

Colorado Secretary of State

Election Rules [8 CCR 1505-1]



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Rule 1. Definitions

- 1.1 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:

“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.

Rule 2. Rules Concerning Voter Registration

- 2.1 Repealed.
- 2.2 After a receipt of request, the fee for providing the information shall be determined. The fee must be paid prior to the request being filled.
- 2.3 Repealed.
- 2.4 Confidentiality of Agency in Voter Registration. For Voter Registration Applications completed pursuant to Part 5 of Article 2 of Title 1, C.R.S., at an agency designated by the National Voter Registration Act of 1993, no information regarding the name and location of the designated voter registration agency shall be provided to the public, and such information shall remain confidential.
- 2.5 Confidentiality of Voter Information. Pursuant to section 24-72-204(3.5)(b)(II) and (IV), C.R.S., the county clerk and recorder of the county where the individual resides shall provide an opportunity to make the request of confidentiality in person at the time such individual registers to vote or make any change in the individual's registration, and at any other time during the normal business hours of the office of the county clerk and recorder.
- 2.5.1 The voter's name, address, and birth date shall be listed on the confidentiality application. A confidentiality affirmation shall be printed on the form, in the area immediately above a line for the applicant's signature and the date. The affirmation shall state the following:
- "I swear or affirm, under penalty of perjury, that I have reason to believe that I or a member of my household will be exposed to criminal harassment, or otherwise be in danger of bodily harm, if my address is not kept confidential"*
- 2.5.2 Immediately below the signature line, there shall be a printed notice, in a type that is larger than the other information contained on the form, that the applicant may be prosecuted for perjury in the second degree under section 18-8-503, C.R.S., if the applicant signs such affirmation and does not believe such affirmation to be true.
- 2.5.3 A voter making an address change shall not be charged an additional processing fee.
- 2.6 Information required from applicants for voter registration.
- 2.6.1 All applicants for voter registration shall provide on the application for voter registration:
- (1) in the case of an applicant who has been issued a current and valid Colorado driver's license or valid Identification card issued by the department of revenue, the applicant's driver's license number or Identification card number; or
 - (2) in the case of an applicant who has not been issued a current and valid Colorado driver's license or valid Identification card issued by the department of revenue, the last four digits of the applicant's social security number or the entire social security number.
- 2.6.2 If an applicant has not been issued a current valid Colorado driver's license number, a valid Identification card issued by the department of revenue, or a social security number as required by Rule 2.6.1, the applicant shall be assigned a unique identifying number for voter registration purposes.
- 2.6.3 Pursuant to section 1-2-509, C.R.S., a county clerk shall treat an application as

“incomplete” if an applicant for voter registration provides a social security number or a portion of a social security number, but does not provide a driver’s license number or identification card number and fails to indicate whether they have a driver’s license or identification card number. The county clerk shall notify the applicant that the application is not complete and state the additional information required to complete registration. A county clerk may place such application in an “incomplete” file within the voter registration system, but the applicant shall not be considered registered unless such information is provided. The applicant shall be deemed registered as of the date of application if the additional information is provided at any time prior to the actual voting.

[1-2-204(2)(f.5) and (3)(c)]

2.7 Treatment of applications where the required information was not provided

2.7.1 If an applicant fails to check the box(es) answering the question(s), “Are you a citizen of the United States?” or “Will you be 18 years of age on or before election day?”, the form shall be accepted for registration so long as it is otherwise complete and the affirmation at the bottom of the form is signed.

2.7.2 If an applicant for voter registration fails to complete the required identification portion of the form in accordance with section 1-2-204(2)(f.5) and (3)(c), C.R.S., and rule 2.6.3, the application shall be treated as “incomplete”; however, if the applicant submits a photocopy of his/her driver’s license or identification card, then the county may enter the ID number from the card into the applicant’s record and consider the application “complete”.

2.7.3 If an applicant for voter registration fails to provide a date of birth the application shall be treated as “incomplete”; however, if the applicant submits a photocopy of his/her driver’s license or other approved form of ID which includes the date of birth, then the county may enter that information into the applicant’s record and consider the application “complete”.

2.7.4 Repealed.

2.7.5 If the county clerk and recorder notifies an applicant that his or her application is incomplete, and the applicant does not provide the additional information necessary to complete the application within 24 months after the county clerk sent the notification, the applicant must reapply in order to register to vote. (Section 1-2-509(2), C.R.S.)

2.8 Submission of voter registration forms. A properly executed voter registration form may be submitted to the county clerk and recorder in person, by mail, by fax, by online voter registration, or as a scanned attachment to an email.

2.8.1 All voter registrations submitted by mail, fax, or as a PDF attachment to an email shall be treated as mail registrations. [Section 1-2-501, C.R.S., Election Rule 30.3]

2.8.2 If any portion of a voter registration submitted by “mail” is illegible, the county clerk and recorder shall notify the applicant of the additional information required in accordance with section 1-2-509, C.R.S.

2.8.3 For the purpose of submitting voter registration applications by fax, email or online voter registration, close of business shall be 11:59pm MT.

2.9 Registration of Homeless Voters.

- 2.9.1 For the purpose of voter registration residence a homeless voter may identify a specific location within a precinct that the voter considers his home base to which the voter returns regularly and manifests an intent to remain, and a place from which he or she can receive messages and be contacted. A home base may include a homeless shelter, a homeless provider, a park, a campground, a vacant lot, a business address, or any other physical location.
- 2.9.2 If the home base does not include a mailing address, then the homeless voter must provide a mailing address pursuant to section 1-2-204(2)(f), C.R.S.
- 2.9.3 A post office box or general delivery at a post office shall not be deemed a home base.
- 2.10 Changes to an Elector's Voter Registration Record.
- 2.10.1 If an elector submits a change to his or her voter registration record that does not contain all of the information required by sections 1-2-216 or 1-2-219, C.R.S., the county clerk and recorder may not make the requested change, unless the county clerk and recorder can confidently identify the voter, otherwise the county clerk and recorder shall notify the voter what additional information is required to process the request.
- 2.10.2 If an elector submits a change to his or her voter registration record and writes or selects a name of an organization that is not a qualified political party or qualified political organization, or writes "none", the elector's affiliation shall be recorded as "Unaffiliated".
- 2.10.3 If an elector submits a change to his or her voter registration record and leaves the affiliation section blank, no change will be made to the voter's affiliation in the registration record.
- 2.11 Changes to an elector's voter registration status.
- 2.11.1 An elector may update his or her inactive registration status to active status by submitting:
- (a) A signed written request, by mail, fax, or PDF attachment to an email;
 - (b) An online voter registration application; or
 - (c) An in-person request with identification.
- [Section 1-2-605(4)(a), C.R.S.]
- 2.11.2 If an elector is unable to sign, another person must witness the elector's mark. An elector may use a signature stamp because of age, disability, or other need. The stamp is treated as a signature and does not require a witness.
- 2.12 Registration of Address Confidentiality Program (ACP) Electors
- 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 24-30-2108(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 24-30-2103(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 24-30-2110, C.R.S.
- 2.12.5 Except as specifically provided by 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, C.R.S. (known as "CORA").
- 2.13 Preservation of Voter Registration Records. Notwithstanding the retention timelines specified in section 1-2-227, C.R.S., paper voter registration records may be destroyed as soon as they have been digitally recorded in the statewide voter registration database known as "SCORE". Such records shall be retained in perpetuity in digital format by the voter registration database in accordance with Title 1, C.R.S. and this rule.
- 2.14 In accordance with section 1-2-508, C.R.S., the effective date of a voter registration application received at the office of the Secretary of State shall be the date of receipt by the office of the Secretary of State, or in the case of an application received by mail, the date of the postmark if legible.
- 2.15 Repealed.
- 2.16 An elector who has received notice that his or her application for registration may not be processed or whose registration was cancelled because his or her name was matched with a record bearing the same name, date of birth, and social security number in the databases provided by Colorado Department of Corrections or Colorado Department of Public Health and Environment, and who believes that the match was erroneous, may request that his or her application be processed or registration be reinstated if he or she:
 - a. Appears in person at the office of the county clerk and recorder and presents identification; or
 - b. Returns to the office of the county clerk and recorder a signed, notarized, and dated statement affirming that he or she believes the match was in error. This statement must contain the elector's printed name, residential address, and date of birth.
- 2.17 When a county clerk and recorder deems an applicant "not registered" upon receipt of an undeliverable new voter notification in accordance with section 1-2-509(3), C.R.S., the applicant shall be mailed a confirmation card by forwardable mail. The confirmation card shall have a postage prepaid returnable portion that is preaddressed to the sending county clerk and recorder.
 - 2.17.1 If the county clerk and recorder receives a signed confirmation card within 90 days from an applicant who was deemed "not registered" in accordance with section 1-2-509(3), C.R.S., the applicant shall be deemed registered as of the date of the original application.
 - 2.17.2 During the 28 days prior to an election, if an applicant who has been deemed "not registered" in accordance with section 1-2-509(3), C.R.S., completes a certificate of registration and presents identification in person at the office of the county clerk and

recorder, the applicant shall be deemed registered as of the date of the original application.

2.18 List Maintenance Pursuant to section 8 of the National Voter Registration Act of 1993.

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, the county clerk and recorder shall mark the voter's record "Inactive – returned mail" and shall mail a confirmation card. Where a confirmation card sent under this rule is returned as undeliverable, the county is not required to mail another card.

2.18.2 National Change of Address (NCOA). Counties may utilize the NCOA to send mailings to electors who may have moved to request that the electors update their voter registration records. However, no county may update the registration address of any registration record or change the status of an elector to "inactive" based solely upon the information provided by NCOA.

2.18.3 In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General Election, the county clerk and recorder in each county shall cancel only the registrations of electors who have met the following requirements:

- a. Whose records have been marked "Inactive – returned mail", "inactive – undeliverable", or "Inactive – undeliverable ballot";
- b. Who have been mailed a confirmation card; and
- c. Who have since failed to vote in two consecutive General elections.

2.19 Confirmation card

2.19.1 "Confirmation card" means a forwardable, postage prepaid mailing using the form prescribed by the Secretary of State.

2.19.2 In accordance with section 1-1-109(1), C.R.S., the Secretary of State shall consider best practices and usability in the design of the confirmation card in order to minimize voter confusion.

2.20 Voter registration status designations.

2.20.1 Definitions

- a. "Active status" or "active record" means that there are no conditions or restrictions on the voter's eligibility.
- b. "Cancelled status" or "cancelled record" means that the voter's registration has been cancelled or revoked based upon a determination that the voter is ineligible, or the applicant has been deemed not registered in accordance with these rules and Title 1, C.R.S.; or the voter has withdrawn their registration.
- c. "Inactive – failed to vote status" means that the voter was active prior to a General Election, but subsequently failed to vote in that General Election.

- d. “Inactive – returned mail status” or “inactive – undeliverable status” means that a voter information card or confirmation card was returned to the county clerk and recorder by the United States Postal Service as undeliverable.
- e. “Inactive – undeliverable ballot status” means that a voter was mailed a ballot that was subsequently returned to the county clerk and recorder by the United States Postal Service as undeliverable.

2.20.2. Effect of voter registration status designation

- a. Active status or active record voters’ names will appear on the poll book, they will be sent a ballot in a mail ballot election, and they will be sent election notice mailings.
- b. Cancelled status or cancelled record voters’ records will remain in the statewide voter registration database; however, their names will not appear on the poll book, they will not be sent a ballot in a mail ballot election, and they will not be sent election notice mailings.
- c. Inactive – failed to vote status voters are eligible voters; their names will appear on the poll book and they will be sent election notice mailings. Inactive – failed to vote voters will be sent a ballot in a mail ballot election where specifically required by sections 1-7.5-107 and 1-7.5-108.5(b), C.R.S.
- d. Inactive – returned mail status or inactive – undeliverable status voters are eligible voters and their names will appear on the poll book. However, they will not be sent ballots in a mail ballot election and they will not be sent election notice mailings.
- e. Inactive – undeliverable ballot status voters are eligible voters and their names will appear on the poll book. However, they will not be sent a ballot in a mail ballot election and they will not be sent election notice mailings.

[Sections 1-2-605(3) and (11), 1-5-206, 1-7-110, 1-7.5-107, and 1-7.5-108.5, C.R.S.]

2.21 Minimum matching criteria

2.21.1 A record may not be transferred, consolidated, or cancelled unless the minimum matching criteria as set forth in sections 1-2-603 and 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county may send a letter to the voter requesting confirmation of the missing or non-matching information in order to transfer, consolidate, or cancel the record.

2.21.2 For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this Rule a match of the name shall mean a match of the full name, except that the following shall be sufficient to establish a match:

- (a) Common variations and nicknames in the first or middle name, i.e. Michael and Mike;
- (b) Explainable and documented change of name, including last name, i.e. maiden name and married name; and
- (c) Explainable and documented variations in suffix, except that the absence of a suffix in one of the records shall not be considered a variation. Examples of

suffix variations that must be explained include junior in one record and III in another.

- 2.21.3 For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this Rule a match of the prior address shall mean a match of the residential street address.
- 2.21.4 The county clerk and recorder may use the DMV Motor Voter database to verify prior name or residence address history for the purpose of meeting the minimum matching criteria. The information gathered must be scanned and retained in the elector's record in order to document how the criteria was met.
- 2.22 Effective January 1, 2012, no county may consolidate or cancel duplicate records in accordance with section 1-2-604, C.R.S., within the period beginning 90 days prior to a Primary or General Election.
- 2.23 Until January 1, 2012, the county clerk and recorder shall mail a letter to any electors whose records are consolidated or whose duplicate record is cancelled in accordance with section 1-2-604, C.R.S., within the period beginning 90 days prior to a Primary or General Election. The letter shall be sent to the address of the record cancelled or consolidated, it shall advise the elector of the consolidation or cancellation, and it shall inform the elector how he or she may correct any errors. This rule is repealed effective January 1, 2012.

