

5.4.3.4 For statewide measures, initiatives shall be numbered in the order in which the statements of

sufficiency are issued. The numbers one through five shall be reserved for initiatives to increase taxes; the numbers six through ten shall be reserved for initiatives to increase debt; all other citizen petitions shall be numbered consecutively beginning with eleven.

~~5.4.3.5 Ballot issues from the various political subdivisions shall be ordered on the ballot as provided in C.R.S. 1-5-407 (5).~~

~~a. Each category of ballot questions shall be numbered in the following series:~~

- ~~01-99 State Issues~~
- ~~100-199 County Issues~~
- ~~200-299 Municipal Issues~~
- ~~300-399 School District Issues~~
- ~~400-499 Ballot issues and questions for other political subdivisions, greater than a county~~
- ~~500-599 Ballot issues and questions for other political subdivisions which are wholly with a county~~

~~b. Each category of referred ballot questions shall be lettered in the following series:~~ 1-40-115(2)

- ~~A-Z State Issues~~
- ~~1A-1Z County Issues~~
- ~~2A-2Z Municipal Issues~~
- ~~3A-3Z School District Issues~~
- ~~4A-4Z Ballot issues and; questions for other political subdivision, greater than a county.~~
- ~~5A-5Z Ballot issues and questions for other political subdivisions which are wholly within a county.~~

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

d. For other than state issues, if a county has multiple cities and or multiple discrete school districts and other

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

e. For other than state issues AND QUESTIONS, if the same ballot issue or question will be on the ballot in more than one county, the county clerks shall confer with one another and shall give the same ballot number or letter to the ballot issue or question.

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

5.4.4 ~~Each political subdivision shall provide an opportunity for all comments concerning ballot issues to be summarized as required by Article X, Section 20.~~

5.4.4.1 ~~For purposes of these rules, “petition representatives” and “proponents” shall be the proponents of the ballot issue as designated pursuant to C.R.S. 1-40-104.~~  
**[Relocated to Rule 5.6]**

5.4.4.2 ~~As the thirtieth day before an election will be a Sunday, the designated election official may only accept comments filed by the end of the business day on the Friday before the thirtieth day before the election.~~

5.4.4.3 ~~On the Friday before the thirtieth day, the designated election official shall prepare two copies of all comments filed in support of the measure and shall give one copy to each of the proponents of the ballot issue or their designated representative.~~

5.4.4.4 ~~The designated election official shall notify the proponents of when and where the comments can be picked up.~~

5.4.4.5 ~~The proponents of each ballot issue shall~~

~~complete their summary of comments filed in support of the ballot issue and file the summary in the office of the designated election official no later than 3 p.m. On the 28<sup>th</sup> day prior to the election.~~

~~5.4.4.6 The designated election official shall prepare the summary of comments filed in opposition to the ballot issue.~~

~~5.4.4.7 The designated election official shall transmit the summaries and any other required material to the coordinated election official no later than 25 days before the election.~~

1-7-116(3)

#### 5.4.5 General Provisions

5.4.5.1 The ~~designated~~ COORDINATED election official may include the following statement with the BALLOT ISSUE notice: This notice is mailed to each address with one or more active, registered electors. You may not be eligible to vote on all issues presented.

5.4.5.2 The designated election official may include the following statement of the BALLOT ISSUE notice: The following ~~summaries were prepared from materials~~ IS A SUMMARY OF COMMENTS filed by persons in favor of or opposed to the ballot issue.

5.4.5.3 ~~The summaries of comments for and against ballot issues shall not include language of a generally recognized profane, indecent, immoral, offensive, scandalous or libelous character. No individual's name shall be included in any summary. No person, corporation, partnership, limited liability company, etc., shall be identified in the summary as the originator of any comment or summary.~~  
**[RELOCATED TO RULE 5.6]**

5.4.5.4 ~~For purposes of counting words, a hyphenated word, unless it is divided by a continuation hyphen at the end of a line, counts as two or more word. A number counts as one word, regardless of dollar signs, commas, or periods within the number.~~ **[RELOCATED TO RULE 5.6]**

5.4.5.5 ~~If no comments are provided by the proponents or opponents of a ballot issue, the designated election official shall state substantially the following in the notice where the~~



~~summary would appear: No comments were filed by the constitutional deadline.~~

~~5.4.5.6 If, after receipt of the comments, a summary is not filed by the proponents of a ballot issue, the designated election official shall state substantially the following in the notice where the summary would appear: No summary was filed by the constitutional deadline.~~

~~5.4.5.7 The designated election official shall not write a summary of comments for the proponents whether or not comments are filed. The designated election official shall not write a summary of comments against a ballot issue if no comments were filed.~~

5.5 ~~Call and notice for non-partisan candidate elections.~~

~~5.5.1 Each political subdivision is responsible for determining the dates for call for candidate nominations and notices of the election as required by both Title 1 and any other specific enabling legislation.~~

~~5.5.2 The responsibility for publication of the call and notice may be delegated to the county clerk and recorder through the intergovernmental agreement.~~

5.6 Article X, Section 20 notice requirements.

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

~~5.6.1.1 The county clerk and recorder shall have sole responsibility for mailing the required notice for November coordinated elections.~~

~~5.6.1.2 For all other coordinated elections where mailing the notice in a package is required by Article X, Section 20, a coordinated election official named by the political subdivisions, which may be the county clerk and recorder, shall assure that the notice is prepared and sent following the requirements of constitution, statutes and rules.~~

~~5.6.1.3 Notice mailed as a package shall only be required for those ballot issues which concern matters arising under Section 20 of Article X of the state constitution as defined in Title 1, Article 41.~~

~~5.6.1.4 No printing or language may be on the “Ballot Notice” itself than that authorized by Article X, Section 20 of the Colorado Constitution, although other information concerning the election may be included in the ballot notice package.~~

~~5.6.2 The coordinated election official shall determine the order that the notices of election shall be placed in the packet, however materials supplied by each political subdivision shall be kept together as a group and shall remain in the order submitted by the political subdivision.~~

5.6.3 The notice shall be mailed to “All Registered Voters” at the mailing addresses of active registered electors in the county, as indicated on the voting record.

5.6.3.1 Nothing shall preclude the coordinated OR DESIGNATED, election official from sending notice of various elections to persons who are not eligible electors if the notice sent is part of the coordinated notice and if the sending arises from the official’s efforts to mail the notice at “least cost”.

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

5.6.3.3 Nothing shall preclude the coordinated election official from sending notice to each registered elector in a particular political subdivision.

5.6.4 The coordinated election official must include information with the notice sent in the package which tells electors whether the election is a mail ballot election, a polling place election, or a combination of election forms.

5.6.4.1 If the election is a polling place election, the notice of the location of the polling place may be included in the consolidated mailing.

5.6.4.2 If both a polling place election and mail ballot election are being held, the notice must include that information.

5.6.5 IF STATE STATUTES ALLOW THE BALLOT ISSUE NOTICE AND THE BALLOT TO BE MAILED AT THE SAME TIME, the ballot for the mail ballot election may be included with the notice.

5.6.6 The political subdivisions must provide all completed Article X, Section 20 notices in camera ready format or as otherwise specified by the coordinated election official in the intergovernmental agreement.

5.6.7 Each political subdivision is responsible for assuring that the timelines for submission of the required Article X, Section 20 notice and summaries, if filed, are met.

5.6.8 The coordinated election official shall not be responsible for failure to meet the Article X, Section 20 constraints if the notice and summaries are not submitted by the political subdivision within the deadline and in the form required by the coordinated election official.

**[THE FOLLOWING TWO RULES ARE RELOCATED FROM RULE 5.4.5, AND WILL NEED TO BE RENUMBERED.]**

5.4.5.3 The summaries of comments for and against ballot issues shall not include language of a generally recognized profane, indecent, immoral, offensive, scandalous or libelous character. No individual's name NAMES OF PERSONS OR PRIVATE GROUPS shall be included in any summary. No person, corporation, partnership, limited liability company, etc., shall be identified in the summary as the originator of any comment or summary.

5.4.5.4 For purposes of counting words, a hyphenated word, unless it is divided by a continuation hyphen at the end of a line, counts as two or more word. A number counts as one word, regardless of dollar signs, commas, or periods within the number.

**5.7 Cancellation of elections**

5.7.1 If a participant in a coordinated election cancels its portion of the election, the political subdivision canceling the election shall pay all actual costs for the election

incurred by the county clerk for that political subdivision to the date of cancellation, unless otherwise provided in the intergovernmental agreement.

5.8 Cost of off-year elections

5.8.1 ~~As defined in C.R.S. 1-1-104(17), a general election shall include the off-year election mandated by Article X, Section 20 of the Colorado Constitution if a state-wide issue is on the ballot. For purposes of C.R.S. 1-5-505, counties are responsible for the costs of the off-year election if a state-wide issue is on the ballot.~~ 1-1-104(17)  
1-5-505

5. \_\_\_ IF THERE ARE NO CANDIDATES CERTIFIED TO THE BALLOT FOR ANY PARTICULAR OFFICE, THE BALLOT SHALL SHOW THE NAME OF THE OFFICE, FOLLOWED BY AN EXPLANATION IN SUBSTANTIALLY THE FOLLOWING FORM: "NO CANDIDATE QUALIFIED FOR THE BALLOT FOR THIS OFFICE."

*Comment: The election code does not address what to put on ballot when there are no candidates for a particular office. When this issue arose during the 2000 election year, the Secretary of State directed that, since there was no rule providing guidance, the clerk and recorders should print the name of the office and simply leave the space for the candidates blank. However, the preferred solution is to inform the voters with an explanation, but it was felt that a statutory change or a rule would be necessary. The new rule is authorized by section 1-5-407 (8), C.R.S., which provides that, "The form of the ballot may vary from the requirements of this section if the changes are approved by the secretary of state."*

*Rules concerning Polling Places*

6. Minimum standards for polling places

6.1 The physical arrangement of materials in the polling place shall conform, whenever possible, to the following general order:

- a. Entrance
- b. Voting demonstrations display
- c. Signature card table 1-5-302
- d. Registration records or list 1-7-109
- e. Poll book or signature cards
- f. Voting booth
- g. Ballot box if provided

6.2 For coordinated elections, polling places do not have to be 1-5-102.5

- within the political subdivisions which are participating in the election. 1-6-101
- 6.3 ~~No election related activity shall be conducted within one hundred feet of the exterior perimeter of any building in which a polling place is located. 1-5-105~~
- ~~6.3.1 For polling places which are within multi use buildings such as a shopping mall or county office building, the entire building shall not be considered as the building in which the polling place is located. The building in which a polling place is located shall be defined as the room in which the balloting takes place, any waiting room or hall where electors wait to vote, as well as a primary corridor where electors walk to an interior polling place and the designated exterior door to the building in which the polling place is located where the sign is posted pursuant to 1-5-106. The purpose of this rule is to provide voters with a one hundred foot zone in which election related activity may not take place as the elector is going to vote. 1-13-714~~

*Comment: House Bill 95-1241 amended sections 1-5-105, 1-6-119, and 1-13-714 to incorporate Rule 6.3 into the statutes. Thus, Rule 6.3 is no longer needed.*

- 6.4 Polling places for partisan elections must be established no less than ninety days prior to an election and may only be changed pursuant to 1-6-118 pursuant to an emergency or an error in precincting. 1-5-101  
1-6-118
- 6.5 IN THE EVENT THE POLLING PLACE IS TO BE IN A TEMPORARY STRUCTURE THAT IS NOT PRESENT AT THE TIME THE POLLING PLACE NOTICE IS TO BE POSTED PURSUANT TO SECTION 1-5-106, C.R.S., THE FUTURE LOCATION OF THE POLLING PLACE SHALL NONETHELESS BE POSTED AT THE REQUIRED TIME, AND THE NOTICE SHALL REMAIN CONTINUOUSLY POSTED UNTIL 48 HOURS AFTER THE POLLING PLACE IS CLOSED.

