



Notice of Temporary & Permanent Adoption

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

September 6, 2011

I. Adopted Rule Amendments

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

(Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. Annotations may be included):

Rule 2.11 is amended as follows:

2.11 For the purposes of section 1-2-605(4)(a), C.R.S., an update to a voter's registration information to change the voter's status from inactive to active must be provided to the county clerk and recorder by any of the following ways:

- a. A signed written request, delivered in person or by U.S. mail, fax, or PDF attachment to an email; or
- b. Oral request in person when voter presents identification.

2.11.1 In the case of the applicant's inability to sign, the elector's mark shall be witnessed by another person. AN ELECTOR MAY USE A SIGNATURE STAMP BECAUSE OF AGE, DISABILITY, OR OTHER NEED, WHICH SHALL BE TREATED AS A SIGNATURE AND DOES NOT REQUIRE A WITNESS.

Rule 2.12 is amended as follows:

2.12 Registration of Address Confidentiality Program (ACP) Electors

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2010).

² Section 24-4-103(3)(a), C.R.S. (2010).

³ 8 CCR 1505-1.

- 2.12.1 When an ACP participant registers to vote by mail, the elector shall provide identification pursuant to Rule 30.3 and a copy of his/her ACP Authorization Card.
- 2.12.2 ACP participants shall be registered to vote as permanent mail-in ballot voters. Nothing in this rule shall preclude a participant from surrendering his/her mail-in ballot in the same manner as other permanent mail-in ballot voters.
- 2.12.3 Pursuant to section ~~24-21-208(3)(a)~~-24-30-2108(3)(A), C.R.S., the designated election official shall:
 - 2.12.3.1 Use the actual address of a program participant for precinct designation and shall keep the participant's address, county, and voting precinct and split number confidential from the public.
 - 2.12.3.2 Use the substitute address, as defined in section ~~24-21-203(13)~~-24-30-2103(14), C.R.S., for all correspondence and mailings placed in the United States mail.
- 2.12.4 A state or local government agency's access to an ACP participant's voter registration shall be governed by the disclosure process set forth in section ~~24-21-210~~-24-30-2110, C.R.S.
- 2.12.5 Except as specifically provided by ~~Part 2, Article 21 of Title 24~~ PART 21 OF ARTICLE 30 OF TITLE 24, C.R.S., a program participant's actual address and telephone number maintained by a state or local government agency is not a public record that is subject to inspection pursuant to the provisions of ~~part 2 of article 72 of title 24~~ PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. (known as "CORA").

Rule 2.18.1 is amended as follows:

- 2.18.1 When a voter information card or confirmation card is returned AS UNDELIVERABLE, OR A POSTCARD NOTICE OF MAIL FORWARDING IS PROVIDED by the United States Postal Service to the county clerk and recorder ~~as undeliverable~~, the county clerk and recorder shall mark the voter's record "Inactive – returned mail" and ~~in the case of a returned voter information card OR NOTICE OF FORWARDED MAIL,~~ shall mail a confirmation card. ~~HOWEVER, W~~ WHERE A CONFIRMATION CARD SENT UNDER THIS RULE IS RETURNED AS UNDELIVERABLE, THE COUNTY IS NOT REQUIRED TO MAIL ANOTHER CARD.

Rule 6.2 is amended as follows:

- 6.2 Procedures for Coordinated Elections Involving Jurisdictions Shared by Multiple Counties
 - 6.2.1 ~~Upon implementation of the statewide voter registration database,~~ FOR EACH JURISDICTION THAT IS SHARED BY MULTIPLE COUNTIES, A controlling ~~counties~~

COUNTY shall be designated for the purpose of assigning AND COORDINATING THE BALLOT LETTER/NUMBER ~~and setting up~~ FOR THE shared races, issues, and questions in coordinated elections.

6.2.2 The controlling county shall be the county where the ~~largest number of active registered electors within the jurisdiction reside~~ ADMINISTRATIVE OFFICE OF THE POLITICAL SUBDIVISION IS MAINTAINED at the time that the controlling county is designated.

(A) IF THE ADMINISTRATIVE OFFICE IS NOT MAINTAINED WITHIN THE BOUNDARIES OF THE POLITICAL SUBDIVISION, THE CONTROLLING COUNTY SHALL BE THE COUNTY WHERE THE LARGEST NUMBER OF ACTIVE REGISTERED ELECTORS WITHIN THE JURISDICTION RESIDE AT THE TIME THAT THE CONTROLLING COUNTY IS DESIGNATED.

(B) Once designated, the controlling county will not change ~~regardless of any increase or decrease in the number of active registered electors~~ UNLESS APPROVED BY THE SECRETARY OF STATE UPON REQUEST OF ANY OF THE AFFECTED COUNTIES.

6.2.3 ~~The Secretary of State shall maintain and make available to county clerks on its website the list of controlling counties for each shared jurisdiction within the state.~~ REPEALED.

6.2.4 The controlling county shall ~~set up all certified races, issues, and questions in the statewide voter registration database, and make the information available to all counties sharing jurisdiction~~ COORDINATE WITH EACH COUNTY THAT SHARES THE JURISDICTION TO ASSIGN THE BALLOT NUMBER/LETTER IN ACCORDANCE WITH RULE 6.5 no later than the date of ballot certification. ALL COUNTIES WITHIN THE SHARED JURISDICTION SHALL ENSURE THAT THE SHARED RACES, ISSUES, AND QUESTIONS ARE PRINTED ON THE BALLOT AS CERTIFIED BY THE SECRETARY OF STATE OR DESIGNATED ELECTION OFFICIAL, AND IN THE ORDER ASSIGNED BY THE CONTROLLING COUNTY

a. ~~The controlling county shall use only standard abbreviations approved by the Secretary of State in setting up the races, issues and questions for the shared jurisdiction.~~

b. ~~After the controlling county has set up the shared races, issues and questions, no changes shall be made to the ballot order or to the numbers assigned without the approval of the Secretary of State.~~

c. ~~All counties within the shared jurisdiction shall ensure that the races, issues and questions are printed on the ballot as certified by the Secretary of State or designated election official.~~

6.2.5 If any controlling county fails to fulfill its responsibilities in accordance with this Rule, any of the other counties in the shared jurisdiction may make a written

request to the Secretary of State to temporarily assume the duties of the controlling county. The Secretary of State shall have the authority to act on behalf of the controlling county or to temporarily designate another county to act as the controlling county in order to assure implementation of this Rule.

Rule 12.1.1 is amended as follows:

12.1.1 A secrecy sleeve or secrecy envelope shall be sealed or closed on at least two sides, one of which shall be the bottom of the sleeve.

~~12.1.1.1 — The secrecy sleeve or secrecy envelope shall be uniform within each type of mail-in ballot or mail ballot voting system used in the State of Colorado. Each secrecy sleeve, secrecy envelope, or voter instructions used in the State of Colorado in any mail ballot or mail in ballot election shall inform the voter that additional postage may be required to return a voted ballot and contain the following required language, approved by the Secretary of State, regarding identification requirements of voters who have registered by mail:~~

(A) IN ACCORDANCE WITH RULE 51, THE DESIGNATED ELECTION OFFICIAL SHALL USE A CURRENT APPROVED VERSION OF THE SECRECY SLEEVE WITH VOTER INSTRUCTIONS OR VOTER INSTRUCTIONS FORM.