Rule 3. Rules Concerning Qualified Political Organizations

- 3.0 Qualified Political Organization as identified by order of the 10th Circuit Court of Appeals (Baer v. Meyer, 728 F2d 471, 10th Cir. 1984).
- 3.1 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 continues to meet the requirements of 3.3 and 3.4.
- 3.2 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 the state's general election ballot using the name of the Colorado political organization;
 - b. The names, addresses, and telephone numbers of the elected Colorado chairperson, vice chairperson, and secretary, together with the names, addresses, and telephone numbers of all other members elected or appointed to other offices or committees authorized by the by-laws.
- 3.3 Qualified political organizations shall meet once a year.
- 3.3.1 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 by-laws on file with the Secretary of State.
- (a) 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.
- 3.3.2 The chairperson and the secretary shall file a full and complete list, under oath, of the persons elected or appointed pursuant to Rule 3.2, together with any amendments to the by-laws adopted at the meeting.
- 3.3.3 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 general election.
- (a) 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.
- 3.4 A qualified political organization shall place a candidate or candidates on the general election ballot every two years.
- 3.4.1 Candidates wishing to represent a qualified political organization on the general election ballot shall be placed in nomination by nominating petition pursuant to section 1-4-802, C.R.S.
- 3.4.2 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 meetings required in Rule 3.3.

- 3.4.3 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.
- 3.4.4 Having the name of a candidate from the qualified political organization appear on the ballot by the use of the write-in candidacy process shall not be considered as, nor meeting the requirements of, placing a qualified candidate on the general election ballot.
- 3.5 A political organization shall be qualified as soon as it:
 - (a) Files proof of organization with the Secretary of State;
 - (b) Meets to name a candidate to the general election ballot; and
 - (c) Certifies a candidate to the general election ballot.
- 3.6 Once a political organization becomes a qualified political organization, eligible electors shall be able to register as affiliated with the political organization.
 - 3.6.1 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.
 - 3.6.2 The opportunity to declare or change a political affiliation shall be provided exactly as the law provides for political parties in sections 1-2-204(2)(j) and 1-2-219, C.R.S.
 - 3.6.3 At any time a declaration or change in affiliation is requested, the same procedure shall be used for declaring a political party or political organization affiliation.
 - 3.6.4 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.
 - 3.6.5 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 clerk and recorders by the Secretary of State.
- 3.7 Political organizations shall lose their status 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, unless excused under Rule 3.3.1(a);
 - (b) Meet in even-numbered years and select a candidate or candidates who wish to appear on the ballot at the next general election;
 - (c) Place a candidate on a general election ballot through a nominating petition, meeting the requirements of Rule 3.4.
- 3.8 The Secretary of State will notify the county clerk 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 mark on every affected voter registration record “unaffiliated.”

- 3.9 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.
- 3.10 On all summary reports of voter registration by political party, the report shall list those registered with major political parties, minor political parties, qualified political organizations, or as unaffiliated.
- 3.11 Electors, whose voter registration record shows affiliation with a qualified political organization and who appear to vote at a primary election, shall complete a Declaration of Party Affiliation, thus losing affiliation with the qualified political organization.

Rule 4. Rules Concerning Circulation of Candidate Petitions

- 4.1 No petition for candidacy for any non-partisan office shall be circulated prior to 90 days before the election, except as provided in section 1-4-805, C.R.S.

Rule 5. Rules Concerning Non-Partisan Elections Not Coordinated by the County Clerk

- 5.1 For elections conducted on days other than 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 not eligible electors, if such mailing is done at the "least cost" possible.
- 5.2 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.
- 5.3 For elections not conducted in November and not coordinated with the county clerk and recorder, the ballot issue or question shall be identified by the name of the jurisdiction submitting the ballot issue or ballot question followed by a number in the case of initiatives or by a letter in the case of referred measures.
- 5.4 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 13 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").
- 5.4.1 The form and verification of any petition requesting an election conducted by a water conservancy district pursuant to sections 37-45-114 (2) and 37-45-136(3.5), 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 17 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.
- 5.4.2 The procedures for issuing the statement of sufficiency or insufficiency of the petition shall conform to the requirements of section 1-40-117, C.R.S., and Rule 18 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.
- 5.4.3 The procedures for cure of a petition deemed insufficient shall conform to the requirements of section 1-40-117, C.R.S., and Rule 19 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.
- 5.4.4 The procedures for protesting the determination that a petition is insufficient shall conform to the requirements of section 1-40-118, C.R.S., and Rule 20 hereof, unless otherwise ordered by the Court.
- 5.4.5 Any election pursuant to Section 37-45-114(2), C.R.S., shall be conducted no more than one hundred (100) days nor less than sixty (60) days from the date of the Court order, regardless of the actual expiration date of the term of the office, unless the Court order establishes an alternate date, or 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.
- 5.4.6 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 5.4.5, 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.

5.5 Non-Partisan Elections: Polling Place Procedures.

- 5.5.1 For polling place elections being conducted in accordance with Article 1, Title 32, C.R.S., upon execution of the self-affirming oath or affirmation pursuant to section 32-1-806(2), C.R.S., the eligible elector desiring to vote shall show his or her identification as defined in section 1-1-104(19.5), C.R.S., to one of the election judges. See section 1-7-110(1), C.R.S.
- 5.5.2 If the eligible elector has executed the self-affirming oath or affirmation and provided his or her identification, such eligible elector may be allowed to vote, if such vote is not challenged. See sections 1-7-110(2) and 32-1-806(4), C.R.S.
- 5.5.3 The election supplies provided to the supply judge of each polling place shall include an adequate number of provisional ballot envelopes that include the affidavit set forth in Rule 26.8.
- 5.5.4 The signature and date on the provisional ballot affidavit envelope shall remain on the outside of the envelope.
- 5.5.6 The provisional ballot affidavit envelope shall be numbered to correspond to the number of the provisional elector's name in the poll book, and the word "provisional" shall be marked on the ballot.
- 5.5.7 Verification of Information in Provisional Ballot Affidavit. The designated election official shall verify the information contained in the provisional ballot affidavit pursuant to Rule 26. If the information contained in the affidavit provides adequate criteria such that the designated election official, using the Rule 26 search, can ascertain the registration of the elector, the provisional ballot shall count. If the information cannot be verified, the ballot shall be rejected. See sections 1-8.5-105 and 1-8.5-106, C.R.S., and Rule 26.
- 5.5.8 The verification and counting of all provisional ballots shall be completed prior to the certification of the official abstract of votes cast in the election by the canvass board, pursuant to Section 1-10-203(1), C.R.S.
- 5.5.9 Canvassing Board's Count of Provisional Ballots. If, after the expiration of twelve days following an election, the election judges cannot complete the count of the provisional ballots cast, the canvassing board appointed pursuant to Section 1-10-201(1.5), C.R.S., shall complete the count of such provisional ballots.
- 5.5.10 If 25 or more provisional ballots have been cast and counted, the results shall be reported as one total. If less than 25 provisional ballots have been cast and counted, the results shall be included in the results of the mail-in ballots counted in the election.
- 5.5.11 The provisional ballot shall not be counted if the elector failed to complete the affidavit on the envelope or the elector was not registered by the deadline in the State of Colorado.
- 5.5.12 A copy of the provisional ballot affidavit shall be provided to the county clerk and recorder of the county of the elector's residence, and shall constitute a voter registration for future elections. See section 1-8.5-108, C.R.S.

Rule 6. Rules Concerning Coordinated Elections**6.1 Participation in coordinated elections.**

- 6.1.1 For elections 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.
- 6.1.2 The affected political subdivision 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.

6.2 Procedures for Coordinated Elections Involving Jurisdictions Shared by Multiple Counties

- 6.2.1 For each jurisdiction that is shared by multiple counties, a controlling county shall be designated for the purpose of assigning and coordinating the ballot letter/number for the shared races, issues, and questions in coordinated elections.
- 6.2.2 The controlling county shall be the county where the 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 unless approved by the Secretary of State upon request of any of the affected counties.
- 6.2.3 Repealed.
- 6.2.4 The controlling county shall 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
- 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.

6.3 Form of election for November coordinated elections.

- 6.3.1 The county clerk and recorder is the election official for coordinated elections which are held in November of each year.
 - (a) The county clerk and recorder shall be responsible for mailing the Article X, Section 20 Ballot Issue notice.

- (b) The county clerk and recorder shall not be required to conduct more than one form of election unless he or she so chooses.
- 6.3.2 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.
- 6.4 Form of coordinated elections held other than in November.
 - 6.4.1 For all other elections where political subdivisions hold an election on the same day, the electors or boundaries overlap and ballot issues as defined in Section 1-1-104 (2.3), C.R.S., appear on the ballot 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.
 - 6.4.2 The political subdivisions may contract with the appropriate county clerk and recorder to be the coordinated election official.
- 6.5 Determination of ballot issues and texts.
 - 6.5.1 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.
 - (a) The coordinated election official shall assure that the ballot title is on each ballot as required by law.
 - (b) 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 candidates 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.
 - (c) 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 materials related to that political subdivision and must pay their pro-rata share of increased printing costs unless otherwise provided by the intergovernmental agreement.
 - (d) 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 materials nor pay a pro-rata share of the printing costs unless they so agree.
 - 6.5.2 Each political subdivision shall determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.
 - (a) Referred measures shall be designated by a letter or by a number and a letter; initiatives shall be designated by a number.
 - (b) For each grouping of ballot issues and ballot questions by a political subdivision, all

referred measures shall precede all initiatives.

- (c) For each grouping of ballot issues and ballot questions, the order shall be as follows:
1. Referred measures to increase taxes;
 2. Referred measures to retain excess revenues;
 3. Referred measures to increase debt;
 4. Other referred measures;
 5. Initiatives to increase taxes;
 6. Initiatives to retain excess revenues;
 7. Initiatives to increase debt;
 8. Other citizen petitions.
- (d) 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 retain excess revenues; the numbers eleven through fifteen shall be reserved for initiatives to increase debt; all other citizen petitions shall be numbered consecutively beginning with sixteen.
- (e) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred, every proposed change to the Colorado Constitution shall be called an “amendment” and every proposed change to the Colorado Revised Statutes shall be called a “proposition”
- (f) Ballot issues from the various political subdivisions shall be ordered on the ballot as provided in section 1-5-407(5), C.R.S:
1. Each category of referred and initiated state amendments and propositions shall be numbered and listed on the ballot in the following series:

A-Z	State Referred Constitutional Amendments
01-99	State Initiated Constitutional Amendments
AA-ZZ	State Referred Statutory Propositions
101-199	State Initiated Statutory Propositions

If a referred or initiated measure contains both a proposed constitutional and statutory change, the measure shall be ordered on the ballot as a constitutional amendment.

2. Each category of initiated local ballot issues and questions shall be numbered in the following series:

200-299	County Issues
300-399	Municipal Issues
400-499	School District Issues
500-599	Ballot Issues and Questions for other political subdivisions greater than a county.
600-699	Ballot Issues and Questions for other political subdivisions which are wholly within a county.

3. Each category of local referred ballot issues and questions shall be designated by a letter or a number and a letter in the following series:

1A-1Z	County Issues
2A-2Z	Municipal Issues
3A-3Z	School District Issues
4A-4Z	Ballot Issues and Questions for other political subdivisions greater than a county.
5A-5Z	Ballot Issues and Questions for other political subdivisions which are wholly within a county.

4. Ballot questions and issues are numbered or lettered in the order in 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.
5. 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.
6. 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 questions.
7. Each ballot question or issue shall contain the name of the political subdivision at the beginning of the ballot questions or issue. If the designated election official chooses, the name of the political subdivision may appear before the grouping of questions, such as State Ballot Questions, Arapahoe County Ballot Questions, City of Aurora Ballot Questions, etc.

6.5.3 General Provisions

- (a) The coordinated or designated 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 in this notice."
- (b) The coordinated or designated election official may include the following statement on the ballot issue notice: "The following is a summary of comments filed in favor of, or opposed to, the ballot issue."

6.6 Colorado Constitution Article X, Section 20 notice requirements.

- 6.6.1 The state and local governments, excluding enterprises, have sole responsibility for drafting and 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.
- 6.6.2 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.
- (a) 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”.
 - (b) Nothing shall preclude the coordinated or designated 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.
 - (c) Nothing shall preclude the coordinated or designated election official from sending notice to each registered elector in a particular political subdivision.
- 6.6.3 The coordinated election official must include information in the package sent with the notice that tells electors whether the election is a mail ballot election, a polling place election, a vote center election or a combination of election forms.
- (a) If the election is a polling place election or a vote center election, the notice of the location of the polling place or vote center may be included in the consolidated mailing.
 - (b) If a separate mail ballot election is being held by a political subdivision in the county at the same time as a polling place election or a vote center election, the notice shall include that information. Section 1-5-205, C.R.S.
- 6.6.4 If state statute allows 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.
- 6.6.5 The political subdivisions must provide all completed Article X, Section 20 notices in camera ready format or as otherwise specified.
- 6.6.6 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.
- (a) 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 names of persons or private groups shall be included in any summary.
 - (b) For purposes of counting words and to verify the five hundred constitutional limit for each “pro” and each “con” summary, a hyphenated word, unless it is divided by a continuation hyphen at the end of a line, counts as two or more words. A number counts as one word, regardless of dollar signs, commas or periods within the number.

- 6.7 Written comments concerning ballot issues submitted to the designated election official for the political subdivision shall not be withdrawn after the end of the business day on the last Friday immediately preceding the forty-fifth day before the election.