*RULES CONCERNING WATCHERS*

- 6a. Rules concerning watchers
- 6a.1 Watchers who have been previously certified by the designated election official pursuant to 1-7-105, 1-7-106, and 1-7-107 may present at any location where a step of the election is being conducted. For processes which are conducted at locations other than a polling place, each participating major political party or issue committee and each independent 1-7-108

UNAFFILIATED CANDIDATE WHOSE NAME APPEARS ON THE BALLOT and EACH CERTIFIED write-in candidates ~~whose name is on the ballot~~ shall be entitled to have no more than one watcher at each location.

- 6a.2 For mail ballot elections, watchers may be present at each stage of the election, including the receiving and bundling of the ballots received by the designated election official. Watchers may track the names of electors who have cast ballots but may not write down any ballot numbers or any other identifying information about the electors 1-7-108
- 6a.3 Each candidate and his or her watcher may be present in the room when a recount is conducted. During the recount the candidate and watcher may not interfere with the recount process. 1-7-105  
1-7-106  
1-7-107

*Rules concerning Assistance to Disabled Voters*

7. Assistance to disabled voters.
- 7.1 ~~“Physically Disabled” shall include those persons who are blind, have a physical handicap, or find it difficult to vote without assistance.~~ 1-7-111
- 7.2 ~~A physically disabled elector shall not be denied access by reason of the disability to casting a ballot on election day at the elector’s precinct polling place.~~ PL 97-205  
42 USC  
1973 aa6
7. \_\_\_ A SIGN PROVIDING SUBSTANTIALLY AS FOLLOWS SHALL BE POSTED AT THE POLLING PLACE:

**“NOTICE  
VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES**

COLORADO LAW PROVIDES THAT A VOTER HAS A LEGAL RIGHT TO ASSISTANCE IN VOTING IF ASSISTANCE IS NEEDED BECAUSE OF BLINDNESS OR OTHER PHYSICAL DISABILITY OR INABILITY TO READ OR WRITE. THE FOLLOWING PROCEDURES APPLY:

1. THE VOTER MUST TELL ONE OF THE ELECTION JUDGES THAT HE OR SHE NEEDS ASSISTANCE.
2. THE VOTER MAY BE ASSISTED BY ANY ELECTION JUDGE OR BY ANY ELIGIBLE ELECTOR SELECTED BY THE VOTER.
3. THE PERSON SELECTED MUST COMPLETE A “VOTER ASSISTANCE/DISABLED VOTER

SELF-AFFIRMATION FORM” IF ALL OF THE FOLLOWING APPLY:

- \$ THE PERSON SELECTED IS NOT AN ELECTION JUDGE, AND
- \$ THE PERSON SELECTED IS NOT THE SPOUSE, PARENT, GRANDPARENT, SIBLING, OR CHILD OF THE VOTER REQUESTING ASSISTANCE, AND
- \$ THE PERSON SELECTED HAS PREVIOUSLY ASSISTED ANY OTHER VOTER AT THE SAME ELECTION IN THE SAME PRECINCT.

THE SELF-AFFIRMATION FORM STATES, “I, ....., CERTIFY THAT I AM THE INDIVIDUAL CHOSEN BY THE DISABLED ELECTOR TO ASSIST THE DISABLED ELECTOR IN CASTING A BALLOT.”

4. THE PERSON SELECTED MAY PROVIDE ANY ASSISTANCE NEEDED BY THE VOTER, INCLUDING ENTERING THE VOTING BOOTH AND PREPARING THE BALLOT OR OPERATING THE VOTING MACHINE.
5. THE PERSON PROVIDING ASSISTANCE SHALL NOT SEEK TO PERSUADE OR INDUCE THE VOTER TO VOTE IN A PARTICULAR MANNER.
6. THE ELECTION JUDGES SHALL RECORD THE NAME OF EACH ELIGIBLE ELECTOR ASSISTED AND THE NAME OF EACH PERSON ASSISTING BY MAKING AN ENTRY ON THE POLLBOOK OR LIST OF ELIGIBLE ELECTORS (OR BY MAKING AN ENTRY ON THE SIGNATURES CARD WHEN PREPRINTED SIGNATURE CARDS ARE USED IN THE PLACE OF A POLLBOOK AND LIST OF ELIGIBLE ELECTORS).

REFERENCE: SECTIONS 1-5-504.5 (1), 1-7-111, AND 1-7-113, COLORADO REVISED STATUTES (HOUSE BILL 00-1313)”

- 7.3 If the polling place of the elector’s precinct does not offer access for the physically disabled voter, election judges shall assist the physically disabled elector in casting a ballot ~~outside the polling place~~ at any location within 100 feet of the building in which the polling place is located.
- 7.4 At least one judge and one watcher, if a watcher is available, shall be present whenever a disabled elector casts a ballot outside of the polling place. 1-7-504
- 7.5 When a voter has spoiled two ballots and requests a third ballot, an election judge shall offer assistance in voting procedures and casting the ballot. 1-7-504
- 7.6 ~~Any voter who requires assistance to vote by reasons of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other~~ 42 USC  
1973aa-6  
section

~~than the voter's employer or agent of that employer or officer or agent of the voter's union.~~

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*Rules concerning BALLOTS AND Election Supplies*

8. Rules concerning BALLOTS AND election supplies.

8.1 ~~Election supplies shall include but not be limited to all printed ballot material, software including ballot formatting software, election forms requiring secretary of state approval and other printed matter necessitated by the election process and required in statute and rule.~~

1-5-501

8.2 ~~Unless waived by the County clerk and recorder, if the total amount of all contracts for printing for an election or a one-year period for one or more political subdivisions is one hundred dollars or more, the supplier shall post a cash bond with the secretary of state in an amount no less than two times the estimated value of the contract(s) or \$100,000, whichever is less, which shall insure against late ballots, misprints on the ballots, or failure to perform any provision of a contract between the printer and a political subdivision or county clerk and recorder.~~

~~8.2.1 The bond shall be released 30 days after completion of all contracts covered by the bond unless a designated election official has indicated in writing to the secretary of state that the duties have not been satisfactorily performed.~~

~~8.2.2 For a cash bond, the supplier shall deposit a cashiers check or other certified funds with the secretary of state which shall be held in escrow until released.~~

~~8.2.3 The cash bond or performance bond may be posted on an annual basis.~~

*RULES CONCERNING BALLOTS*

8a. Rules concerning ballots

8a.1 ~~Provision shall be made on the ballots, ball cards or secrecy envelopes for sufficient lines for write-in candidates for the number of offices or the number of candidates for which an elector may vote for each office being voted upon at the election,~~

1-5-407(3)



~~regardless of whether any candidates have been certified by the appropriate election official as valid write-in candidates.~~

8a.2 The text of all ballot issues ~~and questions which~~ THAT are 1-5-410  
subject to Article X, Section 20 shall be printed in all capital  
letters. The names of all candidates and all other ballot issues  
~~and questions shall~~ MAY be printed in upper and lower case.

8a3. ~~The requirement for consecutive ballot numbering may be~~ 1-5-407  
~~met by having the ballots for the particular election or ballot~~ 1-5-408(4)  
~~type be sequential for that election as long as every ballot~~  
~~used for the election is listed and accounted for, and for mail~~  
~~ballot elections and other elections where matching the ballot~~  
~~to the elector is required, that the required identification can~~  
~~take place.~~

*Rules concerning Electronic Voting Systems*

9. Electronic voting.

9.1 Definitions:

9.1.1 An electronic ballot shall be designated to ensure that 1-7-503  
the content of the ballot is secret after the elector has voted,  
and the following are considered electronic ballots:

a. A card or cards containing a series of numbers to  
be punched when inserted in a punching device containing  
the printed ballot pages.

b. A card or cards containing the printed ballot which  
are inserted in a punching device.

c. A mark sensor card or cards on which the ballot is  
printed and is voted by making a mark to fill in a designated  
space or to make an X to indicate choices.

9.1.2 An electronic voting machine shall be defined as a 1-5-407  
voting device capable of displaying an entire ballot on one 1-5-410  
voting surface, shall incorporate an electronic ballot imaged 1-5-413  
audit trail, shall electronically increment vote totals, shall 1-6-107  
provide at least sixteen hours worth of built in stand by  
power so as to maintain all voting functions in the event of a  
power failure, shall incorporate a real time clock for time and  
date stamping of an event log and other significant events such

as the opening and closing of the polls, shall electronically record write-in votes, shall use a redundant storage device such as a removable prom or rom cartridge for transportation/transmission of vote totals to one or more accumulation centers, and shall be easily adjustable in height or angle to more easily accommodate ~~handicapped~~ DISABLED voters.

9.2 Printing and distribution of ballots

9.2.1 All electronic ballots are to be placed in one or more ballot containers which have been sealed with the number of the seal recorded on the receipt given by the supply judge to the county clerk and recorder.

9.2.2 All sample ballots, test ballots, and demonstration ballots shall be designated in such a way that both voters and election officials can distinguish them from official ballots.

9.2.3 Mark sensor ballots shall be marked by pen or approved pencil.

9.3 Preparation for the election and voting at the polling place.

9.3.1 The county clerk and recorder shall not program or operate electronic vote counting equipment. 1-7-506  
1-7-507

9.3.2 The program manual and program deck, program prom, tape or other program and election program shall be stored by the county clerk and recorder under security with access limited to person so authorized in writing by the clerk and recorder. 1-5-607  
1-5-610  
1-7-507

9.3.3 Employees of the county clerk and recorder who are authorized by the county clerk and recorder to prepare, maintain, repair, and/or use the electronic ballot program systems and/or election program shall be deputized for this specific purpose and so sworn. 1-5-607

9.3.4 If an individual cleared pursuant to the provisions of 9.3.3 who is assigned to preparation or use of the program system and/or election program is unable to serve, thereby creating an emergency, a replacement shall be deputized, sworn and reported immediately to the secretary of state. 1-5-607  
1-5-610  
1-7-507

9.3.5 Employees of the county who are authorized by the county clerk and recorder to prepare and/or use of the electronic 1-5-608  
1-7-507

ballot program system and/or election program shall also have filed with the secretary of state a written clearance document from the Colorado Bureau of Investigation.