(B) THE APPROVED FORM WILL AT A MINIMUM INCLUDE:

(I) INSTRUCTIONS TO RETURN A COPY OF IDENTIFICATION WITH THE BALLOT FOR FIRST TIME ELECTORS WHO ARE REQUIRED TO PROVIDE IDENTIFICATION IN ACCORDANCE WITH SECTION 1-2-501, C.R.S.;

(II) INFORMATION REGARDING THE AVAILABILITY OF ACCESSIBLE VOTING SYSTEMS IN ELECTIONS COORDINATED BY THE COUNTY CLERK AND RECORDER;

(III) INFORMATION REGARDING HOW TO VOTE AND RETURN THE BALLOT OR OBTAIN A REPLACEMENT; AND

(IV) INSTRUCTIONS TO INCLUDE ADEQUATE POSTAGE.

~~(a) — “First Time Voters Who Register By Mail”~~

~~—— “If you registered in your county by mail, and did not submit proof of identification in accordance with section 1-2-501, C.R.S., a copy of one of the forms of identification listed in Rule 30.1.6 is required with your mail ballot or your mail in ballot.”~~

~~(b) — Repealed.~~

~~12.1.1.2 — The secrecy sleeve, secrecy envelope, or voter instructions shall:~~

- ~~(a) Inform the voter that accessible voting systems are available for use; and~~
- ~~(b) Instruct the voter to contact the county clerk and recorder for any other relevant information such as the date, time, and location such machines are available.~~

Rule 12.4.1(b)(1) is repealed as follows:

(b) Deadlines and exceptions.

- (1) ~~Extension. A special district required to submit a mail ballot plan in accordance with section 1-7.5-105, C.R.S., and this Rule, may request a seven day filing extension if the plan is being submitted for a regular special district election that may be cancelled.~~
 - ~~(i) A request for such extension shall be submitted to the Secretary of State no later than two business days prior to the deadline for submitting the mail ballot plan.~~
 - ~~(ii) The request shall contain a brief statement of the reasons for such request.~~
 - ~~(iii) The Secretary of State shall notify the special district of the approval/disapproval of the request within one business day.~~
- REPEALED.

Rule 12.5.5 is amended as follows:

12.5.5 IN ACCORDANCE WITH SECTION 1-7-116(1), C.R.S., ~~F~~For all e-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~~ INCLUDE A notice ADVISING ELECTORS THAT THEY MAY RECEIVE A BALLOT FROM ANOTHER POLITICAL SUBDIVISION CONDUCTING A MAIL BALLOT ELECTION. ~~∴ “This may not be your only ballot. Other elections may be held by other political subdivisions by mail or by polling place.”~~

Rule 12.9 is amended as follows:

12.9 SIGNATURE VERIFICATION.

- (A) For any missing signatures, Rule 29.1 ~~concerning procedures for missing signatures~~ shall be followed.
- (B) In accordance with section 1-7.5-107.3, C.R.S., the procedures in Rule 29 shall be followed for any non-matching signature on a mail ballot return envelope that is received in an election coordinated with or conducted by the county clerk and recorder. AN ELECTOR MAY USE A SIGNATURE STAMP BECAUSE OF AGE, DISABILITY,

OR OTHER NEED, WHICH SHALL BE TREATED AS A SIGNATURE AND DOES NOT REQUIRE A WITNESS.

Rule 12.11 is amended as follows:

~~12.11 Replacement Ballots for Purpose of Mail Ballot Elections.~~

~~12.11.1 Requests for replacement ballots may be made in writing, by mail, by fax, by email, or by telephone. An elector who wishes to receive the replacement ballot by mail must make such request no later than the close of business on the seventh day before the election. However, in accordance with section 1-7.5-107(3)(d), C.R.S., an elector may request a replacement ballot in person at the county clerk and recorder's office until 7:00 p.m. on election day.~~

~~12.11.2 An elector requesting a replacement ballot shall complete a sworn statement, as required by section 1-7.5-107(3)(d)(I), C.R.S., on a form provided by the designated election official. If the elector requests that the replacement ballot be mailed, the form may be included in the ballot packet mailed to the eligible elector, and must be received on or before election day by the election official.~~

~~12.11.3 The election judge issuing a replacement ballot shall indicate on the outside of the return envelope whether a sworn statement must be returned with the voted ballot. No replacement ballot shall be counted until it has been determined that an affidavit has been completed by the voter and has been received on or before election day by the election official.~~

12.11 REQUEST FOR A REPLACEMENT BALLOT BY AN ACTIVE ELECTOR AND REQUEST FOR A BALLOT BY AN INACTIVE ELECTOR

12.11.1 REQUESTS MAY BE MADE IN-PERSON BEGINNING ON THE TWENTY-SECOND DAY BEFORE THE ELECTION AND UNTIL 7:00 P.M. MT ON ELECTION DAY. IF THE ELECTOR WISHES TO RECEIVE THE BALLOT BY MAIL, THE REQUEST MUST BE RECEIVED NO LATER THAN THE CLOSE OF BUSINESS ON THE SEVENTH DAY BEFORE THE ELECTION.

(A) AN ACTIVE ELECTOR MAY REQUEST A REPLACEMENT BALLOT IN PERSON, BY MAIL, FAX, EMAIL, OR TELEPHONE.

(I) THE ELECTOR SHALL COMPLETE A SELF-AFFIDAVIT, AS REQUIRED BY SECTION 1-7.5-107(3)(D)(I), C.R.S., ON A FORM PROVIDED BY THE DESIGNATED ELECTION OFFICIAL.

(II) IF THE ELECTOR REQUESTS THAT THE REPLACEMENT BALLOT BE MAILED, THE SELF-AFFIDAVIT MAY BE INCLUDED IN THE BALLOT PACKET, AND MUST BE COMPLETED AND RECEIVED BY THE DESIGNATED ELECTION OFFICIAL ON OR BEFORE 7:00 P.M. MT ON ELECTION DAY.

(iii) THE OUTSIDE OF THE RETURN ENVELOPE SHALL INDICATE THAT THE SELF-AFFIDAVIT REQUIRED BY THIS RULE MUST BE RETURNED WITH THE VOTED BALLOT. NO REPLACEMENT BALLOT SHALL BE COUNTED UNTIL IT HAS BEEN DETERMINED THAT AN AFFIDAVIT HAS BEEN COMPLETED AND RETURNED BY THE DEADLINE.

(b) EXCEPT AS OTHERWISE PROVIDED IN SECTION 1-7.5-107(3)(c), C.R.S., AN INACTIVE ELECTOR MAY MAKE A WRITTEN REQUEST FOR A BALLOT IN PERSON, BY MAIL, FAX, OR EMAIL. THE REQUEST MUST INCLUDE THE ELECTOR'S NAME, DATE OF BIRTH, RESIDENCE ADDRESS, AND SIGNATURE, AND MUST BE RECEIVED BY THE DESIGNATED ELECTION OFFICIAL BEFORE THE BALLOT IS ISSUED. AT THE TIME THE REQUEST IS RECEIVED THE ELECTOR'S RECORD WILL BE MARKED ACTIVE.

12.11.2 IF AN ELECTOR MOVED AT LEAST 30 DAYS BEFORE THE ELECTION, HE OR SHE MAY INCLUDE THE ADDRESS CHANGE WITH THE BALLOT REQUEST.