Rule 7. Rules Concerning Polling Places

- 7.1 Polling place materials shall include, where applicable, HAVA information, voting demonstration display, signature card table, registration records or lists, poll books, electronic or paper, or completed signature cards, paper ballots and voting booths or DRE, provisional voting area or procedure and ballot box if provided.
- 7.2 For coordinated elections, polling places do not have to be within the political subdivisions which are participating in the election.
- 7.3 Polling places for partisan elections must be established no less than ninety days prior to an election and may only be changed pursuant to section 1-5-108, C.R.S. in the event of an emergency.
- 7.4 In the event the polling place is to be in a temporary structure that is not present at the time, a 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 notice shall continuously remain posted until 48 hours after the polling place is closed.
- 7.5 Vote Center Guidelines
- 7.5.1 In addition to the requirements of section 1-5-102.7, C.R.S., the following must be taken into consideration when determining the number and locations of vote centers:
- a. Population Centers
 - b. Demographics
 - c. Size of proposed locations
 - d. Available parking
 - e. Accessibility requirements as set forth in section 1-5-703, C.R.S.
- 7.5.2 The designated election official shall publish a notice of hearing on its website for no less than fifteen days prior to the public hearing. The notice shall include:
- a. The number and locations of vote centers proposed for use
 - b. The date, time and location of the hearing
- 7.5.2.1 If the designated election official does not regularly maintain a website, the notice shall be published in accordance with section 1-1-104(34), C.R.S., at least fifteen days prior to the public hearing.
- 7.5.2.2 A copy of the notice shall be posted in the office of the designated election official for the duration of the public comment period.
- 7.5.3 A public hearing shall be conducted by the designated election official no less than sixteen days after posting or publishing the notice of hearing.
- 7.5.3.1 The public hearing may be held in conjunction with a regular or special meeting of the governing board of the political subdivision. If requested by the designated

election official, the governing board of the political subdivision may conduct the hearing.

- 7.5.4 Public comments received in writing prior to the hearing shall be entered into the record of the public hearing. Oral comments received at the hearing shall be entered into the record and may be limited to allow the proceedings to go forward with reasonable promptness and efficiency.
- 7.5.5 The designated election official may combine the notice and hearing for a primary election and general election in a calendar year.
- 7.6 Time in voting area. Pursuant to section 1-7-115, C.R.S., if voting booths in a polling place are all in use and eligible electors are waiting to use them, each voter shall be allowed a maximum time in a voting booth.
- 7.6.1 The maximum allowable time in a voting booth shall be fifteen (15) minutes. The secretary of state may issue an order to a designated election official requiring or allowing additional time based on the length of the ballot.
- 7.6.2 Notwithstanding Rule 7.6.1, there shall not be a maximum allowable time for voters with disabilities.
- 7.7 Polling Place Accessibility
- 7.7.1 Applicability: For the purposes of this rule, "polling place location" shall include all polling places, vote centers, early voting locations, service centers, ballot drop off locations, and each office of the designated election official where ballots are issued or replaced.
- 7.7.2 Assessing accessibility
- a. New polling place locations: In accordance with section 1-5-703(4), C.R.S., the designated election official shall assess a location using the current ADA Checklist for Polling Places survey before designating the location an official polling place. The designated election official shall indicate on the survey any accessibility barriers and describe barrier removal plans to bring the location into compliance.
 - b. Annual assessments: Effective January 1, 2011, the designated election official shall reassess all polling place locations to be used during that calendar year prior to designating each location as a polling place. Annual assessments shall be completed using the Secretary of State approved Annual Polling Place Accessibility Survey form. The designated election official must indicate on the survey whether the location remains or may be made accessible and describe any continued or new barrier removal plans.
 - c. Effective January 1, 2011, completed new location and annual assessment surveys must be filed with the Secretary of State no later than 90 days prior to a partisan election and no later than 25 days prior to a nonpartisan election. [Sections 1-5-102, 1-5-102.5, C.R.S., and Rule 7.3]
 - d. Site visits: The Secretary of State's office may conduct announced location visits to help identify accessibility barriers and promote accessibility compliance.
- 7.7.3 Barrier removal: If, upon assessment, a location fails to meet the minimum accessibility requirements outlined in the ADA Checklist for Polling Places, the designated election

official must develop a barrier removal plan outlining the permanent and or temporary modifications that will be implemented to bring the site into compliance in order for the location to be designated an official polling place location.

- 7.7.4 Noncompliance: In accordance with section 1-1-107(2)(d), C.R.S., the Secretary of State may seek injunctive action or other penalties as a remedy to violations of this Rule. Failure to assess locations and timely file complete accessibility surveys, or develop and implement necessary barrier removal plans in accordance with this Rule may result in denial of applications for accessibility grant funds.

Rule 8. Rules Concerning Watchers**8.1 Definitions:**

8.1.1 “Official Observer” means either an observer appointed by the Secretary of State or an observer appointed by the federal government and approved by the Secretary of State. Official Observers may be present in all phases of the election process, but are subject to rules and regulations as prescribed by the Secretary of State and perform duties as may be assigned by the Secretary of State.

8.1.2 “Watcher” shall mean an eligible elector, in the State of Colorado, other than a candidate on the ballot who has been selected by a political party chairperson on behalf of the political party, by a party candidate at a primary or recall election, by an unaffiliated candidate at a general, congressional vacancy, nonpartisan, or recall election by a person designated by either the opponents/proponents in the case of a ballot issue or ballot question. If selected by a political party chairperson, a party candidate, or an unaffiliated candidate, the watcher shall be affiliated with that political party or unaffiliated as shown on the registration books of the county clerk and recorder. A designated watcher need not be a resident of the county he or she is designated in as long as he or she is an eligible elector in the State of Colorado. See section 1-1-104(51), C.R.S.

8.1.3 “Media Observer” shall mean an observer with valid and current media credentials from the media who shall adhere to the formal document “Guidelines for Members of the Media Who Observe Election Counts and Recounts” dated June 2004, as may be amended, which are incorporated herein by this reference for all proper purposes.

8.2 Qualification of Watchers. Watchers shall certify they are qualified pursuant to sections 1-1-104(51), 1-7-105, 1-7-106, 1-7-107, and 1-7-108(2), C.R.S. Watchers shall take an oath as provided in section 1-7-108(1) and shall, upon first entering the precinct place or location, surrender to the election official or election judges a certificate of appointment at each precinct polling place or location where the watcher has been designated to act.

8.2.1 If a watcher leaves a precinct and the same watcher returns later in the day to the same precinct, another certificate of appointment is not necessary and shall not be required. The original certificate of appointment will suffice.

8.2.2 If a watcher is replaced during the day, the watcher replacing the original watcher must have an original certificate of appointment for that precinct.

8.2.3 Certificate of appointment as a watcher is not transferable to another individual.

8.3 Political party attorneys are not allowed in the polling place unless they are duly appointed as watchers.

8.4 Watchers are not allowed to have cell phones, cameras, recording devices, laptops or PDAs (Palm Pilot, Blackberry, etc.) in the polling place.

8.5 List of Eligible Electors. To assist Watchers in performing their tasks, the election official or election judge shall provide a list, log, check-in card or other similar information of voters who have appeared in the precinct polling place to vote. The information or documents shall not be removed from the polling place or voting location. Watchers may maintain a list of eligible electors who have voted by utilizing only that information provided by the election official or election judge, except that they may bring with them into the polling place or location a list of

electors previously maintained by the Watcher. Section 1-7-108(3), C.R.S.

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

8.6.1 The “immediate voting area” is the area that is within six feet of the voting equipment, voting booths, and the ballot box.

8.6.2 The designated election official must position the voting equipment, voting booths, and the ballot box so that they are in plain view of the election officials and watchers.

8.6.3 Watchers are permitted to witness and verify the conduct of elections and recount activities. Witness and verify means to personally observe actions of election judges in each step of the conduct of an election.

(a) The conduct of election includes polling place and early voting, and ballot processing and counting.

(b) Watchers must remain outside the immediate voting area.

(c) Watchers may be present at each stage of the conduct of the election, including the receiving and bundling of the ballots received by the designated election official.

(d) Watchers may be present during provisional ballot processing but may not have access to confidential voter information.

(e) The number of watchers permitted in any room at one time is subject to local safety codes.

8.6.4 Watchers may witness and verify activities described in Article I, Section 7 that are outside the immediate voting area, including ballot processing and counting.

8.6.5 Watchers appointed under section 1-10.5-101(1)(a), C.R.S., may observe the canvass board while it performs its duties.

8.6.6 Watchers may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule 48, and submit written complaints in accordance with section 1-1.5.105, C.R.S., and Rule 31.8.7 What Watchers May Observe. Duly appointed Watchers may observe polling place voting, early voting and the processing and counting of precinct, provisional, mail, and mail-in ballots. For mail ballot elections, or mail-in ballot processing, 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 be present during provisional ballot processing but may not have access to confidential voter information.

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

8.7.1 Attempt to determine how any elector voted or review confidential voter information;

8.7.2 Disclose any confidential voter information that he or she may observe; or

8.7.3 Disclose any results before the polls are closed and the designated election official has formally announced results.

- 8.8 Limitations of Watchers. Watchers may not:
- 8.8.1 Interrupt or disrupt the processing, verification and counting of any ballots or any other stage of the election.
 - 8.8.2 Write down any ballot numbers or any other identifying information about the electors.
 - 8.8.3 Handle the poll books, official signature cards, ballots, mail ballot envelopes, mail-in ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.
 - 8.8.4 Interfere with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots.
 - 8.8.5 Interact with election officials or election judges as defined in section 1-1-104(10), C.R.S. except for the individual designated by the election official.
- 8.9 Appointment of Watchers
- 8.9.1 Parties May Appoint Watchers. Major and minor political parties with candidates on the ballot may appoint one Watcher each to be present to observe polling place voting, early voting, and the processing and counting of regular, provisional, mail and mail-in ballots. See sections 1-7-105 and 1-7-106, C.R.S.
 - 8.9.2 Registered Issue Committees May Appoint Watchers. Registered issue committees supporting or opposing a ballot measure may appoint one Watcher each to be present to observe polling place voting, early voting, and the processing and counting of regular, provisional, mail and mail-in ballots.
- 8.10 Official Observers Appointed by the Federal Government. Official Observers appointed by the federal government shall be approved by the Secretary of State and shall be subject to Colorado law and these rules as they apply to Watchers; however, they need not be eligible electors in the jurisdiction in which they act as Watchers. This Rule shall not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State shall be subject to the rules and regulations as prescribed by the Secretary of State. Official Observers shall obtain from the Secretary of State, or his or her designee, duly executed letters of authority. The Official Observers shall surrender such letter of authority to the designated election official in the jurisdiction in which they act as Watchers.
- 8.11 Watchers, Official Observers and Media Observers at a Recount. Watchers, Official Observers and Media Observers may be present at a recount. Watchers, Official Observers and Media Observers must be qualified and sworn for a recount in the same manner as provided in Rule 8.2 and are subject to all other provisions related to the recount process. Any political party, candidate involved in the recount or proponents or opponents of an issue or question involved in the recount may appoint one Watcher to be present at any time during the recount. The candidate who is subject to a recount may appoint him or her self, or a member of the candidate's family by blood or marriage, as a watcher at a recount. See sections 1-7-105 and 1-7-106, C.R.S.
- 8.12 Media Observers. Media Observers with valid and current media credentials may be present to witness early voting, election day voting and the processing and counting of provisional, mail and mail-in ballots. However, at the discretion of the county clerk and recorder, Media Observers may be required to appoint one member of the media as a pool reporter, and one member as a pool photographer to represent all media observers in accordance with the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Association and

the Secretary of State as set forth herein:

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

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

1. *If practical, please contact the election official's office prior to coming to observe the counting of ballots. If the election official knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.*
2. *At the discretion of the election official, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there are insufficient sight lines for you to take the photos or video you need, the election official may be able to make arrangements to accommodate your needs.*
3. *Please observe counting procedures without disrupting the count. Please take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.*
4. *The Secretary of State's election rules state that if observers leave the area during a recount, they may not reenter without the consent of the election official. If you have occasion to leave the area, you may be denied re-admittance.*
5. *Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.*

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

- 8.13 Watchers at Vote Centers. To assist Watchers in performing their tasks when a vote center election is held, the designated election official shall provide a list of all voters who have appeared in the vote centers to vote. This list shall be made available at the designated election official's main office. Such list may be made available to a requesting Watcher(s) in the form of data files, paper or reports, and furnished to all interested parties via email, paper reports, or faxed copies as may be available to the designated election official.
- 8.14 A designated election official shall certify the appointment of all eligible watchers duly designated by a political party, candidate or committee pursuant to sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.

8.15 Removal of Watchers.

8.15.1 A designated election official may remove a watcher upon finding that the watcher:

- (a) Commits or encourages fraud in connection with his or her duties;
- (b) Violates any of the limitations outlined in Rule 8.8;
- (c) Violates his or her oath; or
- (d) Is abusive or threatening toward election officials or voters.

8.15.2 Upon removal of a watcher, the designated election official must inform the political party, candidate, or committee who appointed the watcher.

8.15.3 A removed watcher may be replaced by an alternate watcher duly designated in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S. Any designated election official who removes a watcher must, to the best of the official's ability, expeditiously certify the appointment.

8.16 Watchers may be designated to observe more than one precinct or polling place but in no event shall more than one watcher be designated for any single polling place. See section 1-7-106, C.R.S.

8.17 Watchers may be appointed to observe recall elections held pursuant to article 12, title I, C.R.S. and shall be designated in accordance with sections 1-7-106 and 1-7-107, C.R.S.

Rule 9. Rules Concerning Voting Assistance for electors with disabilities

9.1 The county clerk and recorder must post a sign at the polling place or vote center that states:

*NOTICE
VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES*

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

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

I,, certify that I am the individual chosen by the elector to assist the elector in casting a ballot.'

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

9.2 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.