- 9.3.6 Software service bureaus under contract to one or more counties for computer services which include staffing the counting center shall provide the services by written contract and shall post a performance bond for those contracts with the secretary of state in an amount of not less than \$10,000 for each county in which the vendor provides services. The specific individuals who staff the counting center shall be deputized for that purpose one time only and shall be so sworn. Prior to the election, each individual to be sworn shall file a written clearance document from the Colorado Bureau of Investigation with the secretary of state. 1-7-507
- 9.3.7 Vendors of electronic vote counting equipment which provide the electronic ballot program system and election programs shall provide the services by written contract and shall post a performance bond with the secretary of state in an amount of not less than \$10,000 for each county in which the vendor provides services. 1-5-608  
1-7-507
- 9.3.8 No employee of any vendor shall operate any counting equipment unless deputized and sworn by the county clerk and recorder and unless a clearance document from the ~~Federal~~ COLORADO Bureau of Investigation is on file with the secretary of state.
- 9.3.9 A voted ballot shall be examined and duplicated only in the county counting center by personnel authorized and sworn for this purpose under the direct supervision of the county clerk and recorder. 1-5-507(1)
- 9.3.10 Spoiled ballots referred to C.R.S. 1-7-504 shall be clearly marked and not counted but shall be preserved and reconciled with the appropriate precinct. 1-7-504
- 9.3.11 The term "secure" in C.R.S. 1-7-505 shall be construed to mean any method of preventing the use of the voting after all legal votes have been cast. 1-5-610
- 9.4 Testing of equipment and counting center procedures.
- 9.4.1 A clear audit trail or control code shall be provided to the secretary of state when election results are to be transmitted by the telephone, microwave, or any other type of 1-7-507

electronic communication to the electronic ballot counting equipment.

9.4.2 Computer room access shall be limited authorized personnel only, and the delivery of ballots between the preparation room and computer room shall be performed by messengers or runners wearing distinguishing identification.

9.4.3 All program decks and materials shall be considered part of the electronic ballot counting equipment. 1-7-507

9.4.4 A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk and recorder shall be on file with the county clerk and recorder. 1-5-608

9.4.5 The test procedure for counting equipment shall be conducted as follows: 1-7-506

a. The county clerk and recorder shall prepare a test deck and shall test the election program at the counting center as soon as it is received for program errors. The errors shall be corrected and the test deck re-run until the election program exactly ~~reflect~~ REFLECTS the certified ballot on candidates, offices, ~~and~~ issues, AND QUESTIONS.

b. Just prior to the election, vote counting equipment shall be tested by voting test decks of ballots at the counting center.

c. Before and after the count, the equipment shall be tested by voting test desks at the counting center on the equipment used to count the ballots.

d. Counting equipment for mark sensor ballots shall be tested on election day by judges running one zero tape before the polls open and by running two tapes after the polls are closed and returning the tapes with the voted ballots in the transfer cases or by using the test deck procedures at the counter center.

9.4.6 Each test deck shall include over-votes, under-votes, no votes, and all ballot types for the county.

9.4.7 Verification and duplicating boards shall consist of registered electors recommended to the county clerk recorder 1-7-507

by the two political parties and may include regular employees of the county clerk who are so recommended. The members of the board shall be assigned in teams of one Democrat and one Republican.

9.4.8 Verification and duplication procedure.

a. No voted ballot shall be altered or changed by the verification or duplication boards. 1-7-507

b. Voted ballots cards which cannot be processed because of over-votes, folds or bends, or are too light to be read shall be duplicated.

c. Any mark sensor ballot card showing the intent of the elector on an office or issue which is outside the filed read by the computer and is not over-voted shall be duplicated and the vote counted.

9.4.9 The two witnesses in counting center shall be representatives of each major political party. Witness shall not handle or process ballots.

9.5 Audit trail counting procedures.

9.5.1 The electronic ballot secrecy envelopes containing the voted ballots cards shall be counted by the election judges to determine the number of ballots voted or if permanent secrecy envelopes are used, the voted ballot cards shall be counted by the election judges to determine the number of ballots voted. 1-7-505

9.5.2 The total number of voted ballots shall be reconciled to be the same as the number of voters listed in the poll book.

9.5.3 The total of secrecy envelopes, or voted ballots cards or sets of voted ballot cards, plus spoiled ballots and ballots not issued to voters shall be reconciled to be the same as the total number of ballots for the precinct to the supply judge. 1-7-505

9.5.4 The election judges shall then complete and return to the county clerk and recorder the following report(s): 1-7-505

a. Ballot return form from each precinct as required in C.R.S. 1-7-505.

- b. Test tapes from mark sensor ballot precincts, if applicable.
- 9.5.5 All electronic counting equipment used in Colorado shall provide a count of the total ballot cards read. 1-5-608(1)(b)
- 9.5.6 A precinct printout listing produced in a counting center shall include: the total votes for each candidate and each issue AND QUESTION on the ballot, together with the total write-in vote for each candidate, the total number of ballots counted, THE TOTAL NUMBER OF BALLOTS rejected, THE total number of over-votes, and THE TOTAL NUMBER OF no votes.
- 9.5.7 The verification/duplication board shall report the number of ballot cards duplicated and shall provide a printout or listing of any vote to be added to the precinct total as a result of verification and/or duplication, or duplicated ballot cards added to the transfer case. 1-7-508
- 9.5.8 A log for each step of verification, duplication and counting listing the function, the time, name of persons performing each function and the seal number used at each step shall be kept and provided to the canvass board.
- 9.6 Security and emergency procedures.
  - 9.6.1 At least one week before any ballots are counted electronically, the county clerks shall file contingency plans for their electronic vote-counting facility with the secretary of state. The contingency plans shall specify:
    - a. Procedures for the protection of the ballots in the event of fire, civil commotion, or bomb threat.
    - b. Response to a failure in the data processing system including provisions for back-up equipment, type, location, pre-testing and ballot transfer.
- 9.7 The count made election night is the only time ballots are handled unless a recount is ordered. Ballot boxes and/or transfer cases are sealed following the election night count. 1-7-307  
1-7-507
- 9.8 Record of seal and serial numbers.
  - 9.8.1 In precincts in which voting equipment is used, the persons recording the votes recounted shall also record the 1-10-305

serial number of the equipment, together with the protective seal number, the protective counter reading and the public counter reading, where applicable.

*Rules concerning Mail Ballot Elections*

10. Mail ballot rules.

10.1 ~~Authorization of elections by mail~~

10.1.1 ~~Scope of the rules.~~ 1-7.5-106

~~10.1.1.1 The secretary of state, with the advice of election officials of the several political subdivisions, has the authority to prescribe the form of materials to be used and to establish procedures for the conducting and supervising of mail ballot elections.~~

~~10.1.1.2 The secretary of state also has the authority to adopt rules governing procedures and forms necessary to implement mail ballot elections.~~

10.1.2 ~~Types of Elections~~ 1-7.5-104

~~10.1.2.1 The governing board of a political subdivision may choose to conduct elections by mail unless the elections or recall elections involve partisan candidate or are held in conjunction with or on the same day as a primary, or congressional vacancy election, subject to the constraints of Rule 5.2.~~

~~10.1.2.2 If a governing board chooses to hold an election by mail ballot, that decision should be reflected in the minutes of the meeting or in the resolution authorizing the election.~~

10.1.3 Definitions. 1-7.5-103

10.1.3.1 Secrecy envelope: a secrecy envelope shall include a paper ballot which is folded so that the elector's vote is concealed when the ballot is removed from the return verification envelope.

10.1.4 A separate mail ballot plan is not required from a political subdivision ~~where~~ IF a county clerk and recorder submits

a mail ballot plan for a coordinated election which includes the political subdivision.

10.2 Election Judges.

10.2.1 The designated election official for the election may appoint ~~one or more~~ AN APPROPRIATE NUMBER OF judges to receive the ballots after they are mailed, ~~(10.2.2) the designated election official for the election may appoint one or more judges to handle “walk-in” balloting and absentee ballots at the sites designated for “walk-in” balloting, (10.2.3) the designated election official for the election may appoint two or more judges to check registrations, TO INSPECT, VERIFY, AND DUPLICATE BALLOTS WHEN NECESSARY, AND TO count the ballot and certify results. IN ADDITION, (10.2.4) the political subdivisions shall appoint as many judges as required to receive and count the ballots., however no more than three judges per precinct may be appointed.~~

10.3 Notice of elections.

10.3.1 Call and notice.

10.3.1.1 ~~The political subdivision which chooses to conduct mail ballot elections must give notice of the election to the secretary of state no later than 75 days prior to the date of the election. This notice will become part of the plan for conducting the election which is filed with the secretary of state.~~

1-7.5-105

10.3.1.2 ~~Notice of the election is to be given to the electorate according to statute governing that election.~~

10.3.1.3 Notice of the election is to be sent to the clerk and recorder of the county in which the election is to be held. The notice is to include the date by which the list of registered electors is to be submitted to the political subdivision.

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

10.3.1.5 ~~For elections where property owners are part of the electorate, notice of the election is to be given to the county assessor of the county in which the election is held. Notice is to include the dates by which the list of property owners is to be submitted to the political subdivision.~~



~~10.3.1.6 If the political subdivision is required to give notice by mail and the ballots and election information can be mailed at the same time and meet the statutory notice requirements, the mailing of the ballots and election information will constitute notice.~~

~~10.3.1.7 Political subdivisions with overlapping boundaries or the same electors hold an election of the same day who wish to conduct their coordinated election as a mail ballot election, permission may be sought from the secretary of state.~~

10.3.2 As soon as possible, but no later than ~~75~~ 55 days prior to an election, a written plan must be submitted to the secretary of state which includes the following:

*Comment: House Bill 95-1241 amended section 1-7.5-105 to provide that notice of a mail ballot election and the written plan must be given to the Secretary of State 55 days prior to the date of the election.*

- a. DATE OF THE ELECTION;
- b. Type AND NAME of jurisdiction involved in the election;
- c. Description of the type of election to be conducted;
- d. Citation of the statute or home rule charter Provisions authorizing the election;
- e. Estimated number of eligible electors;
- f. Name of the designated election official who will be responsible for all aspects of the election;
- f. Indication of whether county clerk and recorder will assist in the election in the election for the entity other than by providing a list of registered electors and other information required by statute;
- g. Total number of “places of deposit”.
- h. Written timetable for the conduct of the election in accordance with the statute. ~~Which timetable shall include specific dates or~~

~~range of dates when each activity is to be completed.~~

- i. Indication of how postage will be handled for ballot packets returned as undeliverable (e.g. “return postage guaranteed”);
- j. Indication of procedures to be followed to ensure compliance with statutes and rules, including persons responsible for each stage;
- k. Description of procedures to be used to ensure ballot security at all stages of the process;
- l. Description of procedures to be used for signature verification;
- m. Description of procedures to ensure privacy by folding the ballot or use of secrecy envelopes so receiving judges cannot tell how the elector voted;
- n. Description of procedures to be used to reconcile ballots issued, ballots received, defective ballots and substitute ballots.

### 10.3.3 Written timetable specifications;

10.3.3.1 The designated election official shall prepare a written timetable for conducting the mail ballot election with specific dates or range of dates when each activity is to be completed.

10.3.3.2 The timetable shall include the following dates:

- a. Copy of written plan to governing body;
- b. Date of approval of election;
- c. Date of submission of written plan to secretary of state’s office;
- d. ANTICIPATED date of approval by secretary of state;
- e. Date OF PUBLICATION of notice of election ~~to electorate;~~

- f. Date of notice of election to the county clerk;
- g. Date of notice of election to the county assessor, IF PROPERTY OWNERS ARE ELIGIBLE TO VOTE IN THE ELECTION;
- h. Date of close of registration;

\_. DATE BY WHICH THE COUNTY CLERK AND RECORDER MUST SUBMIT THE LIST OF ELIGIBLE ELECTORS TO THE POLITICAL SUBDIVISION AND, IF PROPERTY OWENRS ARE ELIGIBLE TO VOTE IN THE ELECTION, THE DATE BY WHICH THE COUNTY ASSESSOR MUST SUBMIT THE LIST OF PROPERTY OWNERS.

- i. Date ballots WILL BE mailed;
- j. Date verification of ballots will begin;
- k. Date of the election.