Rules 12.12.1 and 12.12.2 are amended as follows:

12.12.1 In an election coordinated by the county clerk and recorder, BEGINNING ON THE TWENTY-SECOND DAY BEFORE THE ELECTION AND UNTIL 7:00 P.M. MT ON ELECTION NIGHT, any voter may surrender a mail ballot to the designated election official and vote in-person on the accessible device provided for the election as required by section 1-5-705, C.R.S.

12.12.2 THE MAIL BALLOT MUST BE VOIDED PRIOR TO ISSUING AN IN-PERSON BALLOT, AND THE ~~The election judge receiving the surrendered ballot shall indicate on the outside envelope that the ballot is cancelled.~~ The voter's record ~~shall~~ WILL be updated to give the voter credit for voting in a manner that maintains the secrecy of the ballot.

Rule 13.10 is amended as follows:

13.10 For any non-matching or missing signatures on a mail-in ballot return envelope, Rule 29 concerning procedures for the verification of signatures shall be followed. AN ELECTOR MAY USE A SIGNATURE STAMP BECAUSE OF AGE, DISABILITY, OR OTHER NEED, WHICH SHALL BE TREATED AS A SIGNATURE AND DOES NOT REQUIRE A WITNESS.

The heading of Rule 14.5 is amended as follows:

14.5 ~~Counting~~ HAND COUNT of Paper Ballots - Recount

Rule 15.1 is amended as follows:

15.1 LICENSE, ~~R~~Registration, ~~license~~, and filing procedures.

15.1.1 In accordance with section 1-40-135, C.R.S., any person or issue committee that intends to compensate petition circulators must ~~register with, and~~ obtain a petition

entity license from, AND REGISTER WITH the Secretary of State prior to compensating any circulator.

15.1.2 To register and apply for a license the designated agent of a petition entity must pay a fee and submit a signed application including:

~~a. The ballot title for which a petition will be circulated by paid circulators,~~

b.A. The name, address, telephone number, and email address of the petition entity;

e.B. The name of the designated agent;

d.C. An affirmation that the entity will not pay any circulator more than 20% of his or her compensation on a per signature or per petition basis; and

e.D. An affirmation that at least one representative of the entity has read and understands Colorado petition laws as outlined in aArticle 40, ¶Title 1, C.R.S., and has completed the circulator training program provided by the Secretary of State.

15.1.3 TO REGISTER WITH THE SECRETARY OF STATE, THE DESIGNATED AGENT OF A LICENSED PETITION ENTITY MUST SUBMIT A SIGNED REGISTRATION FORM IN ACCORDANCE WITH SECTION 1-40-135(5)(A), C.R.S., AND PROVIDE A LIST OF THE INITIATIVE NUMBERS THAT THE PETITION ENTITY WILL CIRCULATE.

15.1.4 A REGISTRATION FORM MUST BE SUBMITTED FOR EACH NEW INITIATIVE PETITION THAT WILL BE CIRCULATED PRIOR TO COMPENSATING ANY CIRCULATOR FOR THAT PETITION.

15.1.5 A PETITION ENTITY LICENSE EXPIRES IF THE PETITION ENTITY FAILS TO REGISTER AT LEAST ONE PROPOSED MEASURE OVER ANY TWO-YEAR PERIOD. THE SECRETARY OF STATE WILL NOTIFY A PETITION ENTITY THAT ITS LICENSE HAS EXPIRED WITHIN 30 DAYS FROM THE DATE OF EXPIRATION.

15.1.6 A PETITION ENTITY WHOSE LICENSE HAS EXPIRED MAY RENEW ITS LICENSE BY SUBMITTING A LICENSE APPLICATION IN ACCORDANCE WITH RULE 15.1.2. NO FEE IS REQUIRED TO SUBMIT AN APPLICATION TO RENEW AN EXPIRED LICENSE.

~~15.1.3~~ 15.1.7 Determinations regarding the denial of an application or revocation of a license will be made, or the resolution of alleged violations involving petition entities shall be addressed, in accordance with the requirements of section 1-40-135, C.R.S.

~~15.1.4~~ 15.1.8 At the time the petition is filed, the proponents shall file with the Secretary of State a copy of the list of circulators and a copy of the list of notaries required by section 1-40-111(4), C.R.S., as well as the campaign finance disclosure report required by section 1-40-121(1), C.R.S.

Rule 15.3.2 is amended as follows:

15.3.2 The petition circulator shall provide his or her permanent residence address AS DEFINED IN PARAGRAPH (A) OF THIS RULE on the circulator affidavit. In addition TO PROVIDING HIS OR HER PERMANENT RESIDENCE ADDRESS, if the circulator is not a PERMANENT resident of Colorado as described in section 1-2-102(1)(A)(I), C.R.S., AND PARAGRAPH A OF THIS RULE, the circulator shall also provide the address in Colorado where he or she is temporarily living as of the date the affidavit is signed.

- a. FOR PURPOSES OF ARTICLE 40 OF TITLE 1, C.R.S., AND THIS RULE, A CIRCULATOR'S PERMANENT "RESIDENCE" OR "DOMICILE" MEANS HIS OR HER PRINCIPAL OR PRIMARY HOME OR PLACE OF ABODE IN WHICH A CIRCULATOR'S HABITATION IS FIXED AND TO WHICH THE CIRCULATOR, WHENEVER ABSENT, HAS THE PRESENT INTENTION OF RETURNING AFTER A DEPARTURE OR ABSENCE, REGARDLESS OF THE DURATION OF THE ABSENCE. A PERMANENT "RESIDENCE" OR "DOMICILE" IS A PERMANENT BUILDING OR PART OF A BUILDING AND MAY INCLUDE A HOUSE, CONDOMINIUM, APARTMENT, ROOM IN HOUSE, OR MOBILE HOME. EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS RULE, NO VACANT LOT, BUSINESS ADDRESS, OR POST OFFICE BOX SHALL BE CONSIDERED A PERMANENT "RESIDENCE" OR "DOMICILE". (SECTIONS 1-2-102(1)(A)(I) AND 1-40-121(1)(B), C.R.S.)
- B. For the purposes of petition circulator residence address, a homeless circulator shall provide the address or location where he or she is living as of the date the affidavit is signed. THE CIRCULATOR MUST PROVIDE A PHYSICAL LOCATION, A POST OFFICE BOX MAY NOT BE PROVIDED.
- C. FOR THE PURPOSES OF SECTIONS 1-40-106(4)(B), 1-40-111(3)(A), 1-40-121(2)(A), AND 1-40-135(2)(C), C.R.S., A CIRCULATOR'S PERMANENT RESIDENCE ADDRESS THAT DOES NOT COMPLY WITH THIS RULE 15.3.2 IS CONSIDERED A "FALSE ADDRESS".