Rule 10. Rules Concerning Ballots and Election Supplies

- 10.1 The text of all ballot issues that are 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 be printed in upper and lower case.
- 10.2 If a ballot has been printed in error, the designated election official shall consult, as soon as the error is discovered, with the Secretary of State and follow the direction of the Secretary of State on the appropriate method of correction.
- 10.3 If there is no candidate on the ballot for any particular office, the ballot shall read, "No candidate for this office."
- 10.4 Candidates whose names are listed on a ballot must provide an audio recording of the pronunciation of their name to the Secretary of State prior to the election for offices that are voted on by the electors of the entire state, or of a congressional district, or for the offices of members of the general assembly or district attorney or a district office of state concern.
- 10.4.1 For candidates designated by a major or minor party, such audio recording shall be provided no later than the last day upon which the candidate acceptance may be filed with the Secretary of State in accordance with Article 4 of title 1, C.R.S. The audio recording of the candidate's name shall be recorded exactly as it is provided on the candidate acceptance form that is submitted to the Secretary of State, and as they wish it to appear on the ballot.
- 10.4.2 For candidates nominated by petition, such audio recording shall be provided no later than the last day upon which the petition of nomination and candidate acceptance may be filed with the Secretary of State in accordance with Article 4 of title 1, C.R.S. The audio recording of the candidate's name shall be recorded exactly as it is provided on the candidate acceptance form that is submitted to the Secretary of State, and as they wish it to appear on the ballot.
- 10.4.3 For unaffiliated candidates for president who seek placement on the General Election ballot by submitting a candidate's statement of intent and a filing fee to the Secretary of State in accordance with section 1-4-303(1), C.R.S., such audio recording shall be provided no later than the last day upon which the candidate's statement of intent may be filed with the Secretary of State in accordance with Article 4 of title 1, C.R.S. The audio recording of the candidate's name shall be recorded exactly as it is provided on the candidate's statement of intent that is submitted to the Secretary of State, and as they wish it to appear on the ballot.
- 10.4.4 For district and county judges seeking retention, such audio recording shall be provided no later than the date upon which the declaration of intent to run for retention in a judicial office may be filed with the Secretary of State in accordance with Article VI, Section 25 of the Colorado Constitution. The audio recording of the candidate's name shall be recorded exactly as it is provided on the declaration of intent to run for retention in a judicial office that is submitted to the Secretary of State, and as they wish it to appear on the ballot.
- 10.5 County, municipal, school district, and special district candidates whose names are listed on a ballot for an election coordinated by the county clerk and recorder must provide an audio recording of the pronunciation of their name to the county clerk and recorder prior to the election for offices that are voted on by the electors of the county, municipality, school district, or special district.

- 10.5.1 For candidates designated by a major or minor party, such audio recording shall be provided no later than the last day upon which the designated election official certifies the ballot content to the county clerk and recorder in accordance with section 1-5-203(3)(a), C.R.S. The audio recording of the candidate's name shall be recorded exactly as it is provided on the candidate's statement of intent that is submitted to the designated election official, and as they wish it to appear on the ballot.
- 10.5.2 For candidates nominated by petition, such audio recording shall be provided no later than the last day upon which the designated election official certifies the ballot content to the county clerk and recorder in accordance with section 1-5-203(3)(a), C.R.S. The audio recording of the candidate's name shall be recorded exactly as it is provided on the candidate's statement of intent that is submitted to the designated election official, and as they wish it to appear on the ballot.
- 10.6 Printing primary election ballots.
- 10.6.1 If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates more than one candidate for any office, the county clerk and recorder must conduct the primary election for all major political parties.
- (a) The county clerk must include on the ballot all offices to which candidates may be nominated in the primary election.
 - (b) If there are no candidates for any particular office, the county clerk must print on the ballot "There are no candidates for this office".
- [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.3]
- 10.6.2 If a minor political party, as defined in section 1-1-104(23), C.R.S., has more than one candidate for any office, the county clerk and recorder may conduct the primary election for that party only.
- (a) The county clerk must include on the ballot only the offices for which there is more than one candidate designated.
 - (b) If there is only one minor party candidate designated for any office, the candidate will be certified to the general election ballot.
- [Sections 1-4-101, 1-4-104.5(3), and 1-4-1304, C.R.S.]
- 10.7 Voiding ballots due to timely changes in address or affiliation.
- 10.7.1 If an elector submits a timely address or affiliation change after the county mails ballots or sends the voter file to the vendor, the county must void the first ballot and generate a second ballot.
- (a) If the county processes the change to the elector's record after it sends the voter file to the vendor but before the vendor prints ballots, the county must provide the vendor a voided ballot file to prevent the vendor from printing and preparing voided ballots for mailing.
 - (b) If the county processes the change to the elector's record after the vendor has printed ballots but before the vendor mails ballots, the county must work with the vendor to make every reasonable effort to remove voided ballots before they enter the mail stream.

- 10.7.3 If the county mails its own ballots, the county clerk must remove all voided ballots before mailing.
- 10.7.4 If the county processes the change to the elector's record after it mails ballots, the county must count the first ballot returned by the elector except as follows:
- (a) In the case of an affiliation change, the county must count the ballot issued for the new party affiliation.
 - (b) In the case of an address change that results in a change of precinct, the county must count the ballot issued for the elector's new address.
- 10.8 Use of unique numbers on ballots.
- 10.8.1 Except for ballots sent to military or overseas electors by electronic transmission under Rule 25.2.7, no county may print a ballot for use in a state or federal election that has a unique number, or a barcode containing a unique number, that is specific to a single ballot.
- (a) A county that uses rotating numbers must print at least ten ballots of each ballot style for each number.
 - (b) Nothing in this rule prohibits a county from printing a unique number or barcode on the removable stub.
- 10.8.2 After election judges have dissociated a voted ballot from its envelope and the stub is removed, the county may write or print unique numbers on the voted ballot for auditing and accounting purposes, including duplication of damaged ballots and risk limiting audits.
- 10.8.3 For ballots printed before the adoption of this rule that are in a county's possession, the county must redact unique numbers, or barcodes containing unique numbers, before providing ballots in response to a request for inspection under the Colorado Open Records Act (Section 24-72-205.5(4)(b)(II), C.R.S.).
- 10.9 Tracking ballot batches. The county clerk must dissociate any batch number that could trace a ballot back to the specific voter who cast it from the counted ballots no later than the final certification of the abstract of votes cast.

Rule 11. Rules Concerning Voting Systems

11.1 Definitions

- 11.1.1 “Central Count” shall mean a ballot counting process whereby cumulative voting totals are tabulated for multiple precincts and multiple ballot styles at a single location.
- 11.1.2 “Election Setup Records” shall mean the electronic records generated by election tabulation software during election setup to create and define ballots, tabulation instruction, and other functions related to the election.
- 11.1.3 “Electronic Ballot” shall mean a ballot that is presented to the voter in a non-paper form such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter’s choices may be:
- Marked and printed on a paper ballot for subsequent counting by a paper ballot scanning device; or
 - Digitally recorded and counted by the touch screen device, commonly referred to as a Direct Record Electronic (DRE) device.
- 11.1.4 “Election Software” shall mean the software to be installed or residing on election equipment firmware or on election management computers that control election setup vote recording, vote tabulation and reporting.
- 11.1.5 “Electronic Voting Device” shall mean a device by which votes are recorded electronically, including a touch screen system.
- 11.1.6 “Electronic Vote-Tabulating Equipment” or “Electronic Vote-Counting Equipment” shall mean any apparatus that examines and records votes automatically and tabulates the result, including but not limited to optical scanning equipment. The term includes any apparatus that counts votes electronically and tabulates the results simultaneously on a paper tape within the apparatus, that uses an electronic device to store the tabulation results, and that has the capability to transmit the votes into a central processing unit for purposed of a printout and an official count.
- 11.1.7 “Electromechanical Voting System” shall mean a system in which an elector votes using a device for marking a paper ballot using ink or another visible substance and the votes are counted with electronic vote-tabulating equipment, or a system in which votes are directly recorded electronically within the equipment on paper tape and are recorded simultaneously on an electronic device that permits tabulation at a counting center.
- 11.1.8 “Firmware” shall mean computer programs, stored on read-only memory devices or other electronic circuitry in voting devices, WHICH control the basic operation and functioning of those devices.
- 11.1.9 “Logic and Accuracy Test (LAT)” shall mean a step by step documented review of a voting device’s ability, prior to use in any election, to produce accurate results on voter choices for the candidates and ballot issues in an election. The Logic and Accuracy test shall fulfill the requirements OF the Public Test as identified in section 1-7-509(2), C.R.S.
- 11.1.10 “Precinct Count” shall mean a ballot counting process whereby voting totals are tabulated for single/multiple precincts OR single/multiple ballot styles at individual polling place locations.

- 11.1.11 “Secure” as USED in section 1-7-505, C.R.S., shall mean any method of preventing the use of the voting equipment prior to and after all legal votes are cast.
- 11.1.12 “Vote Center Count” shall mean a ballot counting process whereby cumulative voting totals are tabulated for multiple precincts and multiple ballot styles at multiple locations.
- 11.1.13 “V-VPAT” shall mean “voter verified paper record” as defined in section 1-1-104(50.6), C.R.S.
- 11.1.14 “Voting System” shall mean a system that facilitates the process of casting, recording, and tabulating votes using electromechanical or electronic devices or ballot cards and includes, but is not limited to, the procedures of casting and processing votes and the operating manuals, hardware, firmware, printouts, and software necessary to operate the voting system.
- 11.1.15 “Voting System Provider” shall mean an individual engaged in private enterprise or a business entity engaged in selling, leasing, marketing, designing, building, or modifying voting systems to the state, a political subdivision of the state, or another entity authorized to hold an election under Title 1 of the Colorado Revised Statutes.
- 11.1.16 “Zero Tape” shall mean a printout of the internal data registers in electronic vote-tabulating equipment indicating that those registers contain values of “Zero (0)” and reflect no voter choices for any candidate or ballot issue.

11.2 Voting System Access

- 11.2.1 The county clerk and recorder shall not program or operate the voting system subject to section 1-5-607, C.R.S.
- 11.2.2 Any election setup materials shall be stored by the county clerk and recorder under security with access limited to the person or persons so authorized in writing by the county clerk and recorder.
- 11.2.3 Employees of the county clerk and recorder who are authorized by the county clerk and recorder to prepare or maintain the voting system or election setup materials shall be deputized by the county clerk and recorder for this specific purpose and so sworn prior to the first election of the calendar year in which they will be performing one or more of these activities.
- 11.2.4 The county clerk and recorder shall request an Internet Criminal History Check (ICHC) from the Colorado Bureau of Investigation (CBI) for all full-time, part-time, permanent and contract employees of the county who staff the counting center and who have any access to the electromechanical voting systems or electronic vote tabulating equipment. At the direction of the county clerk and recorder, an ICHC check may be conducted on election judges. The county clerk and recorder shall request the ICHC once per calendar year for such employees prior to the first election of the year.
- 11.2.5 If the ICHC indicated that the employee or contract employee has been found guilty of a crime involving breach of trust, fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or election offenses pursuant to sections 1-13-101 *et seq.*, C.R.S., the county clerk and recorder shall prohibit such employee or contact employee from preparing, programming, operating, using or having any access whatsoever to electromechanical voting systems or electronic vote tabulating equipment at any time during that person’s employment.

11.2.6 Vendors or their authorized representatives shall provide a criminal history check to the county clerk and recorder for any employee of the vendor who has any access to electromechanical voting systems or electronic vote tabulating equipment. The vendor shall provide the criminal history check to the county clerk and recorder once per calendar year for such employees prior to the first election of the year.

11.3 Performance Bond

11.3.1 Effective upon the date of the adoption of this rule, a Voting System Provider or service provider that provides election setup or tabulation services to one or more counties shall:

- (a) Provide the services by written contract, a copy of which shall be kept on file with the county clerk and recorder and the Secretary of State;
- (b) Post a Performance Bond, executed by a corporate surety licensed to transact business in the State of Colorado. The county under contractual obligation with the Voting System Provider or service provider that provides election setup or tabulation services shall be designated as the Beneficiary of the bond; and
- (c) Provide proof that a performance bond has been posted with the Secretary of State and the office of the designated election official. The amount of the bond shall be the greater of either \$10,000 or the full amount of the contract with the beneficiary county.

11.3.2 Performance bonds shall be on file 30 (thirty) days prior to any work commencing under contract with the county.

11.3.3 The Voting System Provider shall update all bond documents for each contract or election performed.

11.3.4 Copies of the performance bond for the secretary of state's office shall be sent to: Colorado Department of State, Voting Systems Specialist, 1700 Broadway, Suite 270, Denver, Colorado 80290, or to voting.systems@sos.state.co.us

11.4 Voting System Inventory

11.4.1 The designated election official shall maintain an inventory record for each electronic vote-tabulating device used in an election. Such records shall include but not be limited to the manufacturer, make, model, serial number, hardware/firmware/software version or release number, hash value documentation where applicable, date of acquisition, description of any services, repairs, maintenance, upkeep, and version upgrades, and the dates of performance of such services as of the date of adoption of these rules.

11.4.2 The designated election official shall furnish the Secretary of State with an extract or copy of the inventory for use in the Logic and Accuracy Test and the Post-Election Audit Test. The requirements for this extract are:

- (a) Be in either electronic or paper format;
- (b) Contain information regarding: make, model, serial number, type (optical scanner or DRE), specific location of use, and specific precincts programmed on each device or card;
- (c) Inventories maintained in electronic format shall be exportable to an industry standard file type – comma separated (CSV), excel spreadsheet (XLS), or Quote

or Tab separated (TXT) file prior to electronic delivery to the Secretary of State; and

- (d) The designated election official shall send the inventory list to the Secretary of State's office not less than ten (10) days prior to an election to the attention of the Voting Systems Specialist. Inventory lists may be sent in one of three means: E-mail: voting.systems@sos.state.co.us Subject line = County Number, County Name, HARDWARE INVENTORY LIST; or Via facsimile to: 303-869-4861 attn: Secretary of State, Voting Systems Specialist; or via First Class Mail to Colorado Department of State/Attn: Voting Systems Specialist/1700 Broadway – Suite 270/Denver, CO 80290.

11.5 Voting System Testing

11.5.1 Three types of voting system testing shall be performed for each election within a jurisdiction. The three tests are:

- A Hardware Diagnostic Test;
- A Logic and Accuracy Test (LAT); and
- A Post-Election Audit Test.