10.4 Registration books.

10.4.1 ~~A full and complete list of registered electors shall be prepared for the election in a manner best suited for the election (e.g. alphabetized, by district, etc.)~~ 1-7.5-107 (2)(a),(b)

10.4.2 ~~The county clerk and recorder shall submit the preliminary list no later than thirty days prior to election day.~~ 1-7.5-107

10.4.3 ~~For elections where taxpaying electors as defined in C.R.S. 1-1-104(49) are eligible to vote, the assessor shall Prepare a property owner's list which includes the name of all owners, not just the first name listed on the deed.~~

10.4.4 ~~For elections where ballots are mailed to electors based on addresses provided by the county assessor, the address on the assessor's list must match the elector's residence address on the election records for the owner to be considered an eligible elector and receive a ballot.~~

10.4.5 ~~Post Office box numbers on the assessors' list may not be used as an address for registration purposes unless the election record includes the post office number in addition to the residence address.~~

~~10.4.6 Those persons to who a mail ballot is not sent may vote in person pursuant to C.R.S. 1-7.5-107 by completing an affidavit as required by C.R.S. 1-7-103 or by absentee ballot.~~

~~10.4.7 The county clerk or secretary of state shall assist political subdivisions in determining whether property owners are registered electors in other counties in the state and this eligible to vote in the election.~~

~~10.4.8 A supplemental list of those electors whose names are not included on the original list shall be submitted by the county clerk and recorder and the assessor to the appropriate designated election official of the political subdivision no later than 20 days before the election.~~

1-7.5-107  
(2)(b)

~~10.4.9 If the supplemental list is received after the initial mailing of ballots, the same procedures shall be followed for mailing ballots to electors on the supplementary list as for the initial mailings.~~

## 10.5 Ballots.

~~10.5.1 Ballots and mail ballot packets shall be prepared in substantially the same form as is required by the secretary of state.~~

1-7.5-107  
(1), (2)(b)

~~10.5.2 The information in the mail ballot packet shall clearly indicate the type of election, the issue upon which the elector is voting, and all instructions for casting the ballot.~~

~~10.5.3 For elections where multiple ballots will be included in the same packet or will be sent in separate packets, the ballots and return envelopes shall include distinctive markings or colors to identify political subdivisions when the colors or distinctive markings will aid in the distribution and tabulation of the ballots.~~

~~10.5.4 Neither the Article X, Section 20 notice nor any other information about the ballot issues may be printed on the ballot itself, unless authorized by law.~~

~~10.5.5 The ballots shall contain the warning required by C.R.S. 1-7.5-107 (3)(b) advising an eligible elector of the penalties for tampering with the ballot:~~

**“WARNING”**

~~“Any person who, by use of force or other means, unduly influences an elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges, or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates, or tampers with a ballot is subject, upon conviction, to imprisonment, or to a fine, or both.”~~

~~10.5.6 For punch card ballots, non-sequential ballots may be used as long as a record is kept which indicates for which election the ballot was used.~~

~~10.5.7 A sufficient number but no less than 10 absentee or regular ballots shall be printed thirty days prior to the election to meet the requirements for mailing at that time.~~

10.7.3.1 The secrecy envelope and the return verification envelope may be combined as a single envelope if the instructions to voters included in the mail ballot package instruct the voter to fold the ballot in a manner that will conceal the voter’s marks on the ballot prior to placing it into the envelope.

**[RELOCATED TO RULE 10.5 FROM RULE 10.7.]**

**10.6 ~~Supplies and equipment.~~**

~~10.6.1 The political subdivision calling the election shall ensure that sufficient forms and supplies are given to the election officials to carry out their tasks.~~

**10.7 ~~Mailing ballots.~~**

~~10.7.1 The designated election official shall mail a ballot to each eligible elector entitled to vote in the mail ballot election no sooner than 25 days and no later than 15 days before the date set for the election.~~

1-7.5-107  
(3)(a)

10.7.1.1 The designated election official for each political subdivision for whom one or more county clerk and recorders are conducting the election, shall assure that a complete list of eligible electors in their political subdivision is sent to each appropriate county clerk and recorder, unless otherwise provided in the intergovernmental agreement. The

political subdivision shall list each elector only once to assure that each elector receives one and only one ballot unless otherwise authorized.

10.7.1.2 For coordinated mail ballot election, each county clerk and recorder shall compare the lists submitted by the various political subdivisions to assure that each elector receives the appropriate ballot or ballots for the election.

10.7.2 ~~The ballot shall be sent to the last mailing address or post office box appearing in the registration records and shall be marked “DO NOT FORWARD. ADDRESS CORRECTION REQUESTED” or similar language.~~

1-7.5-107  
(3)(a)

10.7.3 ~~The mail ballot packets must include a ballot, instructions for completing the ballot, the secrecy envelope, and a return verification envelope.~~

10.7.3.1 ~~The secrecy envelope and the return verification envelope may be combined as a single envelope if the instructions to voters included in the mail ballot package instruct the voter to fold the ballot in a manner that will conceal the voter’s marks on the ballot prior to placing it into the envelope.~~

**[RELOCATED TO RULE 10.5]**

10.7.4 ~~To assure full voter information, for mail ballot elections which have issues for which an Article X, Section 20 notice will be mailed, it is strongly recommended that the ballots be mailed no sooner than the constitutionally required notice.~~

10.7.5 For all coordinated elections where more than one mail ballot is being mailed or polling place elections are being held as well as the mail ballot election, the outgoing envelope as well as the instructions or other notice shall have the following notice. This ~~is not~~ MAY NOT BE your only ballot. Other elections may be held by other political subdivisions by mail or by polling place.

10.7.6 ~~The number of the ballot mailed to each elector shall be recorded on the registration list.~~

10.7.7 If the ballot is returned to the election official as undeliverable, the official shall not be required to re-mail the ballot packet.

10.8 Absentee and early voting.

1-7.5-108

10.8.1 Absentee voting occurs in a mail ballot election when a registered, the official ~~wishes~~ REQUESTS THAT the ballot mailed to a place other than the address of record.

10.8.2 A request for an absentee ballot may be filed any time after January 1 of the year of the election but not later than the close of business ~~three days~~ ON THE FRIDAY prior to the election.

10.8.3 Upon receipt of a request for AN absentee ballot, the designated election official shall mail the original ballot or a replacement ballot to that elector.

10.8.4 A ~~notation~~ RECORD shall be made on the registration sheet that a request for an absentee ballot was received, a ballot was mailed to the alternate address and the ballot number shall be ~~noted~~ RECORDED.

10.8.5 For mail ballot elections, the notation "Absentee Ballot No. A.V. \_\_\_\_" shall not be required on the absentee ballots.

10.8.6 Establishment of polling place for early voting shall not be required for a mail ballot election, however the location for walk-in balloting ~~must~~ SHALL be maintained.

10.9 Judges to receive ballots as mailed.

10.9.1 One or more judges shall be appointed for the site to which ballots are to be mailed to receive the ballots as mailed.

10.9.2 Each day when ballots come in, a judge shall count the ballots, batch them and record the number of ballots received.

10.9.3 The ballots shall be date stamped when received. If any ballot is received after the time set for the closing of the elections, the ballot shall be date stamped but the ballot shall not be counted.

10.9.4 Records shall also be kept of the number of ballot packets returned as undeliverable.

10.9.5 Ballots shall then be placed in a safe, secure ~~placed~~  
PLACE until the counting of the ballots.

10.10 Ballots deliverable in person.

10.10.1 ~~Under the following circumstances an elector may  
vote in person:~~ 1-7.5-107  
(4)(b)

a. ~~When the elector is absent from his/her place  
residence during the conduct of the election;~~

b. ~~When the elector requests a replacement ballot;~~

c. ~~When an elector who is entitled to vote is not listed  
on the property owner's list or registration list.~~ 1-7.5-107  
(c)

10.10.2 ~~Each political subdivision is to establish at least  
one site convenient to the voters and preferably within the  
political subdivision where electors may vote in person.  
The site must be open during regular business hours no sooner  
than 25 days before election day not later than 7 p.m. on  
election day for ballot delivery.~~ 1-7.5-107(c)

10.10.3 If political subdivision ~~wishes~~ DESIRES to establish  
a site for walk in voting outside of the county, municipality,  
or district, permission must be obtained from the secretary of  
state.

10.10.4 ~~If a completed ballot is delivered in person, the judge  
is to include that ballot with those received in the mail that  
day.~~

10.10.5 ~~If an elector wishes to vote in person and does not have  
a ballot with him/her, the judge shall follow the procedures for  
issuance of a defective/replacement ballot.~~

10.10.6 ~~The judge shall have the elector complete the sworn  
statement specifying the reason for requesting the replacement  
ballot.~~

10.11 ~~Defective or~~ Replacement ballots.

10.11.1 ~~If an elector comes to the election judge with a  
defective ballot, the judge shall issue a replacement ballot for  
voting.~~ Requests for replacement ballots may be made in  
writing, by mail, by fax, or by telephone.



~~10.11.2 A sworn statement specifying the reason for requesting the replacement must be signed by the elector and presented to the election judge no later than 4 p.m. on election day. If the ballot is returned by mail, the sworn statement must be included in the return verification envelope with the marked ballot.~~ AN ELECTOR REQUESTING A REPLACEMENT BALLOT SHALL COMPLETE A SWORN STATEMENT, AS REQUIRED BY SECTION 1-7.5-107 (3) (d) (I), ON A FORM PROVIDED BY THE ELECTION OFFICIAL.

10.11.3 THE SWORN STATEMENT SHALL INCLUDE SPACE IN WHICH THE ELECTOR SHALL SPECIFY THE REASON FOR REQUESTING A REPLACEMENT BALLOT. The sworn statement shall also contain a statement in bold that the original ballot may not be cast and that, if both the original and the replacement ballot are cast, neither ballot will be counted. IF THE ELECTOR REQUESTS THAT THE REPLACEMENT BALLOT BE MAILED, THE SWORN STATEMENT MAY BE INCLUDED IN THE BALLOT PACKAGE MAILED TO THE ELIGIBLE VOTER.

10.11.4 THE ELECTION JUDGE ISSUING A REPLACEMENT BALLOT SHALL INDICATE ON THE OUTSIDE OF THE RETURN-VERIFICATION ENVELOPE WHETHER A SWORN STATEMENT MUST BE RETURNED WITH THE VOTED BALLOT. ~~The election official shall ensure that the sworn statement required by C.R.S. 1-7.5-107 (d)(1) is completed and that the return verification envelope with the identifying information is correctly completed.~~ NO REPLACEMENT BALLOT SHALL BE COUNTED UNTIL IT HAS BEEN DETERMINED THAT A SWORN STATEMENT HAS BEEN COMPLETED BY THE VOTER.