Rule 25 is amended as follows:

Rule 25. Rules Concerning Uniformed and Overseas Citizens' Absentee Voting Act ("UOCAVA")

~~25.1—UOCAVA Fax Ballot Rules:~~

~~25.1.1 U.S. citizens who are absent from the state and who are members of the Uniformed Services as defined as the U.S. Armed Forces (Army, Navy, Marines, Air Force, and Coast Guard), Merchant Marine, and their spouses or dependants, resident overseas electors, or nonresident overseas electors who are otherwise qualified to apply for and vote by mail in ballot, ("UOCAVA citizens"), may request a mail-in ballot by facsimile transmission.~~

- ~~25.1.2 A designated election official may send and receive mail-in ballot applications by facsimile transmission, send blank ballots and accept voted ballots by facsimile transmission from eligible electors who are UOCAVA citizens absent from the state and who are otherwise qualified to vote by mail-in ballot.~~
- ~~25.1.3 The office of each county clerk and recorder shall have a dedicated fax machine located in their office in order to send and receive faxed ballots to and from UOCAVA citizens in accordance with the Help America Vote Act of 2002 and this Rule 25.~~
- ~~25.1.4 On the faxed application, the elector shall provide the fax number, including the international country code and local area, province or city code (if applicable), where the ballot shall be faxed.~~
- ~~25.1.5 A mail-in ballot that is completed and returned by the elector via facsimile transmission must contain the elector's printed name, signature, date of birth, and the following statement: "I am a member of the Uniformed Services, a member of the Merchant Marine, spouse/dependant of a Uniformed Services Member or Merchant Marine, resident overseas elector or a nonresident overseas elector and am qualified to apply for and vote by mail-in ballot. I also understand that by faxing my voted ballot, I am voluntarily waiving my right to a secret ballot."~~

~~25.2 Limited Electronic Mail Ballot Rules~~

- ~~25.2.1 A uniformed services elector serving outside the United States may receive and return an application for, or a mail-in ballot by electronic mail in circumstances where a mail ballot or fax ballot is not available or feasible.~~
- ~~25.2.2 Upon receipt and verification of an application, the designated election official shall authorize the transmission of a blank ballot containing all contests and questions for which the elector is eligible to vote.~~
- ~~(a) The designated election official shall transmit the election materials, which shall include a blank ballot and voter instructions (including the elector affidavit) to the elector either directly by electronic mail or fax, or forward through the Federal Voting Assistance Program (FVAP) Electronic Transmission Service (ETS). Or,~~
- ~~(b) The designated election official may store the ballot electronically with ETS using the procedures outlined in the FVAP ETS Guide, and authorize the transmission of the blank ballot and instructions (including the elector affidavit) to the elector by faxing a completed electronic transmission coversheet to ETS.~~
- ~~25.2.3 The electronic package transmitted to the elector either directly or via ETS shall contain:~~
- ~~(a) A completed electronic transmission coversheet;~~

- ~~(b) The blank ballot, if not stored with ETS, with voting instructions (including the elector affidavit); and~~
- ~~(c) The contact information for the designated election official including: name, title, mailing address, email address, phone, and fax number.~~

~~25.2.4 A ballot that is completed and returned by the elector via electronic mail must contain the elector's printed name, signature, date of birth, and the following statement: "I am a member of the Uniformed Services and am qualified to apply for and vote by mail in ballot. I also understand that by transmitting my voted ballot by electronic mail, I am voluntarily waiving my right to a secret ballot."~~

~~25.2.5 To return a voted ballot and affidavit by electronic mail, the elector must have access to the technology to scan the documents, save the documents in a secure format, and return the documents as an electronic mail attachment.~~

~~25.2.6 Upon receipt of the voted ballot, the designated election official shall verify the elector's signature pursuant to section 1-8-114.5, C.R.S. and Rule 29. Upon verification of the elector's signature, the ballot shall be duplicated pursuant to 1-8-103.5(2) C.R.S. and processed.~~

~~25.3 Overall UOCAVA Requirements~~

~~25.3.1 If the designated election official has mailed a Clarification for Voter Status Memorandum to an elector in response to receiving mail in ballot request and has not received a response to the memo at the time the mail in ballot packet is prepared, the designated election official shall mail the elector a full ballot for which the elector, as a resident, would be eligible to vote (federal, state, local offices, and questions).~~

~~25.3.2 Mail in ballots sent by electronic mail or facsimile transmission shall be in text format on 8 1/2" x 11" white paper to increase the readability of the ballot and to avoid possible misinterpretations of the elector's intended choice because of poor transmission of the document.~~

~~25.3.3 Instructions sent by electronic mail or faxed to the elector with the blank ballot shall be in text format on 8 1/2" x 11" white paper and shall include the following information:~~

- ~~(a) The dedicated fax number or email address to which the voted ballot shall be returned (if applicable);~~
- ~~(b) The total number of pages transmitted;~~
- ~~(c) The total number of ballot pages;~~
- ~~(d) The telephone number or e-mail address where the eligible elector may send questions regarding the ballot;~~

- ~~(e) — A notice that the ballot shall not be duplicated for any other elector;~~
- ~~(f) — A notice that once the ballot is returned by an elector, it will be counted pursuant to section 1-8-116(4), C.R.S.; however, if an elector requests a replacement ballot, the first ballot returned will be counted pursuant to section 1-8-111(3), C.R.S.;~~
- ~~(g) — A notice regarding ballot return deadlines.
 - ~~(I) — All ballots must be transmitted and received by the county clerk and recorder or the Secretary of State no later than 7:00 p.m. Mountain Time on election day, unless the ballot is cast by a uniformed service member serving overseas.~~
 - ~~(II) — All ballots cast by overseas uniformed service members must be voted and mailed or transmitted no later than 7:00 p.m. Mountain Time on election day, and received by the county clerk and recorder or the Secretary of State no later than the close of business on the eighth day after election day.~~~~
- ~~(h) — A request for an e-mail address to which a confirmation notice of receipt of the ballot may be sent at the discretion of the county clerk and recorder; and~~
- ~~(i) — Any other information deemed necessary by the Secretary of State or the designated election official.~~

~~25.3.4 The designated election official shall fax a blank ballot with the instructions to the fax number provided by the elector, or to ETS (if applicable). If the transmission is unsuccessful, the designated election official shall attempt to fax the ballot at least two more times.~~

~~25.3.5 Deadlines for UOCAVA mail in ballot applications and replacement ballot requests transmitted by email, fax, or ETS.~~

- ~~(a) — An application for a mail in ballot must be received no later than the close of business the Friday immediately preceding the election.~~
- ~~(b) — A request for a replacement ballot must be received by 5:00 p.m. Mountain Time on election day. A request for such replacement ballot includes a request for an electronically transmitted ballot by a voter who has already been issued a ballot by regular mail.~~

~~25.3.6 Any voted ballot by a Uniformed Services elector or an overseas elector received by the office of the Secretary of State by the deadlines specified in sections 1-8-103.5 and 1-8-113, C.R.S., shall be forwarded to the appropriate county clerk and recorder by overnight mail, fax, or courier no later than the next business day.~~

~~The office of the Secretary of State shall immediately notify the appropriate county clerk and recorder of the receipt and forwarding of the ballot.~~

~~25.3.6.1 ————— If a county is notified by the Secretary of State that a mail-in ballot has been received by the office of the Secretary of State, the clerk and recorder shall retain a minimum of ten (10) voted ballots, which shall be counted with the ballot received by the Secretary of State to ensure voter secrecy.~~

~~25.3.7 Any ballot transmitted to an elector by electronic mail or facsimile shall contain a unique identification number for tracking and auditing purposes.~~

~~25.3.8 A log shall be kept by the designated election official of each ballot transmitted to an elector by electronic mail or facsimile indicating:~~

- ~~(a) — The name of the elector;~~
- ~~(b) — The fax number to which the ballot was sent, or email address (if applicable);~~
- ~~(c) — The unique identification number of the ballot;~~
- ~~(d) — The date the ballot and instructions were transmitted; and~~
- ~~(e) — The initials of the employee of the designated election official transmitting the ballot.~~