11.5.2 Hardware Diagnostic Test

11.5.2.1 The county clerk and recorder shall commence the Hardware Diagnostic Test prior to the election and allow time for each electronic voting device within the county to be tested. Each device being used in the election, including units identified as spare or backup units, shall be tested to verify that mechanical components are working correctly. This test shall include, but not be limited to, the following tests:

- (a) All input and output devices;
- (b) Communications ports;
- (c) System printers;
- (d) System modems when applicable;
- (e) System Screen displays;
- (f) Boot performance and initializations;
- (g) Firmware loads;
- (h) Software loads;
- (i) Display of firmware/software hash value (MD5 or SHA-1) when possible;
- (j) Confirmation that screen displays are functioning; and
- (k) Date, time and calibration of systems.

- 11.5.2.2 Each device tested shall be sealed upon the successful completion of the test. Documentation of the seal information and all records from testing must be maintained for each device.

11.5.3 Logic and Accuracy Test

The designated election official shall conduct a Logic and Accuracy Test according to the following requirements.

- 11.5.3.1 The designated election official shall create a Testing Board consisting of at least two persons, one from each major political party.
- 11.5.3.2 Prior to the commencement of voting, the designated election official shall conduct the public Logic and Accuracy Test.
- 11.5.3.3 The Logic and Accuracy test shall be open to representatives of the press and the public to the extent allowable and pursuant to section 1-7-509(2)(b), C.R.S. The designated election official may limit the number of representatives from each group to accommodate for space limitations and other considerations.
- 11.5.3.4 Testing Board Test Ballots – In preparation for the Logic and Accuracy Test, the designated election official shall provide to each member of the Testing Board, at least twenty-five (25) ballots that are clearly marked as test ballots to be used for the Logic and Accuracy Test.
- 11.5.3.5 The members of the Testing Board shall secretly vote their position and retain a record of the tally of their test votes. The test ballots shall have a known predetermined outcome by the members of the Testing Board's secret vote and tally. Of the twenty-five test ballots, two shall be tested as audio ballots where applicable.
- 11.5.3.6 County Test-Ballots – In preparation for the Logic and Accuracy Test, the designated election official shall prepare a sufficient number of test ballots that represent every precinct which shall include every ballot style, allow for a sufficient number of ballots to mark every vote position for every candidate on every race including write-in candidates, allow for situations where a race may permit an elector to vote for two or more positions, and include overvotes and undervotes for each race.
- 11.5.3.7 The test ballots shall be tested on each type of voting device utilized in a given election and each method of counting. The tests shall include testing of mail-in ballot counting methods, election day counting methods, provisional ballot counting methods, early voting counting methods and audio ballots, if applicable.
- 11.5.3.8 Conducting the Test
 - 11.5.3.8.1 The designated election official and Testing Board shall observe the tabulation of all test ballots by means of the voting device and compare the tabulation with the previously retained records of the test vote count. The cause of any discrepancies shall be corrected prior to the start of vote tabulation.
 - 11.5.3.8.2 Prior to the start of testing, all devices used will have the public counter reset to zero, and presented to the testing board for

verification. For any device capable of producing the trusted build hash value (MD5 or SHA-1) of the firmware or software, the Election Official shall verify and document the accuracy of the value to be included with the records for the device.

11.5.3.8.3 An appropriate number of voting devices will be available and the testing board may witness the necessary programming and/or downloading of memory devices necessary to test the specific precincts.

11.5.3.8.4 The Testing Board and designated election official or his or her designated deputized clerks, as necessary, shall count the test ballots as follows:

(a) Mail-in Ballots:

- (1) All county test ballots shall be counted on at least one, but not more than three, mail-in ballot vote counting devices and have the predetermined total verified to the machine total.
- (2) All Testing Board Member test ballots shall be counted individually with reports generated to verify the machine count to the predetermined hand tally.

(b) Precinct Count Ballots (Optical Scan and DRE):

- (1) The Testing Board shall randomly select 20% but not more than 10 ballots representing unique precincts from the Testing Board's test ballots.
- (2) In the event a selected precinct contains a combination of DRE and Optical Scan voting devices, the Testing Board shall decide on the percentage of ballots to be counted on each type of device used for that precinct.
- (3) The precinct specific county test ballots will be added to the testing board test ballots to be counted on the specific precinct device. The testing board shall manually verify the ballots to be counted prior to any machine count.
- (4) The Testing Board shall verify the manual count to the voting device count.

(c) Vote Center Count Ballots – Optical Scan:

- (1) All testing board test ballots shall be counted on at least one, but not more than 5 voting devices designated for Vote Center Counting and have the predetermined total verified to the machine total.
- (2) All test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the test ballots.

- (3) The testing board shall randomly select the machines to be tested.
 - (d) Vote Center Count Ballots – DREs:
 - (1) All testing board test ballots shall be counted on at least one, but not more than 5 DREs designated for Vote Center Counting and have the predetermined total verified to the machine total.
 - (2) All test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the test ballots.
 - (3) The testing board shall randomly select the machines to be tested.
 - (e) Early Voting and Provisional Ballots Counted on Optical Scan Devices:
 - (1) All test ballots shall be counted on at least one, but not more than five, optical scan devices designated for Early Voting or Provisional Ballot Counting and have the predetermined total verified to the machine total.
 - (2) All test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the test ballots.
 - (f) Early Voting and Provisional Ballots Counted on DREs:
 - (1) All test ballots shall be counted on at least one, but not more than five, DREs designated for Early Voting or Provisional Ballot Counting and have the predetermined total verified to the machine total.
 - (2) All Testing Board Member test ballots shall be counted individually with reports generated to verify the machine count to the predetermined tally of the Testing Board test ballots.
- 11.5.3.8.5 DREs equipped with V-VPAT devices shall be manually verified (by hand) to determine that the pre-determined total of the testing board ballots, matches the V-VPAT total, which in turn matches the machine total.
- 11.5.3.8.6 At least two of the testing board ballots shall be identified as Audio Ballots to be tested as such, and included with the count.
- 11.5.3.8.7 All test materials, when not in use, shall be kept in a metal box with individual seals for each member of the Testing Board. The designated election official may affix his or her own seal in addition to those of the Testing Board. The designated election official shall be the custodian of the box or boxes but shall not open and/or use the test materials outside of the presence of the Testing Board.

11.5.3.8.8 The Testing Board and the designated election official shall sign a written statement attesting to the qualification of each device that was successfully tested, the number of the seal attached to the voting device at the end of the test, any problems discovered, and provide any other documentation as necessary to provide a full and accurate account of the condition of a given device.

11.5.3.8.9 Upon completion of the testing, the Testing Board shall witness the resetting and sealing of each tested voting device.

11.5.4 Post-Election Audit

11.5.4.1 Within forty-eight (48) hours of the close of polls on election night, the Secretary of State shall notify the designated election official which voting devices and which race or races on the ballots have been selected for auditing purposes based on the submitted hardware inventory list referred to in Rule 11.4.2.

11.5.4.2 The selection of equipment will be based on a random selection of five (5) percent of precinct scanner based voting equipment, at least one Central Count Scanner/vote center, and five (5) percent of Direct Record Electronic (DRE) voting devices.

11.5.4.3 Pursuant to section 1-7-514, only devices used in the election shall be selected for the audit.

11.5.4.4 For optical scanners used for any function of counting ballots except for Central Count/vote center as defined herein, the designated election official shall manually verify all of the ballots that were counted on the randomly selected device(s) with the election summary report that was generated from the device(s) at the close of the polls. The Secretary of State shall randomly select a minimum of two (2) races per device to be manually verified to ensure that each office, issue, and question on the ballot is audited in accordance with section 1-7-514, C.R.S.

11.5.4.5 For Optical Scanners used for the purpose of counting ballots in a Central Count/vote center environment as defined herein, the designated election official shall randomly select five (5) percent but not more than five hundred (500) ballots of all the ballots counted on the specific audited device. If the amount of ballots is less than five hundred (500) on the audited device, then a minimum of twenty percent (20%) of the ballots counted on the device will be manually verified. The public counter for that voting device shall be reset to zero, and the ballots shall be recounted on the voting device. A new report will be generated from the electronic count of the ballots and shall be manually verified. The ballots and a copy of the report shall be sealed in a separate container and secured with the remainder of the official election records for the election. The Secretary of State shall randomly select a minimum of two (2) races per device to be manually verified to ensure that each office, issue, and question on the ballot is audited in accordance with section 1-7-514, C.R.S.

11.5.4.6 For Direct Record Electronic Devices (DREs) that do not meet the requirements of section 1-5-802, C.R.S., used for any function of counting ballots in an election, the designated election official will manually verify the image of all the ballots contained in the Ballot Log or Ballot Audit that were counted on the specific device with the report generated for that specific device at the close of polls which contains the election summary report. The

Secretary of State shall randomly select a minimum of two (2) races per device to be manually verified to ensure that each office, issue, and question on the ballot is audited in accordance with section 1-7-514, C.R.S.

- 11.5.4.6.1 For any device capable of producing the trusted build hash value (MD5 or SHA-1) of the firmware or software, the designated election official shall verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.
- 11.5.4.7 For Direct Electronic Devices (DREs) that do meet the requirement of section 1-5-802, C.R.S., used for any function of counting ballots in an election, after the close of the polls, the designated election official will manually verify all of the voter verified paper record produced with the report generated for that specific device, which contains the election summary report. The Secretary of State shall randomly select a minimum of two races on each device to be manually verified to ensure that each office, issue, and question on the ballot is audited in accordance with section 1-7-514, C.R.S.
 - 11.5.4.7.1 For any device capable of producing the trusted build hash value (MD5 or SHA-1) of the firmware or software, the designated election official shall verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.
- 11.5.4.8 The actions of the random audit as identified in this section are to be observed by at least two members of the canvass board. The designated election official may appoint additional deputized clerks to assist in the functions of the audit.
- 11.5.4.9 If there are discrepancies in the audit, the canvass board or the designated election official's deputized clerks shall:
 - 11.5.4.9.1 First, manually verify the results as many times as necessary to confirm that there is no discrepancy in the manual count;
 - 11.5.4.9.2 Second, take any additional steps as necessary to check for voter error, which shall include but not be limited to: over-votes, stray marks on the ballot, or other voter intent indicia; and
 - 11.5.4.9.3 Third, review the situation and take action as necessary in accordance with the canvass board's powers as set forth in part 1 of Article 10 of Title 1 Colorado Revised Statutes.
- 11.5.4.10 At all times relevant to the Post-Election Audit, the designated election official or the deputized clerks or the canvass board shall take every precaution necessary to protect the confidentiality of the ballots cast by the electors.
- 11.5.4.11 Upon completion of the audit, the designated election official shall promptly report the results of the audit to the Secretary of State's Office. The report shall be submitted following the completion of the audit and up to and including 5:00 pm on the last day of the canvass. The report shall contain:
 - (a) The make, model, and serial number of the voting device that was audited.
 - (b) The number of ballots originally counted by the device or the number of ballots audited as identified in paragraph (d) of this section;

- (c) The count of the specific race or races as provided on the summary report printed at the close of polls or the report generated for the audit;
- (d) The count of the specific race as manually verified;
- (e) Any other information required by section 1-7-514, C.R.S.; and
- (f) The signature of the canvass board and the designated election official.

11.5.4.12 The report may be sent by any of the following three methods: E-mail: voting.systems@sos.state.co.us; Subject line = County Number, County Name, POST-ELECTION AUDIT; or via facsimile to: 303-869-4861 attn: Secretary of State, Voting Systems Specialist; or via First Class Mail to Colorado Department of State/ Attn: Voting Systems Specialist/1700 Broadway – Suite 270/Denver, CO 80290.

11.6 Procedures for Voter-Verifiable Paper Audit Trail (V-VPAT)

11.6.1 Security

11.6.1.1 The V-VPAT record is considered an official record of the election, pursuant to section 1-5-802. All security procedures related to election ballots shall apply to V-VPAT records.

11.6.1.2 The housing unit for any V-VPAT record to be used in the election shall be sealed and secured prior to any votes being cast for the election. Documentation of the seal number(s) must be maintained and noted prior to voting, and at the conclusion of voting.

- (a) Election Judges shall attest to the V-VPAT record having no votes included on the paper record prior to the start of voting, and prior to the installation or replacement of a new V-VPAT record.

11.6.1.3 If a DRE with V-VPAT is used during early voting, the seal number(s) must be recorded at the beginning and end of each voting day.

11.6.1.4 At the Close of the polls, the V-VPAT records will be transferred to the central office in the same manner as any paper ballots. In the absence of paper ballots, the V-VPAT records will be transferred to the central office in the same manner as any memory cards containing electronic ballots.

11.6.2 Anonymity

11.6.2.1 The Election Official shall put measures in place to protect the anonymity of voters choosing to vote on DREs during the voting periods. These measures shall include:

- (a) Encouraging poll workers to personally vote on DREs when possible to ensure more than one vote will be cast on the device.
- (b) Appropriate marking in Poll Book or other voting list indicating voters choice to vote on DRE with the words: "Voted DRE", or similar in place of paper ballot information. No record shall be kept indicating the order in which people voted on the DRE, or which V-VPAT record is associated with the voter.

- (c) When more than one DRE is available at a voting location, the voter shall be given the choice as to which DRE they would like to vote on, to the extent practical.
- (d) Encouraging or allowing any and all voters the opportunity to vote on a DRE if desired.

11.6.2.2 Any report or export (electronic or paper based) generated from an Electronic Pollbook shall remove the date/time stamp from the record and not use this field as a sort method. Any assignment of Record IDs, Key ID, or Serial Number stored in the database of votes shall be randomly assigned.

11.6.2.3 Any Pollbook, electronic, paper or otherwise shall not be exposed to the same people at the same place who have exposure to the V-VPAT records.

11.6.2.4 The examination of the V-VPAT record shall always be done by at least two witnesses.

11.6.3 Storage

11.6.3.1 The storage of the V-VPAT records must be consistent with storage of Paper Ballots pursuant to section 1-7-802.

11.6.3.2 Individual spools containing V-VPAT records must contain the following catalog information affixed to the spool:

- (a) Date and Name of Election;
- (b) Name of Voting Location;
- (c) Date(s) and Time(s) of Voting;
- (d) Machine Serial Number of DRE Associated with the Record; and
- (e) Number of spools associated with this machine for this election (i.e. "Spool 1 of 1", or "Spool 1 of 2", etc.).