~~10.11.5 The judge shall note on the registration list that a replacement ballot has been issued and write the number of that replacement ballot next to the name of the elector. The judge shall also note on the return verification envelope in which the ballot is placed that the ballot is a replacement ballot.~~

~~10.12 Judges to check return verification envelopes.~~

~~10.12.1 The election judges may begin verifying the information on the return verification envelopes as soon as ballots are received.~~

~~10.12.2 The judges shall first check the information on the outside of the envelope to ensure the following.~~

~~\_\_\_\_\_ a. The ballot was returned in the return verification envelope for an election being conducted by political subdivision;~~

~~\_\_\_\_\_ b. The person who voted was in fact eligible to vote (a registered elector and property owner, if applicable);~~

~~\_\_\_\_\_ c. The person completing the ballot is elector (as verified by the birthdate and other identifying information) who has not previously voted in the election no had a replacement ballot issued;~~

~~10.12.3 If the completed return verification envelope is in substantial compliance with Title 1, Article 7.5 C.R.S., the rules and regulations promulgated by the secretary of state and the instructions for voting, at any time during the ten days before the election, the ballot shall be removed from the return envelope for verification of the ballot number of the pollbook.~~

~~10.12.4 If the number on the ballot stub matches the number on the ballot sent to the elector, the judge shall so note next to the name of the registered elector on the official registration list. The judge shall then remove the ballot stub and place the ballot in a ballot box or transfer case for counting.~~

~~10.12.5 Those return verification envelopes which are defective shall be placed in a secure container and retained. The ballots are not to be removed from the defective envelopes.~~

~~10.12.6 The judges are to make a final count of ballots which are to be counted and ballots which are rejected in the return verification envelopes for the tally sheet~~

~~10.12.7 Judges are to retain all envelopes in which the ballots were received in a secure container and deliver them with the election results to the election official.~~

### 10.13 Verification of replacement ballots

10.13.1 If return verification envelope is submitted which contains a replacement ballot, ~~or an original ballot for which a replacement ballot was issued,~~ that BALLOT shall be set aside until

7:00 p.m. on election day. IF IT CAN BE DETERMINED THAT THE REPLACEMENT BALLOT IS THE ONLY BALLOT ISSUED TO THE ELECTOR OR THAT ALL PRIOR BALLOTS ISSUED TO THE ELECTOR HAVE BEEN VOIDED, THEN THE REPLACEMENT BALLOT MAY BE PROCESSED IN THE SAME MANNER AS THE ORIGINAL BALLOT.

10.13.2 The information on the return verification envelope may be checked prior to 7:00 p.m. on election day, but the ballot ~~may~~ SHALL not be removed from the envelope until ~~voting is complete~~ THE POLLS CLOSE.

10.13.3 When ~~voting is complete~~ ALL VOTED BALLOTS HAVE BEEN RECEIVED AND THE POLLS HAVE CLOSED, the replacement ballots shall be checked to ensure that the elector only voted with the replacement ballot. IF IT APPEARS THAT THE ELECTOR ONLY VOTED THE REPLACEMENT BALLOT AND IF ALL THE INFORMATION ON THE RETURN-VERIFICATION ENVELOPE IS COMPLETE, THE BALLOT MAY BE REMOVED AND COUNTED AS THE OTHER BALLOTS.

10.13.4 ~~If it appears that an elector voted more than one time, then none of the ballots cast by that elector shall be counted. The ballots shall be considered rejected and handled in the same way as other rejected ballots.~~

10.13.5 ~~If it appears that the elector voted in the original ballot but requested a replacement ballot, the original ballot shall not be counted because the replacement ballot voids the original ballot.~~

10.13.6 ~~If it appears that the elector only voted the replacement ballot and if all the information is complete on the return verification envelope, the ballot may be removed and counted as the other ballots.~~

~~10.14 Judges to count the ballots.~~

10.14.1 ~~On the say before election day and on election day, the judges first count all security envelopes with ballots to ensure that those logged in are in fact accounted for.~~

10.14.2 ~~The judges remove the ballots from the security envelopes and tabulate the results.~~

10.14.3 ~~If it appears that a ballot is defective, then the ballot shall not be counted but shall be placed in a secure container and retained.~~

~~10.14.4 A defective ballot is one where the voter's intention is not apparent from the markings on the ballot.~~

~~10.14.5 The judges shall keep accounting forms with the election results.~~

10.15 ~~Judges certificate~~ JUDGES' DUTIES.

10.15.1 The judges ~~are to~~ SHALL enter results of the count on the judges' certificate and statement.

1-7-308  
1-7-309

10.15.2 The judges ~~are to~~ SHALL deliver the results of the election to the designated election official along with all election materials.

10.15.3 The judges ~~are to~~ SHALL deliver all election materials bound separately as follows:

- a. Ballots which were counted;
- b. Ballots which were defective, AS DEFINED SECTION IN 1-7-309 (4);
- c. Ballots/verification envelopes which may be challenged;
- d. Verification envelopes with ballots removed;
- e. Defective verification envelopes with ballots inside;
- f. Ballot packets which were returned as undeliverable.

10.16 ~~Canvass of votes/certificates of election.~~

~~10.16.1 The canvass of election shall occur as required by the enabling statute of the entity calling the election.~~

~~10.16.2 The canvass shall include the number of ballots mailed, the number issued in person and the number received.~~

~~10.16.3 All certificates shall be issued by the election officials as required by the enabling statute of the entity calling the election.~~

~~10.17 Challenge of elections.~~

~~10.17.1— Elections can be challenged as provided in the enabling statute of the entity calling the election.~~

~~10.17.2— A failure of an elector to receive a ballot will not by itself be sufficient grounds for the challenge of an election, so long as the designated election official acted in substantial compliance with Title 1, Article 7.5, C.R.S. or the rules promulgated thereunder by the secretary of state.~~

~~10.17.3— A technical violation of the procedures in the running of the election shall not be deemed sufficient to invalidate the election. The test shall be whether the procedures were such as to ensure that a fundamentally fair election was held.~~

~~10.18— Retention of election materials.~~

~~10.18.1— Election materials are to be retained by the designated election official for the time required by the enabling legislation.~~

~~10.19— Filing of report.~~

~~10.19.1— After the election the designated election official shall file a report with the secretary of state which shall include result of the election, number of ballots mailed, number of absentee ballots, turn-out statistics, cost of the election, and any other information requested by the secretary of state.~~

*Rules concerning Absentee Voting*

11. Absentee voting.

~~11.1— Absentee ballot materials shall be sent through the mail without prepayment of postage, by being deposited at an overseas United States military post office or presented to American embassy, for any person in the following categories:~~

(Post Office services 6-12-73, Issue 58 Rule 137.5, .51)

~~a. Members of the Armed Forces while in the active service and their spouses and dependents.~~

1-8-101  
1-8-119

~~b. Members of the Merchant Marine of the United States and their spouses and dependents.~~

~~e. Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.~~

- 11.2 All election materials prepared by the designated election official, including the Article X, Section 20 notice may be included in the absentee ballot mailing. ~~However, if the ballot is sent before the package notice is prepared and the notice is sent to the address of the elector as provided by law, the designated election official does not need to send any election material separately.~~ 1-8-105  
1-13-801
- 11.3 For precincts which have ~~25~~ 100 or fewer electors, at the discretion of the designated election official, ~~and the governing body,~~ applications for absentee ballots may be sent to those electors rather than establishing a separate polling place. The designated election official shall also include information with the application for the absentee ballot about early voting at designated sites so the elector may choose between voting at an early voting site or voting by absentee ballot.
- 11.4 FOR SPECIAL DISTRICT ELECTIONS, THE SELF-AFFIRMATION CONTAINED IN SECTION 32-1-806 (2), C.R.S., MAY BE UTILIZED INSTEAD OF THE SELF-AFFIRMATION CONTAINED IN SECTION 1-8-114, C.R.S. IN SUCH CASE, THE SELF-AFFIRMATION MAY BE PRINTED DIRECTLY ON THE RETURN ENVELOPE OR ON A SEPARATE FORM TO BE RETURNED WITH THE VOTED BALLOT IN THE RETURN ENVELOPE. THE ELECTION JUDGE ISSUING THE ABSENTEE BALLOT SHALL INDICATE ON THE OUTSIDE OF THE RETURN ENVELOPE WHETHER THE COMPLETED SELF-AFFIRMATION FORM MUST BE INCLUDED WITH THE VOTED BALLOT.

*Rules concerning Recount Procedures*

12. Rules concerning recount procedures.
- 12.1 Each designated election official who conducts a recount shall follow the specific procedures outlined by the secretary of state for the equipment used for the election.
- 12.2 The secretary of state shall prepare a letter which specifies the procedures to be used for the recount which shall be sent to the designated election official upon receipt of the notice

of a recount.

- 12.3 The purpose of a recount is to review the ballots to assure they were counted properly. Unless directed otherwise by the Secretary of State, all procedures of election night shall be followed as closely as possible during the recount, including an examination of the ballots. 1-10-305

12.4 GENERAL PROVISIONS.

12.4.1 THE SECRETARY OF STATE MAY HAVE AN OFFICIAL OBSERVER AT EVERY RECOUNT LOCATION.

12.4.2 ANY CANDIDATE WHO IS SUBJECT TO THE RECOUNT MAY BE PRESENT AND OBSERVE THE RECOUNT AT ANY RECOUNT LOCATION OR DESIGNATE ONE WATCHER TO OBSERVE THE RECOUNT AT ANY RECOUNT LOCATION. WATCHERS MUST PROVIDE THE ELECTION OFFICIAL WITH A CERTIFICATE SIGNED BY THE CANDIDATE, EXCEPT THAT AN OFFICER OF THE COUNTY PARTY MAY BE ACCEPTED AS A CANDIDATE'S WATCHER WITHOUT A CERTIFICATE IF NO OTHER PERSON IS DESIGNATED BY THE CANDIDATE FOR THAT LOCATION.

12.4.3 SUBJECT TO AVAILABLE SPACE, THE CREDENTIALLED MEMBERS OF THE PRESS MAY BE PRESENT.

12.4.4 THE RECOUNT BOARD, CANDIDATES, WATCHERS, AND MEMBERS OF THE PRESS WILL TAKE AN OATH.

12.4.5 ANYONE WHO ENTERS THE RECOUNT ROOM AFTER THE RECOUNT BEGINS MUST STAY UNTIL THE RECOUNT IS COMPLETE. ANYONE WHO MUST LEAVE THE RECOUNT ROOM WILL NOT BE ALLOWED TO REENTER THE RECOUNT ROOM.

12.4.6 ALL VOTES FOR ALL CANDIDATES IN ANY RACE SUBJECT TO A RECOUNT SHALL BE COUNTED.

12.5 COUNTING OF PAPER BALLOTS.

12.5.1 TOTALS OF RECOUNTED BALLOTS SHALL BE PROCESSED, COUNTED, AND REPORTED IN SUMMARY FORM AS FOLLOWS:

A. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES, AND OVER-VOTES FOR ALL PRECINCTS;

B. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES, AND OVER-VOTES FOR ALL ABSENTEE BALLOTS (A COMBINED TOTAL, NOT TOTALED BY INDIVIDUAL PRECINCTS OR LOCATIONS, UNLESS THE VOTING SYSTEM SO ALLOWS.);

C. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES, AND OVER-VOTES FOR ALL EARLY VOTING PRECINCTS (A COMBINED TOTAL, NOT TOTALED BY INDIVIDUAL PRECINCT OR LOCATIONS, UNLESS THE VOTING SYSTEM SO ALLOWS);

D. DETERMINE GRAND TOTAL OF BALLOTS CAST BY EARLY VOTING, ABSENTEE VOTING, AND PRECINCT VOTING;

12.5.2 IF ABSENTEE BALLOTS WERE ORIGINALLY COUNTED WITH EARLY VOTING BALLOTS, THEN THE RECOUNT WILL BE OF A COMBINED TOTAL OF EARLY AND ABSENTEE BALLOTS.