~~25.3.8.1 ————— The electronic transmission log as well as any other electronic mail, ETS, or fax records shall be maintained as part of the official election record.~~

~~25.3.9 The county clerk and recorder shall report to the Secretary of State's office no later than sixty (60) days from the date of the election:~~

- ~~(a) — The combined number of mail-in ballots transmitted (faxed, mailed, and emailed)~~
- ~~(b) — The combined number of mail-in ballots that were returned (faxed, mailed, and emailed);~~
- ~~(c) — The total number of mail-in ballots that were counted (faxed, mailed, and emailed).~~

~~25.3.10 ————— If an unregistered uniformed or overseas elector submits a Federal Write-in Absentee Ballot ("FWAB"), and the form is received by the county clerk and recorder more than 29 days prior to the election, the form may be considered a timely application for registration and state mail-in ballot pursuant to section 1-8-117, C.R.S.~~

~~25.3.11~~ A mail-in ballot application submitted by a UOCAVA elector shall be effective through the next regularly scheduled General Election, unless the elector makes an election-specific or permanent mail-in request.

25.1 GENERAL RULES CONCERNING VOTING BY MILITARY AND OVERSEAS ELECTORS.

25.1.1 FOR THE PURPOSES OF THIS RULE 25, ELECTOR MEANS A COVERED VOTER AS DEFINED IN SECTION 1-8.3-102(2), C.R.S.

25.1.2. IN ACCORDANCE WITH THE HELP AMERICA VOTE ACT OF 2002 AND THIS RULE 25, EACH COUNTY CLERK AND RECORDER OFFICE SHALL HAVE A DEDICATED FAX MACHINE FOR THE PURPOSE OF FAX BALLOT TRANSMISSION.

25.1.3 IN ACCORDANCE WITH SECTION 1-8.3-109, C.R.S., A MAIL-IN BALLOT APPLICATION SUBMITTED BY AN ELECTOR SHALL BE EFFECTIVE THROUGH THE NEXT REGULARLY SCHEDULED GENERAL ELECTION, UNLESS THE ELECTOR MAKES AN ELECTION-SPECIFIC OR PERMANENT MAIL-IN REQUEST.

25.1.4 MAIL-IN BALLOT APPLICATION AND REPLACEMENT BALLOT REQUEST DEADLINES.

(A) AN APPLICATION FOR A MAIL-IN BALLOT MUST BE RECEIVED NO LATER THAN THE CLOSE OF BUSINESS THE FRIDAY IMMEDIATELY PRECEDING THE ELECTION, EXCEPT THAT IF THE ELECTOR WISHES TO RECEIVE THE BALLOT BY MAIL THE APPLICATION MUST BE RECEIVED NO LATER THAN THE SEVENTH DAY BEFORE THE ELECTION.

(B) A REQUEST FOR A REPLACEMENT BALLOT MUST BE RECEIVED BY 5:00 P.M. MT ON ELECTION DAY. A REQUEST FOR REPLACEMENT BALLOT INCLUDES A REQUEST FOR AN ELECTRONICALLY TRANSMITTED BALLOT BY AN ELECTOR WHO HAS ALREADY BEEN ISSUED A BALLOT BY REGULAR MAIL.

25.1.5 USE OF A FEDERAL WRITE-IN ABSENTEE BALLOT (FWAB) AS AN APPLICATION FOR REGISTRATION OR BALLOT REQUEST.

(A) IN ACCORDANCE WITH SECTION 1-8.3-107, C.R.S., IF AN UNREGISTERED ELECTOR SUBMITS A FWAB BY THE CLOSE OF REGISTRATION, THE FWAB SHALL BE CONSIDERED A TIMELY APPLICATION FOR REGISTRATION AND MAIL-IN BALLOT REQUEST.

(B) IN ACCORDANCE WITH SECTION 1-8.3-108(4), C.R.S., IF A REGISTERED ELECTOR SUBMITS A FWAB NO LATER THAN THE FRIDAY BEFORE THE ELECTION, THE FWAB SHALL BE CONSIDERED A TIMELY APPLICATION FOR MAIL-IN BALLOT.

25.1.6 IN ACCORDANCE WITH SECTIONS 1-8.3-110 AND 1-8.3-113, C.R.S., ALL BALLOTS CAST MUST BE VOTED AND MAILED OR ELECTRONICALLY TRANSMITTED NO LATER THAN 7:00 P.M. MT ON ELECTION DAY, AND RECEIVED BY THE COUNTY CLERK AND

RECORDER OR THE SECRETARY OF STATE NO LATER THAN THE CLOSE OF BUSINESS ON THE EIGHTH DAY AFTER ELECTION DAY.

25.1.7 BALLOTS RECEIVED BY THE SECRETARY OF STATE

- (A) IF THE SECRETARY OF STATE TIMELY RECEIVES A BALLOT IN ACCORDANCE WITH THIS RULE 25, THE SECRETARY OF STATE WILL IMMEDIATELY NOTIFY THE APPROPRIATE COUNTY CLERK AND RECORDER AND FORWARD THE BALLOT BY OVERNIGHT MAIL, FAX, OR COURIER NO LATER THAN THE NEXT BUSINESS DAY.
- (B) TO ENSURE VOTER SECRECY, ANY COUNTY NOTIFIED THAT THE SECRETARY OF STATE HAS RECEIVED A BALLOT, SHALL RETAIN A MINIMUM OF TEN VOTED BALLOTS TO BE COUNTED WITH THE BALLOT RECEIVED BY THE STATE.

25.1.8 THE COUNTY CLERK AND RECORDER SHALL SEND A MINIMUM OF ONE CORRESPONDENCE PRIOR TO THE PRIMARY ELECTION TO EACH ELECTOR WHOSE RECORD IS MARKED "INACTIVE" AND WHOSE BALLOT REQUEST HAS EXPIRED. SUCH CORRESPONDENCE MAY BE SENT BY EMAIL OR MAIL AND, AT A MINIMUM, SHALL NOTIFY THE ELECTORS OF:

- (A) THE STATUS OF THE ELECTOR'S RECORD AND BALLOT REQUEST;
- (B) THE UPCOMING FEDERAL ELECTIONS;
- (C) HOW TO UPDATE THE ELECTOR'S MAILING INFORMATION AND REQUEST A BALLOT; AND
- (D) ANY OTHER INFORMATION THE COUNTY CLERK AND RECORDER DEEMS APPROPRIATE.

25.1.9 REPORTING. NO LATER THAN 60 DAYS AFTER A GENERAL ELECTION, THE COUNTY CLERK AND RECORDER SHALL PROVIDE A REPORT TO THE SECRETARY OF STATE IN THE APPROVED FORMAT, WHICH SHALL SUMMARIZE IN DETAIL THE BALLOTS TRANSMITTED AND RETURNED BY MILITARY AND OVERSEAS ELECTORS.

25.2 ELECTRONIC BALLOT TRANSMISSION

25.2.1 FOR THE PURPOSE OF ARTICLE 8.3 OF TITLE 1, C.R.S., AND THIS RULE 25, "ELECTRONIC TRANSMISSION" INCLUDES:

- (A) FOR THE PURPOSE OF SENDING AN UNVOTED BALLOT TO THE ELECTOR FAX, EMAIL, AND ONLINE BALLOT DELIVERY.
- (B) FOR THE PURPOSE OF RETURNING A VOTED BALLOT TO THE COUNTY CLERK AND RECORDER FAX AND EMAIL.