11.6.3.3 Light sensitive storage containers shall be used for the 25 month storage period to ensure the integrity of the V-VPAT paper record. Containers shall be sealed, with record of the seal numbers maintained on file and signed by two elections officials.

11.6.3.4 A master catalog shall be maintained for the election containing the complete total number of V-VPAT spools used in the election.

11.7 Escrow of County Election Setup

11.7.1 No later than 5:00pm on the seventh (7th) day prior to any election, the designated election official shall deposit a copy of the election setup records with the Secretary of State's office by mail.

11.7.2 Jurisdictions that have contracted with either a Software Service Bureau or a Vendor of Electronic Vote Counting Equipment may choose to have the necessary election setup records delivered to the Secretary of State's office within the specified time frame.

- 11.7.3 Election Setup Records shall be contained within an electronic media format that is native to the jurisdictions specific ballot creation and tabulation system. Acceptable media formats range from Tape, Diskette, Cartridge, CD-ROM, DVD-ROM, Floppy, External Hard Drive, or Flash Media.
- 11.7.4 All copies of electronic media shall be sent to:
- Colorado Secretary of State
Attn: Voting Systems Specialist
1700 Broadway – Suite 270
Denver, CO 80290
- 11.7.5 Jurisdictions will include a point of contact and method of contact (phone, fax, e-mail, etc.) to inform the jurisdiction that the Secretary of State's office has received the election setup records.
- 11.7.6 Within 24 hours of receipt of the election setup files, the Secretary of State or his or her designee will contact the jurisdiction to confirm receipt of the escrow files.
- 11.7.7 The Secretary of State's office will store the setup files in a secured, fire proof, limited access location or container.
- 11.7.8 All parties shall treat as confidential all escrowed materials and any other related information that comes into their possession, control or custody pursuant to this rule.
- 11.8 Escrow of Voting System Software by Voting System Provider
- 11.8.1 Voting System Providers must place in escrow a copy of the election software and supporting documentation being certified with either the Secretary of State or an independent escrow agent approved by the Secretary of State. See section 1-7-511, C.R.S.
- 11.8.2 Within ten days of the Voting System provider receiving notification of examination of voting equipment as part of the certification process, the Voting System Provider shall arrange for the completion of escrow requirements as indicated by this rule.
- 11.8.3 Voting System Provider shall sign a sworn affidavit that the election software in escrow is the same as the election software used in its voting systems in this state. An annual update of the affidavit will be on file in a secured location with the Secretary of State's office.
- 11.8.4 A complete copy of the certified election software including any and all subsystems of the certified software shall be maintained in escrow.
- 11.8.5 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.
- 11.8.6 In addition to the requirements listed below, the Voting System Provider must include a cover/instructions sheet for any escrow material to include the Voting System Provider Name, Address and pertinent contact information, Software Version, Hardware Version, Firmware Revision Number and other uniquely identifying numbers of the software submitted for certification.
- 11.8.7 Election Software Source Code, maintained in escrow, shall contain internal documentation such that a person reasonably proficient in the use of the programming

language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the Source Code should it be removed from escrow for any reason.

- 11.8.8 System documentation shall include instructions for converting the escrowed Source Code into Object Code, organized and configured to produce an executable system, if warranted.
- 11.8.9 System documentation shall include technical architecture design, analysis, detail design, testing and an installation and configuration guide.
- 11.8.10 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 Secretary of State.
- 11.8.11 All parties shall treat as confidential the terms of this Section including all escrow materials and any other related information that comes into their possession, control or custody pursuant to this section.
- 11.8.12 Copies of Electronic media and supporting documentation for Escrow within the Secretary of State shall be sent to:
- Colorado Secretary of State
Attn: Voting Systems Specialist
1700 Broadway – Suite 270
Denver, CO 80290
- 11.8.13 Any cost of using an alternative third party escrow agent shall be borne by the Voting System provider.

Rule 12. Rules Concerning Mail Ballot Elections

12.1 Definitions.

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.

(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.

12.1.2 A separate mail ballot plan is not required from a political subdivision if a county clerk and recorder submits a mail ballot plan for a coordinated election which includes the political subdivision.

12.2 Election Judges.

12.2.1 The designated election official for the election may appoint an appropriate number of judges to receive the ballots after they are mailed, to handle "walk-in" balloting and mail-in ballots at the sites designated for "walk-in" balloting, to check registrations, to inspect, verify, and duplicate ballots when necessary, and to count the ballots and certify results.

12.3 Notice of elections.

12.3.1 Call and notice.

(a) 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.

(b) 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.

12.3.2 Repealed.

12.3.3 For elections coordinated by the county clerk and recorder, a security plan shall be submitted in accordance with Rule 43 in addition to the mail ballot plan submitted in accordance with this Rule.

- 12.3.4 Prior to making a determination to conduct a Primary Election as a mail ballot election, a county clerk and recorder shall give public notice and seek public comment on such determination for a period of not less than ten business days in accordance with section 1-7.5-105(1.5)(b), C.R.S. Such public comment shall be in the form of accepting written comment or conducting a public hearing or both. All written comments received and audio recordings, where applicable, shall be retained as election records.
- 12.3.5 Repealed.
- 12.4 Mail Ballot Plans
- 12.4.1 Coordinated and non-partisan elections.
- (a) Written plan. The designated election official must submit a mail ballot plan to the Secretary of State no later than 55 days before any nonpartisan election, and 90 days before any election that is coordinated with or conducted by the county clerk and recorder. The designated election official must use the approved mail ballot plan template that includes the following:
- (1) Date of the election;
 - (2) Type and name of jurisdiction involved in the election;
 - (3) Description of the type of election to be conducted;
 - (4) Citation of the statute(s) or home rule charter provisions authorizing the election;
 - (5) Estimated number of eligible electors;
 - (6) Name of the designated election official who will be responsible for all aspects of the election;
 - (7) Indication of whether the county clerk and recorder will assist in the election for the entity other than by providing a list of registered electors and other information required by statute;
 - (8) The address and hours of operation for all drop-off locations;
 - (9) For elections coordinated by the county clerk and recorder, the total number of walk-in voting locations;
 - (10) Number of accessible voting machines anticipated being used for walk-in voting locations in elections coordinated by the county clerk and recorder;
 - (11) Length of time accessible voting machines will be available for walk-in voting in elections coordinated by the county clerk and recorder;
 - (12) Written timetable for the conduct of the election in accordance with the statute;
 - (13) Indication of how postage will be handled for ballot packets returned as undeliverable (e.g. "return postage guaranteed");

- (14) Indication of procedures to be followed to ensure compliance with statutes and rules, including persons responsible for each stage;
- (15) Description of procedures to be used to ensure ballot security at all stages of the process;
- (16) Description of procedures for maintaining privacy and security of accessible voting machines to be used in an election coordinated by the county clerk and recorder;
- (17) Description of procedures to be used for signature verification;
- (18) Description of procedures to be used for ballots returned by electors who have not previously voted in Colorado and have failed to include proper proof of identification;
- (19) Description of procedures to ensure privacy by use of a secrecy sleeve or secrecy envelope so receiving judges cannot tell how the elector voted;
- (20) Description of procedures to be used to reconcile ballots issued, ballots received, defective ballots and substitute ballots; and
- (21) An actual sample of the secrecy sleeve or secrecy envelope to be used in the mail ballot election.
- (22) If the governing body is a home rule municipality, the written plan shall also include the following declaration:

“Nothing in this plan reflects locally adopted mail ballot election procedures different from those set forth in the Colorado Mail Ballot Election Act, section 1-7.5-101, C.R.S., et. seq., as from time to time amended, and any regulations adopted pursuant thereto.”

The Secretary of State shall not review the mail ballot plan of any home rule municipality that fails to include the above declaration.

(b) Deadlines and exceptions.

- (1) Repealed.
- (2) Recall election. If a non-partisan recall election will be held as a mail ballot election, the designated election official must submit a written plan to the Secretary of State within five calendar days after calling the election. The Secretary of State will approve or disapprove the plan within five calendar days of receipt in accordance with section 1-12-111.5, C.R.S.

(c) Timetable. The designated election official shall prepare a written timetable for conducting the mail ballot election for a coordinated or non-partisan election with the following specific dates or range of dates regarding each event listed below:

- (1) Date that a copy of the written plan was presented to the governing body;
- (2) Anticipated date of approval of election by the governing body;
- (3) Date of notice of election to the county clerk;

- (4) Date of notice of election to the county assessor, if property owners are eligible to vote in the election;
 - (5) Date by which the county clerk and recorder must submit the list of eligible electors to the political subdivision and, if property owners are eligible to vote in the election, the date by which the county assessor must submit the list of property owners;
 - (6) Date of close of registration;
 - (7) Date ballots will be mailed;
 - (8) Date of publication of notice of election, including information regarding walk-in voting and accessible voting options for elections conducted by the county clerk and recorder;
 - (9) Date that ballots will be made available at the designated election official's office;
 - (10) Date verification and counting of ballots will begin; and
 - (11) Date of the election.
- (d) Request for ballot by inactive – failed to vote elector. In a coordinated or nonpartisan election, the designated election official may not mail a ballot to an elector whose registration record is marked inactive – failed to vote until the elector submits a registration update or a request for a ballot under Section 1-7.5-107(3), C.R.S., and Rule 12.11.

12.4.2 Primary Elections conducted as a mail ballot election.

- (a) Written plan. The county clerk and recorder must submit a mail ballot plan to the Secretary of State no later than 90 days before the election. The county clerk must use the approved mail ballot plan template that includes the following:
- (1) Date of the election;
 - (2) Type and name of the jurisdiction involved in the election;
 - (3) Citation of the statute(s) or home rule charter provisions authorizing the election;
 - (4) Estimated number of eligible electors;
 - (5) The address and hours of operation for all drop-off locations;
 - (6) The address and hours of operation for all service centers;
 - (7) Description of the procedures that will be taken to ensure that each service center complies with the requirements set forth in section 1-7.5-107, C.R.S., including the number of accessible voting machines anticipated being used at each service center;
 - (8) Written timetable for the conduct of the election in accordance with statute;

- (9) Indication of how postage will be handled for ballot packets returned as undeliverable (e.g. "return postage guaranteed");
 - (10) Indication of procedures to be followed to ensure compliance with statutes and rules, including persons responsible for each stage;
 - (11) Description of procedures to be used to ensure ballot security at all stages of the process;
 - (12) Description of procedures for maintaining privacy and security of accessible voting machines to be used;
 - (13) Description of procedures to be used for signature verification;
 - (14) Description of procedures to be used for ballots returned by electors who have not previously voted in Colorado and have failed to include proper proof of identification;
 - (15) Description of procedures to ensure privacy by use of a secrecy sleeve or secrecy envelope so receiving judges cannot tell how the elector voted;
 - (16) Description of procedures to be used to reconcile ballots issued, ballots received, defective ballots and substitute ballots; and
 - (17) An actual sample of the secrecy sleeve or secrecy envelope to be used in the mail ballot election.
- (b) Timetable. The timetable for a Primary Election held as a mail ballot election shall include the following dates:
- (1) Date that the county gave public notice and began receiving public comments;
 - (2) Anticipated date of approval of election by the governing body;
 - (3) Date that the county clerk and recorder will mail a voter information card to all registered electors whose registration records have been marked "Inactive – failed to vote" in accordance with section 1-7.5-108.5(1), C.R.S.;
 - (4) Date by which a county clerk and recorder must provide notice to the secretary of state in order to cancel the election;
 - (5) Date that the county clerk and recorder will mail a notice by forwardable mail to each unaffiliated active registered eligible elector and to each unaffiliated registered eligible elector whose registration record has been marked as "Inactive – failed to vote;" in accordance with section 1-7.5-107(2.3)(a), C.R.S.;
 - (6) Date that the ballots will be in the possession of the county clerk and recorder;
 - (7) Date of the close of voter registration;
 - (8) Date ballots will be mailed;

- (9) Date that ballots will be made available at the county clerk and recorder's office;
 - (10) Date of publication of notice of election, including information regarding accessible voting options for elections conducted by the county clerk and recorder;
 - (11) Dates the drop-off locations will accept mail ballots delivered by electors;
 - (12) Dates service centers will be open;
 - (13) Date verification and counting of ballots will begin;
 - (14) Date of the Primary Election.
- (c) Cancellation of the election. If, pursuant to section 1-4-104.5, C.R.S., the county clerk and recorder cancels a Primary Election prior to the close of business on the 60th day before the Primary Election, the county clerk and recorder shall complete the cancellation of Primary Election form on the Secretary of State's website and return such form to the Secretary of State within two business days.

12.4.3 Approval of mail ballot plans and submission of amendments

- (a) If the Secretary of State requests modifications to a plan prior to approval, the designated election official shall submit the modified plan within ten days from the request. The secretary of state will approve or disapprove the modified plan within 15 days from the date it is received.
- (b) A designated election official may amend a timely submitted mail ballot plan by submitting a written statement outlining the amendment(s) to the plan. The amendment must state the specific section of the plan amended and the reason(s) for the amendment. The secretary of state will approve or disapprove the amendment within 15 days from the date it is received. If the amendment is received within 30 days before the election, the Secretary of State will approve or disapprove the amendment within two business days.

12.5 Ballots

- 12.5.1 In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who has returned at least one page of a multiple page printed ballot will be considered to have voted.
- 12.5.2 For non-partisan 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.
- 12.5.3 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.
- 12.5.4 For coordinated mail ballot elections, each county clerk and recorder may compare the

lists submitted by the various political subdivisions to assure that each elector receives the appropriate ballot or ballots for the election.