12.5.3 BALLOT BOXES OR CONTAINERS SHALL BE OPENED ONE AT A TIME.

12.5.4 BALLOTS SHALL BE COUNTED INTO GROUPS OF 25 TO ENSURE THAT THE NUMBER OF BALLOTS RECOUNTED MATCHES THE NUMBER ORIGINALLY COUNTED.

12.5.5 VOTES SHALL BE COUNTED BY INDIVIDUAL HASH MARKS IN 25-COUNT SECTIONS BY TWO DIFFERENT JUDGES.

## 12.6 COUNTING OF PUNCH-CARD BALLOTS.

12.6.1 PRIOR TO THE RECOUNT, THE CANVAS BOARD SHALL CHOOSE A PRECINCT AT RANDOM TO BE UTILIZED AS A TEST DECK FOR PURPOSES OF SECTION 1-10.5-102. THE PURPOSE OF A TEST DECK IS TO ASSURE THE TABULATION MACHINES ARE COUNTING PROPERLY. THE PRECINCT CHOSEN SHALL CONTAIN AT LEAST 50 BALLOTS. A HAND TALLY SHALL BE CONDUCTED OF THE SELECTED PRECINCT OR OF A MINIMUM OF FIFTY BALLOTS CONTAINED WITHIN THE SELECTED PRECINCT. THE BALLOTS FROM THE SELECTED PRECINCT TEST DECK SHALL BE PROCESSED THROUGH ALL TABULATION MACHINES THAT WILL BE UTILIZED FOR THE RECOUNT. THE TOTALS OF THE RECOUNTED CONTEST OBTAINED FROM THE TEST PRECINCT SHALL BE COMPARED TO THE HAND-TALLIED TOTAL.

12.6.2 IF THE TEST DECK PRECINCT TOTALS DIFFER FROM THE HAND COUNT TOTALS, ALL BALLOTS CONTAINING THE RECOUNTED CONTEST SHALL BE TALLIED BY HAND FOLLOWING PROCEDURES FOR PAPER BALLOT RECOUNTS. IF THE TEST DECK PRECINCT TOTALS ARE EXACTLY THE SAME, THE RECOUNT TABULATION SHALL BE CONDUCTED BY MACHINES.

12.6.3 A CLEAR AUDIT TRAIL SHALL BE MAINTAINED THROUGHOUT THE RECOUNT, INCLUDING BUT NOT LIMITED TO A LOG OF SEAL NUMBERS ON TRANSFER CASES OR BALLOT BOXES AS DEFINED IN SECTION 1-7-505, C.R.S., AND THE CORRESPONDING NUMBERED SEAL USED AS A REPLACEMENT, UPON COMPLETING THE RECOUNT OF BALLOTS WITHIN THAT TRANSFER CASE.



12.6.4 THE NUMBER OF BALLOTS COUNTED BY PRECINCT ACCORDING TO THE ELECTION NIGHT REPORT SHALL BE AVAILABLE DURING THE RECOUNT FOR COMPARISON PURPOSES.

12.6.5 TOTALS OF RECOUNTED BALLOTS SHALL BE PROCESSED, COUNTED, AND REPORTED IN SUMMARY FORM AS FOLLOWS:

A. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES, AND OVER-VOTES FOR ALL RECINCTS;

B. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES AND OVER-VOTES FOR ALL ABSENTEE BALLOTS (A COMBINED TOTAL, NOT TOTALED BY INDIVIDUAL PRECINCTS OR LOCATIONS, UNLESS YOUR SYSTEM ALLOWS.);

C. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES, AND OVER-VOTES FOR ALL EARLY VOTING PRECINCTS (A COMBINED TOTAL, NOT TOTALED BY INDIVIDUAL PRECINCT OR LOCATIONS, UNLESS THE VOTING SYSTEM SO ALLOWS);

D. DETERMINE THE GRAND TOTAL OF BALLOTS CAST IN EARLY ABSENTEE AND PRECINCT.

12.6.6 IF ABSENTEE BALLOTS WERE ORIGINALLY COUNTED WITH EARLY VOTING BALLOTS, THEN THE RECOUNT WILL BE OF A COMBINED TOTAL OF EARLY AND ABSENTEE BALLOTS.

12.6.7 BALLOTS SHALL NOT BE REVIEWED FOR VOTER INTENT.

12.6.8 UTILIZING A CLEARED READER, ALL PRECINCT BALLOTS SHALL BE COUNTED WITHIN ALL PRECINCTS. PRECINCTS SHALL BE COUNTED IN NUMERIC ORDER. AFTER THE INDIVIDUAL PRECINCT IS COUNTED, THE BALLOTS SHALL BE RETURNED TO THE BALLOT CONTAINER AND SEALED.

12.6.9 UTILIZING A CLEARED READER, ALL EARLY VOTING BALLOTS SHALL BE COUNTED. AFTER AN INDIVIDUAL BALLOT CONTAINER IS COUNTED, THE BALLOTS SHALL BE RETURNED TO THE BALLOT CONTAINER AND SEALED.

12.6.10. UTILIZING A CLEARED READER, ALL ABSENTEE VOTING BALLOTS SHALL BE COUNTED. AFTER AN INDIVIDUAL BALLOT CONTAINER IS COUNTED, THE BALLOTS SHALL BE RETURNED TO THE BALLOT CONTAINER AND SEALED.

## 12.7 COUNTING OF OPTICAL SCAN BALLOTS.

12.7.1 PRIOR TO THE RECOUNT, THE CANVAS BOARD SHALL CHOOSE A PRECINCT AT RANDOM TO BE UTILIZED AS A TEST DECK FOR PURPOSES OF SECTION 1-10.5-102. THE PURPOSE OF A TEST DECK IS TO ASSURE THE TABULATION MACHINES ARE COUNTING PROPERLY. THE PRECINCT CHOSEN SHALL CONTAIN AT LEAST 50

BALLOTS. A HAND TALLY SHALL BE CONDUCTED OF THE SELECTED PRECINCT OR OF A MINIMUM OF FIFTY BALLOTS CONTAINED WITHIN THE SELECTED PRECINCT. A BLANK "PROM" OR "ROM CARTRIDGE", SHALL BE UTILIZED FOR THE TEST DECK. THE BALLOTS FROM THE SELECTED PRECINCT TEST DECK SHALL BE PROCESSED THROUGH ALL SCAN TABULATION MACHINES THAT WILL BE UTILIZED FOR THE RECOUNT. THE TOTALS OF THE RECOUNTED CONTEST OBTAINED FROM THE TEST PRECINCT SHALL BE COMPARED TO THE HAND-TALLIED TOTAL.

12.7.2 IF THE TEST DECK PRECINCT TOTALS DIFFER FROM THE HAND COUNT TOTALS, ALL BALLOTS CONTAINING THE RECOUNTED CONTEST SHALL BE TALLIED BY HAND FOLLOWING PROCEDURES FOR PAPER BALLOT RECOUNTS. IF THE TEST DECK PRECINCT TOTALS ARE EXACTLY THE SAME, THE RECOUNT TABULATION SHALL BE CONDUCTED BY MACHINES.

12.7.3 A CLEAR AUDIT TRAIL SHALL BE MAINTAINED THROUGHOUT THE RECOUNT, INCLUDING BUT NOT LIMITED TO A LOG OF SEAL NUMBERS ON TRANSFER CASES OR BALLOT BOXES AS DEFINED IN SECTION 1-7-505, C.R.S., AND THE CORRESPONDING NUMBERED SEAL USED AS A REPLACEMENT, UPON COMPLETING THE RECOUNT OF BALLOTS WITHIN THAT TRANSFER CASE.

12.7.4 THE NUMBER OF BALLOTS COUNTED BY PRECINCT ACCORDING TO THE ELECTION NIGHT REPORT SHALL BE AVAILABLE DURING THE RECOUNT FOR COMPARISON PURPOSES.

12.7.5 TOTALS OF RECOUNTED BALLOTS SHALL BE PROCESSED, COUNTED, AND REPORTED IN SUMMARY FORM AS FOLLOWS:

- A. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES, AND OVER-VOTES FOR ALL RECINCTS;
- B. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES AND OVER-VOTES FOR ALL ABSENTEE BALLOTS (A COMBINED TOTAL, NOT TOTALED BY INDIVIDUAL PRECINCTS OR LOCATIONS, UNLESS YOUR SYSTEM ALLOWS.);
- C. SUM TOTAL OF VOTES CAST FOR EACH CANDIDATE, UNDER-VOTES, AND OVER-VOTES FOR ALL EARLY VOTING PRECINCTS (A COMBINED TOTAL, NOT TOTALED BY INDIVIDUAL PRECINCT OR LOCATIONS, UNLESS THE VOTING SYSTEM SO ALLOWS);
- D. DETERMINE THE GRAND TOTAL OF BALLOTS CAST IN EARLY ABSENTEE AND PRECINCT.

12.7.6 IF ABSENTEE BALLOTS WERE ORIGINALLY COUNTED WITH EARLY VOTING BALLOTS, THEN THE RECOUNT WILL BE OF A COMBINED TOTAL OF EARLY AND ABSENTEE BALLOTS.

12.7.7 BALLOTS SHALL NOT BE REVIEWED FOR VOTER INTENT.

12.7.8 UTILIZING ONE OR MORE BLANK “PROM” OR “ROM CARTRIDGES”, ALL PRECINCT BALLOTS SHALL BE COUNTED WITHIN ALL PRECINCTS. PRECINCTS SHALL BE COUNTED IN NUMERIC ORDER. AFTER THE INDIVIDUAL PRECINCT IS COUNTED, THE BALLOTS SHALL BE RETURNED TO THE BALLOT CONTAINER AND SEALED.

12.7.9 UTILIZING ONE OR MORE BLANK “PROM” OR “ROM CARTRIDGES”, ALL EARLY VOTING BALLOTS SHALL BE COUNTED. AFTER AN INDIVIDUAL BALLOT CONTAINER IS COUNTED, THE BALLOTS SHALL BE RETURNED TO THE BALLOT CONTAINER AND SEALED.

12.7.10. UTILIZING ONE OR MORE BLANK “PROM” OR “ROM CARTRIDGES”, ALL ABSENTEE VOTING BALLOTS SHALL BE COUNTED. AFTER AN INDIVIDUAL BALLOT CONTAINER IS COUNTED, THE BALLOTS SHALL BE RETURNED TO THE BALLOT CONTAINER AND SEALED.

12.8 COUNTING OF DIRECT RECORD BALLOTS. (RESERVED)

*Rules concerning Preparation AND FILING of Initiative Petitions*

13. Rules concerning preparation of initiative petitions for circulation.

13.1 Each petition section shall have on it consecutive four digit number. The number may be printed by a printer, hand stamped with a manual stamp, or handwritten.

13.2 The lines on the petition section shall be consecutively numbered.

13.2.1 The block of information which consists of the printed last name, first name, middle initial, county, signing date, street address, city and signature are considered a line.

13.3 No petition shall be accepted which lists proponents other than the two identified as petition representatives pursuant to C.R.S. 1-40-104.