25.2.2 ELECTRONIC TRANSMISSION (RECEIPT AND RETURN) OF BALLOTS TO MILITARY AND OVERSEAS ELECTORS

- (A) IN ACCORDANCE WITH SECTIONS 1-8.3-110 AND 1-8.3-113, C.R.S., AN ELECTOR MAY REQUEST TO RECEIVE AND RETURN HIS OR HER BALLOT BY ELECTRONIC TRANSMISSION.
 - (I) SUBJECT TO THE DEADLINES IN RULE 25.1.4, A REQUEST FOR ELECTRONIC BALLOT TRANSMISSION MAY BE MADE ON THE FEDERAL POSTCARD, STATE VOTER REGISTRATION, MAIL-IN BALLOT, ONLINE VOTER REGISTRATION, OR ANY OTHER APPLICATION.
 - (II) AN ELECTOR WHO REQUESTS FAX TRANSMISSION SHALL PROVIDE A FAX NUMBER, INCLUDING THE INTERNATIONAL COUNTRY CODE AND LOCAL AREA, PROVINCE, OR CITY CODE (IF APPLICABLE) WHERE THE BALLOT IS TO BE FAXED.
 - (III) AN ELECTOR WHO REQUESTS EMAIL TRANSMISSION SHALL PROVIDE A COMPLETE EMAIL ADDRESS WHERE THE BALLOT IS TO BE TRANSMITTED. IN ACCORDANCE WITH SECTION 1-8.3-115, C.R.S., NO ELECTION OFFICIAL MAY DISCLOSE THE EMAIL ADDRESS TO THE PUBLIC.
- (B) AN ELECTOR WHO CHOOSES TO RECEIVE HIS OR HER UNVOTED BALLOT BY ONLINE BALLOT DELIVERY MAY RETURN HIS OR HER BALLOT BY FAX OR EMAIL.
- (C) TO RETURN A VOTED BALLOT AND SELF-AFFIRMATION BY EMAIL, THE ELECTOR MUST SCAN AND RETURN THE DOCUMENTS AS AN EMAIL ATTACHMENT.

25.2.3 UPON RECEIPT AND VERIFICATION OF AN APPLICATION, THE COUNTY CLERK AND RECORDER SHALL AUTHORIZE THE TRANSMISSION OF A BLANK BALLOT CONTAINING ALL CONTESTS AND QUESTIONS FOR WHICH THE ELECTOR IS ELIGIBLE TO VOTE.

25.2.4 THE BALLOT PACKET SENT BY ELECTRONIC TRANSMISSION SHALL BE IN TEXT FORMAT ON 8 ½" X 11" WHITE PAPER AND SHALL INCLUDE:

- (A) AN ELECTRONIC TRANSMISSION COVERSHEET TO PROTECT VOTER PRIVACY;
- (B) THE BLANK BALLOT;
- (C) THE ELECTRONIC TRANSMISSION BALLOT INSTRUCTIONS; AND
- (D) THE SELF-AFFIRMATION REQUIRED BY SECTION 1-8.3-114, C.R.S.

25.2.5 THE ELECTRONIC TRANSMISSION BALLOT INSTRUCTIONS SHALL INCLUDE:

- (A) THE COUNTY CLERK AND RECORDER'S CONTACT INFORMATION INCLUDING

MAILING ADDRESS, EMAIL ADDRESS, PHONE, AND FAX NUMBER;

- (B) A NOTICE THAT THE BALLOT MAY NOT BE DUPLICATED FOR ANY OTHER ELECTOR;
- (C) INSTRUCTIONS FOR COMPLETING AND RETURNING THE BALLOT;
- (D) A NOTICE REGARDING THE BALLOT RETURN DEADLINE;
- (E) INFORMATION REGARDING HOW THE ELECTOR MAY VERIFY THAT HIS OR HER BALLOT HAS BEEN RECEIVED BY THE COUNTY CLERK AND RECORDER; AND
- (F) ANY OTHER INFORMATION DEEMED NECESSARY BY THE SECRETARY OF STATE OR THE DESIGNATED ELECTION OFFICIAL.

25.2.6 THE SELF-AFFIRMATION SHALL INCLUDE THE STANDARD OATH REQUIRED BY THE UNIFORMED AND OVERSEAS CITIZEN VOTING ACT (42 U.S.C SEC. 1973FF(B)(7) AND 1(A)(5)), THE ELECTOR'S NAME, DATE OF BIRTH, SIGNATURE, AND THE FOLLOWING STATEMENT: I ALSO UNDERSTAND THAT BY RETURNING MY VOTED BALLOT BY ELECTRONIC TRANSMISSION, I AM VOLUNTARILY WAIVING MY RIGHT TO A SECRET BALLOT. (SECTION 1-8.3-114, C.R.S.)

25.2.7 ANY BALLOT TRANSMITTED TO AN ELECTOR BY ELECTRONIC TRANSMISSION SHALL CONTAIN A UNIQUE IDENTIFICATION NUMBER FOR TRACKING AND AUDITING PURPOSES.

25.2.8 IF THE COUNTY CLERK AND RECORDER TRANSMITS A BALLOT PACKET TO AN ELECTOR BY FAX AND THE TRANSMISSION IS UNSUCCESSFUL, THE COUNTY CLERK AND RECORDER SHALL ATTEMPT TO FAX THE BALLOT AT LEAST TWO MORE TIMES.

25.2.9 THE COUNTY CLERK AND RECORDER SHALL MAINTAIN A LOG OF EACH BALLOT SENT BY ELECTRONIC TRANSMISSION, WHICH THE COUNTY SHALL MAINTAIN AS AN ELECTION RECORD ALONG WITH ANY OTHER EMAIL OR FAX RECORDS. THE LOG SHALL INCLUDE:

- (A) THE NAME OF THE ELECTOR;
- (B) THE FAX NUMBER OR EMAIL ADDRESS TO WHICH THE BALLOT PACKET WAS TRANSMITTED (AS APPLICABLE);
- (C) THE UNIQUE IDENTIFICATION NUMBER OF THE BALLOT;
- (D) THE DATE THE BALLOT PACKET WAS TRANSMITTED; AND
- (E) THE INITIALS OF THE EMPLOYEE TRANSMITTING THE BALLOT.

25.2.10 UPON RECEIPT OF VOTED BALLOT SENT BY ELECTRONIC TRANSMISSION, THE COUNTY CLERK AND RECORDER SHALL VERIFY THE ELECTOR'S SIGNATURE IN

ACCORDANCE WITH RULE 29, AND UPON VERIFICATION THE BALLOT SHALL BE DUPLICATED FOR COUNTING.

Rule 26.5.3 is amended as follows:

26.5.3 Acceptance Codes (Any provisional ballot given an acceptance code shall have all races counted unless otherwise indicated.)

AOK Reviewed and confirmed voter's eligibility.

ADB Election official is knowledgeable that the elector was erroneously sent to the wrong precinct or erroneously given the wrong ballot style in the elector's correct precinct. Voted ballot will be duplicated and only races and issues for which the elector is qualified to vote shall be counted.

AEJ Election judge who was appointed after close of early and mail-in voting and is working outside his or her precinct; judge shall vote on a ballot in the precinct in which he or she is working; voted ballot will be duplicated so that only the races and issues for which the judge is qualified to vote shall be counted.