- 12.5.5 In accordance with section 1-7-116(1), C.R.S., for all Coordinated elections, the outgoing envelope as well as the instructions or other notice shall include a notice advising electors that they may receive a ballot from another political subdivision conducting a mail ballot election.
- 12.5.6 If the ballot is returned to the election official as undeliverable, the official shall not be required to re-mail the ballot packet.
- 12.5.7 The designated election official shall require that the eligible elector submit a copy of his or her identification as defined in Section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope if the eligible elector registered to vote by mail pursuant to Part 5, Article 2, Title 1, C.R.S. and did not provide the required ID upon registration.
- 12.5.8 The county clerk and recorder shall indicate on the list of registered voters requested by the designated election official those registered voters required to provide ID pursuant to section 1-7.5-107(3.5)(b), C.R.S, unless such registered voter either:
- (a) Submitted as part of the registration by mail a copy of the elector's identification as defined in Section 1-1-104(19.5), C.R.S.; or
 - (b) Votes pursuant to Section 1-7-111(2), C.R.S.; or
 - (c) Is otherwise entitled to vote under any federal law.
- 12.5.9 If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope.
- 12.5.10 All return envelopes used in a mail ballot election coordinated by the county clerk and recorder may be formatted in such a manner that the voter's signature on the back of the envelope is concealed. [Sections 1-7.5-106 and 1-7.5-107, C.R.S.]
- 12.6 Mail-in and Early Voting
- 12.6.1 In a mail ballot election, any elector with a mail-in ballot request shall be sent a mail ballot to the requested address in accordance with section 1-8-111(1), C.R.S. Mail-in ballots shall be treated as mail ballots for all other purposes.
- 12.6.2 Establishment of a polling place for early voting shall not be required for a mail ballot election, however the location for walk-in balloting shall be maintained.
- 12.7 Receipt of Ballots
- 12.7.1 One or more judges shall be appointed for the site to which ballots are to be mailed to receive the ballots as mailed.
- 12.7.2 Each day when ballots come in, a judge shall count the ballots, batch them and record the number of ballots received.
- 12.7.3 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.

- 12.7.4 Records shall also be kept of the number of ballot packets returned as undeliverable.
- 12.7.5 Ballot packets shall then be placed in a safe, secure place until the counting of the ballots.
- 12.8 If a voter has been directed to return a document with his/her voted ballot, the election judge shall open the returned envelope to retrieve the required form. If the required form cannot be found in the return envelope, the election judge shall open the secrecy envelope/sleeve to find the required form or document in an effort not to disenfranchise the voter.
- 12.8.1 If the marked return envelope does not contain proper identification, the ballot shall be treated as a “provisional” ballot. The outside of the return envelope shall be marked “provisional”. The ballot shall be verified and counted as follows:
- (a) In accordance with section 1-7.5-107(3.5)(d), C.R.S., the voter shall be sent a letter explaining that he/she has not provided identification. Nothing in this rule shall be construed to prohibit the designated election official from calling the elector; however, a phone call shall not substitute for notification to the elector in writing.
 - (b) If the elector provides a copy of his/her identification within eight days after election day, then the ballot shall be verified and counted in the same manner as other mail ballots in accordance with sections 1-7.5-107 and 1-7.5-107.3, C.R.S.
- 12.9 Signature verification.
- (a) For any missing signatures, Rule 29.1 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.
- 12.10 Ballots Delivered in Person
- 12.10.1 All “drop-off locations” shall be accessible to electors with disabilities.
- 12.10.2 All “drop-off locations” and any walk-in voting locations shall be located within the political subdivision where feasible. If a political subdivision desires to establish a drop-off location or a site for walk-in voting outside of the county, municipality or district, permission must be obtained from the Secretary of State.
- (a) The designated election official shall state the reasons for requesting such exception in the mail ballot plan submitted to the Secretary of State for approval.
 - (b) The alternate location proposed by the designated election official shall be within reasonable proximity to the political subdivision or the majority of the electors of the political subdivision.
- 12.10.3 Any eligible elector may deliver in person to the designated or coordinated election official’s office no more than ten (10) voted mail ballots.
- 12.10.4 Monitoring drop-off locations. All drop-off locations must be monitored by an election judge or video security surveillance recording system, as defined in Rule 43.

- (a) Freestanding drop-off locations must be monitored at all times.
 - (b) If the drop-off location utilizes a drop-slot into a building, the ballots must be collected in a locked container, and both the drop-slot and container must be monitored at all times.
- 12.11 Request for a replacement ballot by an active elector and request for a ballot by an inactive elector
- 12.11.1 An elector may request a replacement ballot in-person beginning on the twenty-second day before the election and ending at 7:00 p.m., MT on election day. If the elector requests to receive the ballot by mail, he or she must make the request no later than the close of business on the seventh day before the election.
 - 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.
 - 12.11.3 Request for a replacement ballot by an active elector. An active elector may request a replacement ballot in person, by mail, fax, email, or telephone.
 - (a) The elector must complete the self-affidavit on the approved form.
 - (b) If the elector requests to receive the replacement ballot by mail, the designated election official may include the self-affidavit in the mail ballot packet. The elector must complete and return the self-affidavit no later than 7:00 p.m. MT on election day.
 - (c) The designated election official must indicate on the outside of the return envelope that the elector must complete and return the self-affidavit.
 - (d) The designated election official may not count a replacement ballot unless the elector completed and returned the self-affidavit by the deadline.
 - 12.11.4 An inactive elector in a nonpartisan mail ballot election will be issued a ballot if the elector submits a registration update or a ballot request.
 - (a) The inactive elector must submit a registration update or a written request for a ballot before the designated election official may mark the elector's record active and issue the ballot.
 - (b) The elector may submit a registration update or written request form online, in person, by mail, fax, or email.
 - (c) The written request form must include the elector's name, date of birth, residence address, and signature.
 - 12.11.5 A military or overseas elector whose registration record is inactive or whose ballot request has lapsed may download an application and ballot using the electronic ballot delivery system.
 - (a) The elector must submit the ballot and application in accordance with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted.
 - (b) Every county must use the approved electronic delivery system to implement this rule, except that a county may obtain a waiver. The Secretary will consider the

following factors in approving or denying a request for waiver:

- i. Number of military or overseas electors registered to vote in the county;
- ii. Historical data regarding the number of military and overseas electors who have registered and voted in the county; and
- iii. Staff or other resource limitations.

12.11.6 If a county clerk and recorder conducts a primary election by mail ballot, he or she must mail a ballot to an elector whose record is marked inactive – failed to vote in accordance with section 1-7.5-107(3)(a)(II)(A), C.R.S.

12.12 Surrender of Mail Ballot

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 voter's record will be updated to give the voter credit for voting.

12.12.3 Any accessible device used in accordance with this rule shall be subject to the privacy, security and accuracy standards set forth in the Election Rules and Title 1, C.R.S.

12.13 Judges Duties.

12.13.1 The judges shall record the results of the election on the judges' certificate and statement.

12.13.2 The judges shall deliver the results of the election to the designated election official along with all election materials.

12.13.3 The judges shall deliver all election materials bound separately as follows:

- (a) Ballots which were counted;
- (b) Ballots which were defective, as defined in 1-7-309(4), C.R.S.;
- (c) Additional ballot pages returned after the voter cast his/her ballot that were appropriately marked and not counted in accordance with Rule 12.5.1;
- (d) Ballots/ return envelopes which may be challenged;
- (e) Return envelopes with ballots removed;
- (f) Defective return envelopes with ballots inside;
- (g) Ballot packets which were returned as undeliverable.

12.14 Canvass of votes/certificates of election.

12.14.1 Elections can be challenged as provided in the enabling statute of the entity calling the election.

- 12.14.2 The 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.

Rule 13. Rules Concerning Mail-in Voting

- 13.1 All election materials prepared by the designated election official, including the Article X, Section 20 notice, may be included in the mail-in ballot packet.
- 13.2 The county clerk and recorder shall keep a list, to the extent possible, of the names and mailing addresses of all individuals who deliver more than ten (10) voted mail-in ballots to the designated or coordinated election official's office or the designated drop site for mail-in ballots.
- 13.3 The county clerk and recorder shall notify each individual on the list required by 13.2 by letter that they have violated section 1-8-113, C.R.S., by delivering more than ten (10) mail-in ballots to the designated election official.
- 13.4 The designated election official shall require that the eligible elector submit a copy of his or her identification as defined in section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope if the eligible elector registered to vote by mail pursuant to Part 5, Article 2, Title 1, C.R.S., and failed to include the copy with the original registration or failed to supply a driver's license number, Colorado Department of Revenue ID number or at least the last four digits of a social security number that was subsequently verified per Rule 30.3.
- 13.5 The county clerk and recorder shall indicate on the list of registered voters requested by the designated election official those registered voters required to be identified in Rule 13.4.
- 13.6 In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who has returned at least one page of a multiple page printed ballot will be considered to have voted. Any additional page returned at a later time shall not be counted but shall be appropriately marked, set aside, and preserved as other election materials in accordance with section 1-7-802, C.R.S.
- 13.7 If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope. A county may use additional methods to communicate the requirement to provide identification. The elector shall also be provided with specific instructions on the requirement to provide such identification.
- 13.8 If the marked return envelope does not contain proper identification, the ballot shall be verified and counted as follows:
- 13.8.1 In accordance with section 1-8-113(3)(d), C.R.S., the elector shall be sent a letter explaining that he/she has not provided identification. Nothing in this rule shall be construed to prohibit the designated election official from calling the elector; however, a phone call shall not substitute for notification to the elector in writing.
- 13.8.2 If the elector provides a copy of his/her identification within eight days after election day, then the ballot shall be verified and counted in the same manner as other mail-in ballots in accordance with section 1-8-113, C.R.S.
- 13.9 If a voter has been directed to return a document with his or her voted ballot, the election judge shall open the returned envelope to retrieve the required form. If the required form cannot be found in the return envelope, the election judge shall open the secrecy envelope/sleeve to find the required form or document in an effort to not disenfranchise the voter.
- 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.

- 13.11 The designated election official's duties under section 1-8-112, C.R.S., are triggered if the U.S. mail is delivered collectively to the residential facility. If the U.S. mail is delivered to individuals or individual mailboxes, the requirements of section 1-8-112, C.R.S., shall not be applicable.
- 13.12 Mail-in voters who appear in person at the polling place shall be permitted to cast a ballot in accordance with the following provisions:
- 13.12.1 Mail-in voters who have requested and have been issued a mail-in ballot, who appear at the polling place on election day shall be permitted to cast a provisional ballot in accordance with section 1-8.5-101(3), C.R.S.
- 13.12.2 Mail-in voters who have requested and have been issued a mail-in ballot who appear at an early voting location may vote a regular ballot in accordance with section 1-8-113(1)(e), C.R.S. The mail-in ballot must be voided prior to issuing the early voting ballot.
- 13.12.3 Unaffiliated mail-in voters who have not been issued a mail-in ballot, who appear at their correct polling place in a primary election may affiliate and be issued a regular ballot in accordance with sections 1-7-201 and 1-8.5-101(5), C.R.S.
- 13.13 Permanent Mail-in Voting.
- 13.13.1 An application for a mail-in ballot received by the county clerk and recorder shall be treated as an application for permanent mail-in ballot only if the applicant makes such designation. If the applicant does not specify the length of the request for a mail-in ballot, the application shall be treated as an application for the current calendar year. If the applicant marks both the permanent and calendar year boxes, the application shall be treated as an application for permanent mail-in ballot.
- a. If a registered elector submits a mail-in ballot application that does not contain all of the information required by section 1-8-104.5, C.R.S., the county clerk and recorder may not process the application, unless the county clerk and recorder can confidently identify the elector, except that in no event shall an application be processed if such application does not contain the elector's signature.
- b. If the county clerk and recorder is unable to confidently identify the elector, the county clerk shall promptly notify the elector what additional information is required.
- 13.13.2 If an elector who is eligible and wishes to vote in a municipal or special district election wishes to have a mail-in ballot sent to an address other than his or her address of record, the elector shall file a separate mail-in ballot request with the designated election official of that jurisdiction.
- 13.14 A county clerk and recorder using the "Ballot Now" system to print mail-in ballots shall print and make ballots available no later than thirty-two (32) days preceding the election in accordance with section 1-5-403, C.R.S. Ballot issuance shall begin no later than seventy-two (72) hours after printing is complete in accordance with 1-8-111, C.R.S.
- 13.15 A county clerk and recorder who utilizes a third party vendor to mail ballots shall be considered to be in possession of the ballots for the purposes of sections 1-5-403 and 1-8-111, C.R.S., when the vendor has prepared the ballots for mailing, but no later than thirty-two (32) days preceding the election in accordance with section 1-5-403, C.R.S.

- 13.16 In addition to the language required by section 1-8-101(4)(a), C.R.S., the secrecy sleeve and instructions shall contain a statement that “All valid mail-in ballots are counted in every election in Colorado, regardless of the outcome or closeness of any race.”
- 13.17 All return mail-in ballot envelopes used in an election coordinated by the county clerk and recorder may be formatted in such a manner that the voter’s signature on the back of the envelope is concealed.
- 13.18 A properly executed mail-in ballot application may be submitted to the county clerk and recorder in person, by mail, by fax, by online voter registration, or as a scanned attachment to an email. For the purpose of submitting mail-in ballot applications by fax, email, or online voter registration, close of business shall be 11:59pm MT.
- 13.19 For any election that is not a primary mail ballot election, the designated election official may not issue a mail-in ballot to an elector whose record is marked inactive – failed to vote until the elector submits a timely application for a mail-in ballot.
- 13.20 A military or overseas elector whose registration record is inactive or whose ballot request has lapsed may download an application and ballot using the electronic ballot delivery system.
- 13.20.1 The elector must submit the ballot and application in accordance with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted.
- 13.20.2 Every county must use the approved electronic delivery system to implement this rule, except that a county may obtain a waiver. The Secretary will consider the following factors in approving or denying a request for waiver:
- (a) Number of military or overseas electors registered to vote in the county;
 - (b) Historical data regarding the number of military and overseas electors who have registered and voted in the county; and
 - (c) Staff or other resource limitations.