13.4. PROPONENTS MAY BEGIN CIRCULATING A PETITION FOR SIGNATURES AT ANY TIME AFTER THE FINAL DECISION OF THE TITLE BOARD, INCLUDING DISPOSITION OF ANY MOTION FOR REHEARING OR THE EXPIRATION OF THE TIME FOR FILING A MOTION FOR REHEARING, AND AFTER THE SECRETARY OF STATE HAS APPROVED THE FORMAT OF THE PETITION AS PROVIDED IN SECTION 1-40-113 (1), C.R.S., WHETHER OR NOT AN APPEAL IS FILED WITH THE SUPREME COURT PURSUANT TO SECTION 1-40-107 (2). THE SIX-MONTH PERIOD SPECIFIED IN SECTION 1-40-108 (1) SHALL

BEGIN ON THE DATE THAT THE FIRST SIGNATURE IS AFFIXED TO THE PETITION OR, IN THE CASE OF AN APPEAL TO THE SUPREME COURT, ON THE DATE THAT THE DECISION OF THE SUPREME COURT BECOMES FINAL, WHICHEVER DATE OCCURS FIRST. SIGNATURES SHALL BE COUNTED ONLY IF AFFIXED TO THE PETITION DURING THE PERIOD PROVIDED IN THIS RULE.

***Comment:** There is some confusion about when the 6-month time period for circulating petitions begins. The new rule is intended to codify the Secretary of State's interpretation of the existing law. The amendment clarifies that proponents may begin circulating petitions when an appeal of the title is still pending before the Supreme Court, in which case the 6-month period begins when the first signature is added, or the proponents may wait until the decision of the Supreme Court is final, in which case the 6-month period begins on that date.*

13.5 ONLY ONE FILING OF A PETITION OR AN ADDENDUM IS ALLOWED. AFTER A PETITION OR AN ADDENDUM IS FILED, THE PETITION OR THE ADDENDUM MAY NOT BE SUPPLEMENTED WITH ADDITIONAL SIGNATURES. IF ADDITIONAL SIGNATURES ARE SUBMITTED AFTER THE ORIGINAL FILING, SUCH SIGNATURES SHALL NOT BE COUNTED, EVEN IF SUCH SIGNATURES ARE SUBMITTED WITHIN THE TIME PERMITTED BY LAW FOR THE FILING OF THE ORIGINAL PETITION OR ADDENDUM.

***Comment:** New Rule 13.4 reflects the interpretation of the Secretary of State that was applied during the previous initiative cycle. It is necessary in order to enable the Secretary of State to begin the random sample process instead of waiting to see if additional signatures are going to be submitted. Section 1-40-116 (2), C.R.S., provides that, "Upon submission of the petition, the secretary of state shall examine each name and signature on the petition. The statute does not say, "upon filing of petition sections". The Secretary of State has only 30 days from the date of filing to complete the random sampling (and the line-by-line verification if necessary), and most petitions are filed at about the same time, shortly before the 90-deadline in August. If supplements could be filed, then the Secretary of State could not begin random sampling until the deadline for filing had passed.*

#### *Rules concerning Verification by Random Sample OF STATEWIDE INITIATIVE PETITIONS*

14. Rules concerning preliminary count and verification of state wide initiative petitions by a random sample of signatures.

14.1 Preliminary count and generation of random numbers.

14.1.1 When the petitions are received, each section shall be consecutively numbered.

14.1.2 Each line with writing shall be counted on each petition and shall be considered an entry. The number of

entries for each page of the section shall be written on the page, and the total entries for the section shall be written on the face of the petition section.

14.1.2.1 A line which has no writing or marks on it shall not be considered an entry.

14.1.2.2 A line which has writing on it but is completely crossed out shall not be considered an entry.

14.1.2.2 A line which has writing on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.

14.1.3 After the entries have been counted for each petition section, a data entry clerk shall enter the following data into the computer; the petition identification number, the petition section number, the page number and the number of entries on the page.

14.1.4 The computer shall then create a record for each entry which record shall contain the petition identification number, petition section number, page number and the entry number. The total number of entries submitted for the petition shall be tallied.

14.1.5 If the number of entries is less than the total number of signatures required to certify the measure to the ballot, a statement of insufficiency shall be issues.

14.1.6 A series of random numbers shall be generated by the computer which is the greater of four thousand signatures or five percent of the total number of entries.

## 14.2 Verification of selected entries.

14.2.1 The random numbers selected shall be matched with the appropriate petition section, page number and entry number.

14.2.2 Each entry generated shall be checked for the following reasons for rejection: VALIDITY IN ACCORDANCE WITH RULES 20.2.2 AND 20.2.3.

*Comment: Rule 20 already provides guidelines for checking petition sections, the circulator's affidavit, and individual signatures. Therefore, a reference over to Rule 20 is added, and the following rules are repealed to avoid redundancy.*

~~a. Evidence of disassembly of the petition;~~

~~b. The circulator's affidavit does not meet the requirements of statute or rule;~~

~~c. The individual entry does not meet the requirements of statute or rule.~~

~~14.2.3 Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry which is accepted.~~

~~14.3 Each section shall be checked for evidence of disassembly. If it appears that the section was disassembled, the entry shall be rejected.~~

~~14.4 Checking the circulator's affidavit.~~

~~14.4.1 The circulator's affidavit shall be checked for each entry. If the affidavit is not attached and completed, the entry shall be rejected.~~

~~14.4.2 The notary clause at the end of the affidavit shall be checked for each entry. If any information is missing or if the date on the notary clause is not the same date as the circulator signed the affidavit, the entry shall be rejected.~~

~~14.4.3 The name of each circulator shall be checked to assure that the circulator was a registered elector at the time that the signatures were gathered. IN ACCORDANCE WITH THE DECISION OF THE UNITED STATES SUPREME COURT IN *BUCKLEY V. AMERICAN CONSTITUTIONAL LAW FOUNDATION*, 520 U.S. 182 (1999), CIRCULATORS ARE NOT REQUIRED TO BE REGISTERED ELECTORS, BUT CIRCULATORS MUST STILL BE "ELECTORS", WHICH MEANS THAT THEY MUST BE (1) RESIDENTS OF THE STATE OF COLORADO, (2) CITIZENS OF THE UNITED STATES, AND (3) AT LEAST 18 YEARS OF AGE. If there is sufficient evidence to conclude that the circulator was not a registered AN elector, the entry shall be rejected.~~

~~14.4.4 If the information on the current voter registration~~

~~filed does not match the information on the entry, the circulator's voter registration history shall be checked to determine if the information on the affidavit matches the voter registration file at the time the entry was signed.~~

~~14.5—Checking individual signatures.~~

~~14.5.1 Each individual entry shall be checked against the master voter registration files.~~

~~14.5.2 If the information on the current voter registration filed does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration file at the time the entry was signed.~~

~~14.5.3 Name of registered elector: to be accepted, the name on the entry must be found in form similar to that found on the voter registration record. Signatures which are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration file, the entry shall be rejected.~~

~~14.5.4 Middle initial and additional terms.~~

~~14.5.4.1 If the middle initial or middle name is not part of either the signature line or the voter record but is included on the other document, if the first and last name are the same on both documents, the entry shall be accepted.~~

~~14.5.4.2 If the middle initial or middle name on the signature line is different than the middle initial or middle name on the voter record, the entry shall be rejected.~~

~~14.5.4.3 If an indicator such as Jr., Sr. or II is present or omitted from the petition or the voter record, the entry shall be accepted. If two persons with the same name reside at the same address as found on the master voter list, the entry shall be rejected, unless the identity of the signer can be conclusively determined.~~

~~14.5.5 Address of registered elector.~~

~~14.5.5.1 If the address written on the line does not match the address on the voter record or on the voter~~

~~history for the date when the signature was taken, the entry shall be rejected.~~

~~14.5.5.2 If the address on the petition either includes or omits a letter or number identifying an apartment or the directional location of a street, such as “E” for east, “SW” for southwest, etc., the entry shall be accepted.~~

~~15.5.5.3 If the signer have a post office box for the address, the entry shall be rejected.~~

~~14.5.6 Incomplete information: if the line on the petition is incomplete, with at least one piece of information omitted, the entry shall be rejected.~~

~~14.5.7 Date of signing.~~

~~14.5.7.1 If a signature is placed on the petition prior to the final approval of the petition format by the designated election official, the entry shall be rejected.~~

~~14.5.7.2 If the signer was not a registered elector at the time of signing, the entry shall be rejected.~~

~~14.5.7.3 If a signature is placed on the petition after the date on the circulator’s affidavit, the entry shall be rejected.~~

~~14.5.8 Assistance to signer: if the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.~~

~~14.5.9 Illegible signature: if the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.~~

~~14.5.10 Duplicate signature; if the elector had previously signed the same petition, the first valid entry shall be counted and all other entries shall be rejected.~~

14.6 Computation of total accepted signatures.

14.6.1 A tally shall be made of the number of accepted signatures and the number of rejected signatures.

14.6.2 The secretary of state shall determine the range of



signatures by multiplying the constitutionally required number of signatures by 0.90 to compute 90% of the required signatures and by 1.10 to compute 110% of the required signatures. This number shall be calculated once every four years after the general election at which the secretary of state was elected.

14.6.3 After completing a petition, the number of signatures checked shall then be divided into the number of accepted signatures. This number will be the percentage of accepted signatures which were submitted.

14.6.4 The percentage calculated in Rule 14.6.3 shall then be multiplied by the total number of entries which were previously tallied. This number will be the number of presumed valid signatures which were submitted.

14.6.5 If the number generated is 90% or less of the constitutionally required number of signatures as calculated in Rule 14.6.2, then the secretary of state shall issue a statement of insufficiency. If the number generated is 110% or more of the constitutionally required number, then the secretary of state shall issue a statement of sufficiency. THE STATEMENT OF SUFFICIENCY OR INSUFFICIENCY SHALL BE ISSUED IN ACCORDANCE WITH SECTION 1-40-117, C.R.S., AND RULE 20.3.

14.6.6 If the number generated is more than 90% but less than 110% of the required number, the secretary of state shall order that each signature on the petition be verified to determine whether the issue should be certified to the ballot.

#### *Rules concerning Verification of All Signatures*

**Comment:** Rule 15 is deleted as redundant. The subject matter is covered in Rule 20.

~~15. Rules concerning verification of statewide initiative petitions when all signatures are counted.~~

~~15.1 The process for checking all signatures shall be the same as for random sample of checking, with the following exceptions.~~

~~15.2 Each petition section shall be checked for evidence of disassembly. If it appears that the section was disassembled, all signatures on the petition section shall be rejected.~~

~~15.3—Checking the circulator’s affidavit.~~

~~15.3.1 Each petition section shall be checked for the completed circulator’s affidavit. If the affidavit is not attached and completed, all signatures on the section of the petition shall be rejected.~~

~~15.3.2 Each petition section shall be checked to assure that the notary clause at the end of the affidavit is completed. If any information is missing or if the date in the notary clause is not the same date as the circulator signed the affidavit, all signatures on the section of the petition shall be rejected.~~

~~15.3.3 The name of each circulator shall be checked to assure that the circulator was a registered elector at the time that the signatures were gathered. IN ACCORDANCE WITH THE DECISION OF THE UNITED STATES SUPREME COURT IN *BUCKLEY V. AMERICAN CONSTITUTIONAL LAW FOUNDATION*, 520 U.S. 182 (1999), CIRCULATORS ARE NOT REQUIRED TO BE REGISTERED ELECTORS, BUT CIRCULATORS MUST STILL BE “ELECTORS”, WHICH MEANS THAT THEY MUST BE (1) RESIDENTS OF THE STATE OF COLORADO, (2) CITIZENS OF THE UNITED STATES, AND (3) AT LEAST 18 YEARS OF AGE. IF THERE IS EVIDENCE TO CONCLUDE THAT any signatures were gathered while the circulator was not a registered AN elector, SUCH SIGNATURES shall be rejected.~~

~~15.4—Each individual entry shall be verified using the same criteria as found in Rule 14.5.~~

~~15.5—Final Tally: After all of the sections have been checked, a final tally of all valid signatures shall be prepared and the statement of sufficiency issued.~~

*Rules concerning Statement of Sufficiency*

*Comment: Rule 16 is repealed as redundant. The subject matter is covered in Rule 20.4.*

~~16.—Statement of sufficiency of insufficiency.~~

~~16.1—Within the time required by statute, the secretary of state shall issue a statement of sufficiency of insufficiency.~~

~~16.2—The statement shall contain the name of the petition, the proponents, and the date the petition was submitted for~~

verification.