AAB Voter appeared in person and affirmed under oath that he or she applied for a mail-in ballot but he or she has not and will not cast the mail-in ballot. The designated election official shall determine that voter did not previously cast a mail-in ballot for that election pursuant to Rule 26.

ACP Voter moved from the ~~county in~~ ADDRESS AT which the voter was registered to another ~~county~~ ADDRESS in the state not less than ~~thirty~~ 30 days before the election and voted in the correct precinct WHERE THE NEW ADDRESS IS LOCATED ~~in the new county of residence~~. The voter's address will be updated. Section 1-8.5-107(2)(a) AND (3), C.R.S.

AFS Voter is registered in the county but is voting in the wrong precinct or the voter moved from the county in which the voter was registered to another county in the state less than ~~thirty~~ 30 days before the election. Only the votes for federal and statewide offices and statewide ballot issues and questions upon which the voter may vote shall be counted. Section 1-8.5-108(2), C.R.S.

AVD Voter registered through a voter registration drive and the application receipt was surrendered to the election judge, or the elector affirmed as to the approximate date and location of the registration with the voter registration drive in accordance with section 1-2-217.5(2), C.R.S.

AAG Voter registered through an agency and application receipt was surrendered to election judge, or the elector affirmed as to the date, name, and location of the registration with the agency in accordance with section 1-2-217.5(2), C.R.S.

ARD Voter had deficient or incomplete registration. The required information was provided by voter on the provisional ballot envelope. Voter's registration will be amended and registration will be complete. Section 1-2-509(3), C.R.S.

Rule 27.4.2(e)(4) is amended as follows:

- (4) Write-in votes sorted by the optical scan equipment on election day shall be delivered to the assigned write-in board for hand counting.
 - (I) During the initial ballot count, in order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions. Only votes for legally qualified write-in candidates shall be counted.
 - (II) IF, FOLLOWING THE INITIAL COUNT, THE NUMBER OF UNDERVOTES IN THAT RACE COULD CHANGE THE OUTCOME OR FORCE THE ELECTION INTO A MANDATORY RECOUNT IF ATTRIBUTED TO A LEGALLY QUALIFIED WRITE-IN CANDIDATE, VOTES FOR THAT CANDIDATE SHALL BE COUNTED WHETHER OR NOT THE TARGET AREA DESIGNATING THE SELECTION OF A WRITE-IN CANDIDATE HAS BEEN MARKED, PROVIDED THAT THE NUMBER OF CANDIDATES CHOSEN DOES NOT EXCEED THE NUMBER PERMITTED IN THAT OFFICE.

Rule 27.4.2(f)(2) is amended as follows:

- (2) ~~Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.~~ THE COUNTY WILL CONDUCT A RECOUNT OF A RACE WITH A WRITE-IN CANDIDATE AS OUTLINED IN RULE 27.7.4.

Rule 27.4.3 is amended as follows:

27.4.3 Vote on Optical Scan Ballots. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects the minimum number of ~~ovals/arrows~~ TARGET AREAS per race or ballot measure, not to exceed the maximum allowable votes per race or ballot measure, without extending the vote mark beyond the parameters of the instructions.

Rule 27.7.4.3 is amended as follows:

27.7.4.3 During any recount of votes, IF THE NUMBER OF UNDERVOTES IN THAT RACE COULD CHANGE THE OUTCOME IF ATTRIBUTED TO A LEGALLY QUALIFIED WRITE-IN CANDIDATE, ~~the written name of a write-in candidate in the write-in space~~ VOTES FOR THAT CANDIDATE shall be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office.

Rule 29.1.2 is amended as follows:

29.1.2 The letter shall inform the eligible elector that ~~they~~ HE/SHE must come to the office of the county clerk and recorder to sign the mail ballot, provisional ballot, or mail-in ballot envelope no later than eight ~~(8)~~ calendar days after election day. THE LETTER SHALL INFORM MILITARY, OVERSEAS, AND OTHER ELECTORS WHO ARE ABSENT FROM THE STATE THAT THEY MAY SIGN THE AFFIDAVIT AND RETURN THE FORM BY MAIL, FAX, OR EMAIL, AND THAT THE COUNTY MUST RECEIVE THE FORM NO LATER THAN EIGHT CALENDAR DAYS AFTER THE ELECTION.

Rule 42.11 is amended as follows:

42.11 Administrative Emergency.

42.11.1 FOR THE PURPOSES OF SECTION 1-8-115(2), C.R.S., THE "CLOSING DATE FOR MAIL-IN BALLOT APPLICATIONS" IS THE LAST DAY TO APPLY FOR A BALLOT BY MAIL UNDER SECTION 1-8-104(3), C.R.S.

42.11.2 If the designated election official is unable to provide a mail-in ballot to an elector by any other means, the designated election official shall seek authority from the Secretary of State to provide a mail-in ballot to the elector pursuant to UNDER section 1-8-115(4), C.R.S., AND THIS RULE ~~using fax transmission~~.

~~42.11.1 This Rule 42.11 shall apply only to eligible electors who are properly registered and have timely filed a mail-in ballot application.~~

42.11.23 NO LATER THAN 21 DAYS PRIOR TO THE ELECTION, ~~The~~ THE Secretary of State shall WILL POST ON ITS WEBSITE AND EMAIL COUNTIES A DESIGNATED ~~designate~~ a point of contact for each election for Emergency Electronic Transfer Requests no later than twenty one (21) days prior to an election. The Secretary of State shall notify the counties by e-mail who the designated point of contact shall be, and post the contact information for the designated point of contact on the Secretary of State's website.

42.11.34 ~~The designated election official shall submit the request in writing from the Secretary of State using the~~ A REQUEST TO SEND A BALLOT BY ELECTRONIC TRANSFER MUST BE SUBMITTED TO THE DESIGNATED POINT OF CONTACT VIA EMAIL USING THE APPROVED Emergency Electronic Transfer form POSTED ON THE SECRETARY OF STATE WEBSITE. ~~E-mail is the preferred method of communication.~~ If possible, the designated election official shall SHOULD attempt to consolidate requests to the Secretary of State.

42.11.45 ~~The form for requesting an emergency electronic transfer shall be posted on the Secretary of State's website. The form must contain the following information:~~ AT A MINIMUM, A REQUEST FOR AN EMERGENCY ELECTRONIC TRANSFER SHALL INCLUDE:

(a) Contact information, including name, address, phone number, fax number,

and e-mail address for the designated election official or their designee;

- (b) Date and time of request sent by designated election official;
- (c) Confirmation e-mail to designated election official by Secretary of State upon receipt of request
- (d) Justification as to why the ballot(s) need to be sent by fax, which includes the following required information:
 - (1) The elector's name;
 - (2) When the elector applied for the mail-in ballot;
 - (3) The date when the designated election official sent the mail-in ballot to the elector (if applicable);
 - (4) The date the elector contacted the designated election official with information regarding failure to receive the ballot;
 - (5) A suggested timeframe for the Secretary of State to respond;
 - (6) The quantity of ballots to be sent by fax; and
 - (7) Approval or disapproval by the Secretary of State; if denied, reason for the denial.
- (e) Confirmation e-mail from the designated election official to Secretary of State upon receipt of approval or disapproval.

42.11.56 The Secretary of State shall respond in writing to the designated election official as soon as possible, but no later than eight ~~(8)~~ business hours after receipt of the request.

42.11.67 The Secretary of State shall have the ability to issue a blanket approval by electronic transfer.

II. Basis, Purpose, and Specific Statutory Authority

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

III. Statement of Justification and Reasons for Adoption of Temporary Rules

A statement of the Secretary of State's findings to justify the immediate adoption of these new and amended rules on a temporary basis follows this notice and is incorporated by reference.⁴

IV. Effective Date of Adopted Rules

These new and amended rules are immediately effective on a temporary basis and will become permanently effective twenty days after publication in the Colorado Register.⁵

Dated this 6th day of September, 2011,



William A. Hobbs
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

⁴ Section 24-4-103(6), C.R.S. (2010).

⁵ Section 24-4-103(5), C.R.S. (2010).



Statement of Basis, Purpose, and Specific Statutory Authority

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

September 6, 2011

I. Basis and Purpose

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

- The amendments to Rules 2.11, 12.9, and 13.10 clarify the treatment of a signature stamp used by an elector as a result of age, disability, or other need.
- The amendments to Rule 2.12 implement changes to Part 2 of Article 21 of Title 24, C.R.S., by HB 11-1080. Specifically, HB 11-1080 reallocated the Colorado Address Confidentiality Program (ACP) from the Secretary of State to the Department of Personnel. The amendments to the rule are necessary to indicate the transfer in statutory authority.
- The amendments to Rule 2.18 allow counties to mark a record inactive – returned mail based upon a forwarding notice from USPS. Although counties receive these currently as a result of the USPS-required forwarding endorsement, they are charged \$0.50 for each card and cannot use the card to update the elector's record in any way. This change allows the county to generate a forwardable confirmation card to allow the elector to update his or her record, and would stop mailings to an address that the USPS has indicated is no longer deliverable for that elector.
- The changes to Rule 6.2 clarify the process for assigning ballot order to measures for political subdivisions that cross county lines. The rule was written prior to full SCORE implementation and contains processes that are not workable in SCORE. However, the rule is still necessary to designate a “controlling county” for the purposes of coordinating the assignment of the ballot number/letter. The change in how the controlling county is

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

designated is based upon feedback from counties that they have historically done this according to where the administrative office is located rather than where the largest number of electors reside.

- The revisions to Rule 12.1.1 streamline and clarify the requirements for a mail ballot secrecy sleeve and voter instructions. In particular, the amendment accommodates the newer version of the approved form that includes a version specifically for ID required electors and a difference version for non-ID required electors.
- Repeal of Rule 12.4.1(b)(1) is appropriate because an amendment to section 1-7.5-105, C.R.S, harmonized the deadline for special district plans with the deadline for plans for coordinated and other non-partisan elections. Because this 55-day deadline falls after the date that a special district may cancel the election, there is no longer a need for a filing extension for this reason.
- The revisions to Rule 12.5.5 clarify the purpose of the notice required on the outgoing ballot envelope and instructions regarding other elections that may be held on the same day. Section 1-7-116(1), C.R.S., requires any jurisdiction conducting an election on the same day in November to either coordinate with the county or conduct a mail ballot election. The rule as originally written was somewhat misleading with respect to whether other polling place elections might be held on the same day.
- The amendments to Rule 12.11 outline the procedures and requirements for a request for a ballot by an inactive voter in a coordinated or other non-partisan mail ballot election. The amendments also clarify the process for requesting a replacement ballot in a mail ballot election.
- The changes to Rules 12.12.1 and 12.12.2 clarify when an elector may surrender a mail ballot to vote on a DRE under section 1-7.5-107(3), C.R.S. The revisions also clarify that an elector who “surrenders” a mail ballot to vote on the DRE in a mail ballot election does not need to physically surrender the ballot, but that it will be voided before the DRE ballot is issued. This change reflects current policy and process and would harmonize the rule with the corresponding rule regarding mail-in ballots.
- The amendment to the header of Rule 14.5 clarifies the applicability of the rule, which addresses the procedure for recounting ballots where the initial count was done by hand.
- The amendments to Rule 15.1 clarify the petition entity registration process.
- The amendments to Rule 15.3.2 clarify the definition of permanent “residence” or “domicile”. This clarification is necessary to address questions raised following the adoption of the rule which references “residence” and HB11-1072, which references “domicile”. Specifically, the rule clarifies that both terms have the same meaning as permanent residence as defined in section 1-2-102(1)(a)(I), C.R.S.
- The revisions to Rule 25 implement the changes enacted by HB11-1219, which created a new article containing all statutes relating to registration and voting by military and overseas electors. Additionally, the bill extended email transmission and late ballot return

to all military and overseas electors, eliminated the special write-in ballot and expanded use of the federal write-in ballot, and eliminated federal precincts.

- The revisions to Rule 26.5.3 are necessary to make technical corrections and clarify that the provisional ballot acceptance code ACP applies to any move within the state, including moves within the same county.
- The revisions to Rule 27 clarify recount procedures for counting write-in votes in a manner consistent with the District Court ruling in *Curry v. Buescher*, No. 10CV8191, slip op. (Denver Dist. Ct., Nov. 5, 2010). Specifically, these amendments require that, if after the initial count, the number of undervotes in the race could change the outcome or cause a recount if attributed to a legally qualified write-in candidate, that the undervotes be reviewed for voter intent. In this case, the votes for a legally qualified write-in candidate would be counted regardless of whether the appropriate target area was marked, as long as number of candidates selected does not exceed the number of candidates permitted for that office.
- The amendments to Rule 29.1.2 provide military and overseas electors and other absent electors the opportunity to cure an unsigned ballot by fax or email since these electors cannot appear in the county clerk's office to sign the ballot envelope in person.
- The revisions to Rule 42.11 are necessary to make technical amendments and clarify the procedures for an administrative emergency ballot under section 1-8-115(2), C.R.S.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2010), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-104(1)(e), C.R.S., (2010), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545].”



Statement of Justification and Reasons for Adoption of Temporary Rules

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

September 6, 2011

Amended Rules:

2.11, 2.12, 2.18.1, 6.2, 12.1.1, 12.5.5, 12.9, 12.11, 12.12.1, 12.12.2, 13.10, 14.5, 15.1, 15.3.2, 25, 26.5.3, 27.4.2(e)(4), 27.4.2(f)(2), 27.4.3, 27.7.4.3, 29.1.2, 42.11

Repealed Rules:

12.4.1(b)(1)

In accordance with Colorado election law,¹ the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws during the 2011 election cycle. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally.

A public Rulemaking hearing was conducted in accordance with the State Administrative Procedure Act² on August 2, 2011, to receive comment and testimony on the proposed rules. These rules implement the enactment of new legislation and recommendations made by the Secretary of State, Elections Division staff, County Clerk and Recorders, and interested parties throughout the State of Colorado. Adoption of the rules on a temporary basis is necessary to provide clear guidance to county clerks given the close proximity of the November 2011 Coordinated Election.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption of the amendments to existing election rules is “imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest.”³

¹ Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-1.5-104(1)(e), C.R.S. (2010). The Secretary of State has the power “[t]o promulgate, publish, and distribute...such rules as [the Secretary] finds necessary for the proper administration and enforcement of the election laws” and “...[the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545]....”

² Section 24-4-103(3)(a), C.R.S. (2010).

³ Section 24-4-103(3)(6), C.R.S. (2010).