~~16.3 The statement shall indicate the total number of entries, the total number of entries accepted, and the total number of entries rejected.~~

~~16.4 The statement shall indicate whether an insufficient number of entries was submitted, the number of presumed valid signatures if a random sample was conducted, and the number of valid signatures counted if every entry was counted.~~

~~16.5 Records: The designated election official shall assure that a record of all signatures rejected and the reasons for each rejection be maintained as public records.~~

*Rules concerning Cure OF STATEWIDE INITIATIVE PETITIONS*

17. Cure of STATEWIDE petitions deemed insufficient.

17.1 If the proponents submit additional signatures within the permitted time, all signatures submitted in the addendum shall be checked ~~using the process delineated in Rule 14 and Rule 15~~ AND VERIFIED IN ACCORDANCE WITH RULE 20. 1-40-117 (3)(b)

17.2 If the number of valid signatures in the addendum when added to the number of valid signatures given in the statement of insufficiency equals 110% or more of the required signatures, a statement of sufficiency shall be issued.

17.3 If the number of valid signatures in the addendum when added to the number of valid signatures given in the statement of insufficiency equals more than 90% but less than 110% of the required signatures and the initial check was by random sample, all of the previously submitted entries shall be checked. The total of valid signatures in the original petition shall then be added to the number of valid signatures submitted in the addendum.

17.4 If the initial check was of every entry, then the total of valid signatures shall be added to the number of valid signatures submitted in the addendum.

17.5 The ~~designated election official~~ SECRETARY OF STATE shall then issue a new statement of insufficiency or sufficiency which reports the total number of valid signatures submitted.

- 17.5 IN ORDER TO BE COUNTED AS VALID, A SIGNATURE MUST HAVE BEEN ADDED TO THE ADDENDUM DURING THE FIFTEEN-DAY CURE PERIOD.

*Comment: The new Rule 17.6 codifies the long-standing interpretation and practice of the Secretary of State.*

*Rules concerning Protests OF STATEWIDE INITIATIVE PETITIONS*

18. Protests of statewide initiative petitions.

- 18.1 Protest of random sampling process.

18.1.1 Proponents and opponents may protest the process by which the numbers used in the calculations were generated.

18.1.2 Proponents and opponents may protest that the process used for determining entries and generating the random sample did not meet the requirements established by statute or rule.

18.1.3 Proponents and opponents may protest that entries were improperly accepted or rejected in that the requirements established by statute or rule were improperly applied.

18.1.3.1 If the protest alleges that individual entries were improperly accepted or rejected, each individual entry must be listed and the reason for challenge must be given.

18.1.3.2 The reason for challenge must state which of the requirements established by statute or rule were improperly applied.

18.1.4 Individual entries which were not checked by the secretary of state may not be challenged as sufficient or insufficient.

- 18.2 Protest of petitions when all signatures are checked.

18.2.1 Proponents and opponents protesting the checking of petitions when each signature was checked must list each individual entry being protested and the reason for challenge.

18.2.2 The reason for challenge must state which of the requirements established by statute or rule were improperly

applied.

18.2.3 The protest shall be deemed insufficient for each entry or class of entries challenged where the individual entry is not listed or the reason for the challenge is not given.

*Rules concerning Ballot Issue Elections*

19. Rules concerning ballot issue elections.

19.1 Placing measures on the ballot for coordinated odd-year elections.

19.1.1 For statewide elections, the secretary of state shall shall be responsible for determining whether the proposed initiative concerns A state ~~matters~~ MATTER arising under Section 20 of Article X of the State Constitution and ~~therefore are to be on the ballot in both general elections as well AS~~ THUS IS ELIGIBLE TO APPEAR ON THE BALLOT AT AN odd-year election. 1-41-102

19.1.2 For elections concerning counties or other political political subdivisions, if the election is held as a coordinated election, each political subdivision shall determine whether the proposed initiative or referred measure is a local government matter arising under Section 20 of Article X of the state constitution. 1-41-103

~~19.1.3 Political subdivisions who place measures on a ballot for an odd-year consolidated election shall include in the resolution the authority by which the measure is to be placed before the people.~~ 1-41-103(5)

*Rules concerning Checking ~~Non-Partisan~~ CANDIDATE AND Issue Petitions*

20. Rules concerning checking ~~non-partisan~~ CANDIDATE and issue petitions.

20.1 APPLICABILITY. THIS RULE SHALL APPLY TO CANDIDATE AND ISSUE PETITIONS AUTHORIZED BY LAW EXCEPT AS TO MUNICIPAL CANDIDATE OR ISSUE PETITIONS.

20.2 Procedures for preparing petitions for circulation.

20.1.1 Each petition section shall have on it a consecutive four digit number. The number may be printed by a printer,

hand stamped with a manual stamp or handwritten.  
A petition section shall be either an individual sheet for signatures or multiple sheets which are stapled together.

20.1.2 The lines on the petition section shall be consecutively numbered.

20.1.2.1 The block of information which consists of the printed last name, first name, middle initial, county, signing date, street address, city and signature is considered a line.

20.1.3 No petition shall be accepted which lists proponents other than those authorized by statute.

20.2 Procedures concerning count of signatures and verification of petition.

20.2.1.1 When the petitions are received, each section shall be date stamped and consecutively numbered.

20.2.1.2 Each line with writing shall be counted on each petition and shall be considered an entry. The number of entries for each page of the section shall be written on the page and the total entries for the section shall be written on the face of the petition section.

20.2.1.2.1 A line which has no writing or marks on it shall not be considered an entry.

20.2.1.2.2 A line which has writing on it but is completely crossed out shall not be considered an entry.

20.2.1.2.3 A line which has writing on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.

20.2.2 Verification of petitions.

20.2.2.1 Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry which is accepted.

20.2.2.2 Each section shall be checked for evidence

of disassembly. If it appears that the section was disassembled, all entries in the section shall be rejected.

20.2.2.3 The circulator's affidavit shall be checked for each entry. If the affidavit is not attached and completed, all entries in the section shall be rejected.

20.2.2.3.2 The notary clause at the end of the affidavit shall be checked for each entry. If any information is missing or if the date on the notary clause is not the same date as the circulator signed the affidavit, all entries in the section shall be rejected.

20.2.2.3.3 The name of each circulator shall be checked to assure that the circulator was an eligible elector in the political subdivision for which the petition is being circulated at the time that the signatures were gathered. If the circulator was not an eligible elector, all entries in the section shall be rejected. 1-1-104(16)

20.2.2.3.4 If the information on the current voter registration file does not match the information on the entry, the circulator's voter registration history shall be checked to determine if the information on the affidavit matches the voter registration file at the time the affidavit was signed. If the information does not match, all entries in the section shall be rejected.

20.2.2.3.5 IN ACCORDANCE WITH THE DECISION OF THE UNITED STATES SUPREME COURT IN *BUCKLEY V. AMERICAN CONSTITUTIONAL LAW FOUNDATION*, 520 U.S. 182 (1999), CIRCULATORS OF STATEWIDE INITIATIVE PETITIONS ARE NOT REQUIRED TO BE REGISTERED ELECTORS, BUT SUCH CIRCULATORS MUST STILL BE "ELECTORS", WHICH MEANS THAT THEY MUST BE (1) RESIDENTS OF THE STATE OF COLORADO, (2) CITIZENS OF THE UNITED STATES, AND (3) AT LEAST 18 YEARS OF AGE. IF THERE IS SUFFICIENT EVIDENCE TO CONCLUDE THAT THE CIRCULATOR WAS NOT AN ELECTOR AT THE TIME ANY SIGNATURE WAS GATHERED, THE ENTRY SHALL BE REJECTED.

### 20.2.3 Checking individual signatures.

20.2.3.1 Each individual entry shall be checked against the master voter registration files to assure that the elector was an eligible elector in the political

subdivision at the time the petition was signed.

20.2.3.2 If the information on the current voter registration file does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration file at the time the entry was signed.

20.2.3.3 Name of eligible elector; to be accepted, the name on the entry must be in a form similar to that found on the voter registration record. Signatures which are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration file, or if applicable the county assessors' list, the entry shall be rejected.

20.2.3.4 Middle initial and additional terms.

20.2.3.4.1 If the middle initial or middle name is not part of either the signature line or the voter record but is included on the other document, if the first and last name are the same on both documents, the entry shall be accepted.

20.2.3.4.2 If the middle initial or middle name on the signature line is different than the middle initial or middle name on the voter record, the entry shall be rejected.

20.2.3.4.3 If an indicator such as Jr., Sr., or II is present or omitted from the petition or the voter record, the entry shall be accepted. If two persons with the same name reside at the same address as found on the master voter list, the entry shall be rejected, unless the identity of the signer can be conclusively determined.

20.2.3.5 Address of eligible elector.

20.2.3.5.1 If the address written on the line does not match the address on the voter record or on the voter history for the date when the signature was taken, the entry shall be rejected.



20.2.3.5.2 If the address on the petition either includes or omits a letter or number identifying an apartment or the directional location of a street, such as “E” for east, “SW” for southwest, etc., the entry shall be accepted.

20.2.3.5.3 If the signer gave a post office box for the address, the entry shall be rejected.

20.2.3.6 Incomplete information: if the line of the petition is incomplete, with at least one piece of information omitted, the entry shall be rejected.

20.2.3.7 Date of signing.

20.2.3.7.1 If a signature is placed on the petition prior to the final approval of the petition format by the designated election official, the entry shall be rejected.

20.2.3.7.2 If the signer was not eligible elector in the political subdivision at the time of signing, the entry shall be rejected.

20.2.3.7.3 If a signature is placed on the petition after the date on the circulator’s affidavit, the entry shall be rejected.

20.2.3.8 Assistance to signer; if assistance appears to have been given to the signer and not statement of assistance accompanies the signature or mark explaining the variance in the script, the entry shall be rejected.

20.2.3.9 Illegible signature: if the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.

20.2.3.10 Duplicate signature: if the elector has previously signed the same petition, the first valid entry shall be counted and all other entries shall be rejected.

20.2.3.10.1 Where an elector may sign more than one petition, the first signature filed shall be the ones that are counted.

- 20.3.4 Final Tally: After all of the sections have been checked, a final tally of all valid signatures shall be prepared and the statement of sufficiency issued.
- 20.4 Statement of sufficiency of insufficiency.
- 20.4.1 Within the time required by statute, the designated election official shall issue a statement of sufficiency or insufficiency.
- 20.4.2 The statement shall contain the name of the petition, the proponents, and the date the petition was submitted for verification.
- 20.4.3 The statement shall indicate the total number of entries, the total number of entries accepted, and the total number of entries rejected.
- 20.4.4 Records: The designated election official shall assure that a record of all signatures rejected and the reasons for each rejection be maintained as public records.

~~Adopted: September 14, 1994~~