Rule 14. Rules Concerning Recount

- 14.1 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.
- 14.2 The Secretary of State shall prepare a letter that 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.
- 14.3 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.
- 14.4 General Provisions
- 14.4.1 The Secretary of State may have an official observer at every recount location.
- 14.4.2 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.
- 14.4.3 Each candidate, his or her watcher, members of the media, and official observers as defined in Rule 8.1, may be present in the room when a recount is conducted. During the recount the candidate, watcher, members of the media, and official observers may not interfere with the recount process.
- 14.4.4 The recount board, candidates, watchers, members of the media, and official observers will take an oath.
- 14.4.5 Candidates, watchers, members of the media, and official observers who enter 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 re-enter the recount room without the specific consent or authorization of the designated election official.
- 14.4.6 All votes for all candidates in any race subject to a recount shall be counted.
- 14.5 Hand Count of Paper Ballots - Recount
- 14.5.1 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 mail-in 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, mail-in voting, and precinct voting.
- 14.5.2 If mail-in ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and mail-in ballots.
 - 14.5.3 Ballot boxes or containers shall be opened one at a time.
 - 14.5.4 Ballots shall be counted into groups of 25 to ensure that the number of ballots recounted matches the number originally counted.
 - 14.5.5 Votes shall be counted by individual hash marks in 25-count sections by two different judges.
- 14.6 Counting of Ballots - Recount
- 14.6.1 All voting equipment to be used in the recount must be tested prior to the recount, utilizing the procedures set forth in this section. Prior to the recount, the canvass board shall choose at random and test Voting Devices and precinct(s) 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 devices chosen shall contain at least five (5) ballots cast. A hand tally shall be conducted of the selected devices pursuant to section 1-10.5-102(3)(a). The totals of the recounted contest obtained from the test devices and precinct(s) reports from close of polls shall be compared to the hand-tallied total.
 - 14.6.2 The canvass board shall choose at random five percent (5%) of voting devices containing votes from the election, which are affected by the recount, for the test.
 - (a) Prior to the start of the test, the canvass board shall verify that devices randomly chosen were not used in the audit conducted pursuant to section 1-7-514 (1)(b).
 - (b) The proportion of Optical Scan devices to DRE/electronic voting devices selected for the test shall match the proportion of machines used in the election by the designated election official.
 - (c) At least one device selected for the test shall be a central count/mail-in ballot scanner.
 - 14.6.3 For testing central count/mail-in scanners the canvass board shall randomly select one percent (1%) or fifty (50) ballots, whichever is greatest. A blank prom cartridge, rom cartridge or memory card shall be utilized for the test. The ballots selected shall be processed through the central count/mail-in scanner and compared to the hand-tallied total.
 - 14.6.4 If the test deck totals differ from the hand count totals, and the discrepancy cannot be accounted for by voter error, all ballots containing the recounted contest shall be tallied by hand following procedures for paper ballot recounts. If the test deck totals are exactly the same, the recount tabulation shall be conducted in the same manner as the original ballot count in accordance with section 1-10.5-102(3)(b).
 - 14.6.5 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 for the original seal, upon completion of the recount of ballots within that transfer case or ballot

box.

- 14.6.6 The number of ballots counted by a precinct according to the election night report shall be available during the recount for comparison purposes.
- 14.6.7 Totals of recounted ballots shall be processed, counted, and reported in summary form as follows:
- (a) Sum total of votes cast for each candidate, ballot issue or ballot question subject to the recount, under-votes, and over-votes for all precincts;
 - (b) Sum total of votes cast for each candidate, ballot issue or ballot question subject to the recount, under-votes and over-votes for all mail-in ballots (a combined total, not totaled by individual precincts or location, unless your system allows);
 - (c) Sum total of votes cast for each candidate, ballot issue or ballot question, subject to the recount, under-votes, and over-votes for all early voting locations (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, mail-in, and precinct voting.
- 14.6.8 If mail-in ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and mail-in ballots.
- 14.6.9 Ballots shall be reviewed for voter intent in accordance with this Rule 14 and Rule 27.
- 14.6.10 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, all precinct ballots shall be counted within all precincts. After the individual precinct is counted, the ballots shall be returned to the ballot container and sealed.
- 14.6.11 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, 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.
- 14.6.12 Utilizing one or more blank prom cartridges, rom cartridges, or memory card, all mail-in ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.
- 14.7 Counting of Ballots Using the “Ballot Now” Voting System
- 14.7.1 In the case of a recount, the designated election official shall identify all precincts with the contest(s) designated for a recount using the following procedures:
- (a) Using the Ballot Now Scanned Ballots by Precinct report from the original election database, locate the batches containing any ballot type (Election, Mail-in, and Provisional) for the recount.
 - (b) Remove recount ballots, or batches that include recount ballots, from secured storage. As each batch is rescanned the batch shall be placed in a sealable container marked as “RECOUNT” and sealed.
- 14.7.2 Required scanner testing shall be performed using a test deck from at least three (3) randomly chosen precinct(s) with at least 150 ballots total as prescribed by statute, following testing procedures outlined in the State of Colorado Procedures for the use of

the Ballot Now Voting System. A Recount Test spreadsheet shall be created based on the chosen precinct in the same fashion as the ballot options test spreadsheet.

- 14.7.3 Ballots for the recount shall be processed following the State of Colorado Procedures for the use of the Ballot Now Voting System in conjunction with the following procedures:
- (a) Open Ballot Now with an unused MBB (Mobile Ballot Box) from the election and create a Ballot Now recount database.
 - (b) Scan and resolve all recount ballots following original election procedures.
 - (c) Use the Audit Trail Report and Original Scan Batch Reports with notes to ensure that resolution action follows the original resolution.
 - (d) Save all recount CVRs (Cast Vote Records) to the MBB (Mobile Ballot Box) after verifying that the number of ballots processed matches the number of ballots cast in the recount contest(s).
 - (e) Open a new recount election in “Tally” and process the recount MBB following the tabulation procedures above.
 - (f) Compare recount results to original results and document any differences.
 - (g) Backup the test database and the official recount database following the “Archive” procedures.

Rule 15. Rules Concerning Preparation Filing, and Verification of Statewide Initiative Petitions**15.1 License, registration, 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 obtain a petition entity license, and register with the Secretary of State prior to compensating any circulator.
- 15.1.2 To apply for a license the designated agent of a petition entity must pay a fee and submit a signed application including:
- a. The name, address, telephone number, and email address of the petition entity;
 - b. The name of the designated agent;
 - 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
 - d. An affirmation that at least one representative of the entity has read and understands Colorado petition laws as outlined in Article 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.
- 15.1.7 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.
- 15.1.8 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.

15.2 Petition representatives

- 15.2.1 No petition shall be accepted which lists proponents other than the two identified as petition representatives pursuant to section 1-40-104, C.R.S.
- 15.2.2 For the purposes of section 1-40-118(2.5)(a), C.R.S., the “person responsible” includes but is not necessarily limited to any person or entity who circulates a petition, or causes a petition to be circulated, and who commits, authorizes, or knowingly permits fraud as

defined in sections 1-40-111(3)(a) and 1-40-135(2)(c), C.R.S., resulting in the collection of invalid signatures or petition sections.

15.3 Petition circulation

15.3.1 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). If an appeal is filed with the Supreme Court, 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 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.

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".

15.4 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.

15.5 Verification by Random Sample

15.5.1 Each petition section shall be verified according to the procedures set forth in Rule 17.1.

15.5.2 Preliminary count and generation of random numbers.

- a. After the entries have been counted for each petition section, a data entry clerk shall enter the following data into the database; the petition identification number, the petition section number, the page number and the number of entries on the page.
- b. A record shall then be created 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.
- c. 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 issued.
- d. A series of random numbers shall be generated by the database which is the greater of four thousand (4,000) signatures or five percent (5%) of the total number of entries.

15.5.3 Verification of Selected Entries

- a. The random numbers selected shall be matched with the appropriate petition section, page number, and entry number.
- b. Each entry generated shall be checked for validity in accordance with Rule 17.1.
- c. 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 that is accepted.

15.5.4 Checking the circulator's affidavit. The circulator's affidavit shall be checked for each entry in accordance with Rule 17.2. If the affidavit is not attached and completed, all entries in the section shall be rejected.

15.5.5 Checking individual signatures. Each individual signature shall be checked in accordance with Rule 17.3.

15.5.6 Computation of total accepted signatures.

- a. A tally shall be made of the number of accepted signatures and the number of rejected signatures.
- b. The Secretary of State shall determine the range of signatures by multiplying the constitutionally required number of signatures by 0.90 to compute ninety percent (90%) of the required signatures and by 1.10 to compute one hundred and ten percent (110%) of the required signatures. This number shall be calculated after the general election at which the Secretary of State was elected.
- c. 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.
- d. The percentage calculated in paragraph c of this Rule 15.5.6 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.

- e. If the number generated is ninety percent (90%) or less of the constitutionally required number of signatures as calculated in paragraph b of this Rule 15.5.6, then the Secretary of State shall issue a statement of insufficiency. If the number generated is one hundred and ten percent (110%) or more of the constitutionally required number, then the Secretary of State shall issue a statement of sufficiency.
- f. If the number generated is more than ninety percent (90%) but less than one hundred and ten percent (110%) of the required number, the Secretary of State shall order that each signature on the petition be verified to determine whether the issue or question should be certified to the ballot.

**Rule 16. Rules Concerning Verification by Random Sample of Statewide Initiative Petitions -
Repealed**

Rule 17. General Rules Concerning Verification of Petitions

- 17.1 General procedures concerning verification of petitions.
- 17.1.1 No petition shall be accepted which lists proponents other than those authorized by law.
- 17.1.2 When the petitions are received, each section shall be date-stamped and consecutively numbered with a four digit number. The number may be printed by a printer, hand-stamped with a manual stamp, or handwritten.
- 17.1.3 Each petition shall be either an individual sheet for signatures or multiple sheets that are stapled together.
- 17.1.4 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.
- 17.1.5 The lines on each petition section shall be consecutively numbered. 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.
- 17.1.6 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 issued.
- 17.1.7 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.
- a. A line that has no writing or marks on it shall not be considered an entry.
 - b. A line that has writing on it but is completely crossed out shall not be considered an entry.
 - c. 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.
- 17.1.8 Additional signatures submitted after the original filing of an initiative petition or addendum, or candidate petition shall be rejected, even if such signatures are submitted to the designated election official within the time permitted by law for the original filing.
- 17.2 Checking the circulator's affidavit.
- 17.2.1 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.
- 17.2.2 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.
- 17.2.3 The circulator's affidavit shall be checked to assure it has been completed in accordance with the statutory requirements listed below. If the affidavit was not completed in accordance with the requirements listed below, all entries in the section

shall be rejected.

- a. For candidate petitions, the circulator's affidavit shall be completed in accordance with section 1-4-905(1) and (2), C.R.S.
- b. For initiative petitions, the circulator's affidavit shall be completed in accordance with section 1-40-111(2), C.R.S.

17.3 Checking individual signatures.

17.3.1 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.

17.3.2 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 that is accepted.

17.3.3 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.

17.3.4 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 that 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.

17.3.5 Middle initial and additional terms.

- a. 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.
- b. 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.
- c. 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.

17.3.6 Address of eligible elector.

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

- 17.3.7 Incomplete information. If the line of the petition is incomplete, with at least one piece of information omitted, the entry shall be rejected.
- 17.3.8 Date of signing.
- a. 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.
 - b. If the signer was not an eligible elector in the political subdivision at the time of signing, the entry shall be rejected.
 - c. If a signature is placed on the petition after the date on the circulator's affidavit, the entry shall be rejected.
- 17.3.9 Assistance to signer. If assistance appears to have been given to the signer and a statement of assistance does not accompany the signature or mark explaining the variance in the script, the entry shall be rejected.
- 17.3.10 Illegible signature. If the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.
- 17.3.11 Duplicate signatures on the same petition. If the elector has previously signed the same petition, the first valid entry verified shall be counted, and all other entries shall be rejected.
- 17.3.12 Electors signing petitions for more than one candidate for the same office.
- a. Where an elector may sign only one petition for the same office and signs multiple petitions, the first valid entry verified on the first petition submitted to the designated election official shall be counted, and all other entries shall be rejected.
 - b. Where an elector may sign more than one petition for the same office, the first valid entries verified on the first petitions submitted to the designated election official, up to the maximum allowed, shall be counted, and all other entries shall be rejected.
- 17.4 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 or insufficiency issued.

Rule 18. Rules Concerning Statement of Sufficiency for Petitions

- 18.1 Within the time required by statute, the designated election official shall issue a statement of sufficiency or insufficiency.
- 18.2 The statement shall contain the name of the petition, the proponents, and the date the petition was submitted for verification.
- 18.3 The statement shall indicate the total number of entries, the total number of entries accepted, and the total number of entries rejected.
- 18.4 The statement shall indicate whether an insufficient number of entries were 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.
- 18.5 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.

Rule 19. Rules Concerning Cure for Statewide Petitions

- 19.1 Cure of petitions deemed insufficient.
- 19.2 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 16 and Rule 17.
- 19.3 If the number of valid signatures in the addendum when added to the number of valid signatures given in the statement of insufficiency equals 110% or more of the required signatures, a statement of sufficiency shall be issued.
- 19.4 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.
- 19.5 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.
- 19.6 The designated election official shall then issue a new statement of insufficiency or sufficiency which reports the total number of valid signatures submitted.

Rule 20. Rules Concerning Protests

- 20.1 A protest shall specifically state the reasons for the challenge to the determination of sufficiency or insufficiency.
- 20.1.1 A protest that alleges specific statutes or rules were improperly applied shall clearly state the specific requirements that were improperly applied.
- 20.1.2 A protest that alleges that entries were improperly accepted or rejected shall clearly identify the specific individual entries at issue and the reason the entries were improperly accepted or rejected.
- 20.2 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.
- 20.3 Where a petition verified by random sample is protested, proponents and opponents may protest the process by which the numbers used in the calculations were generated.
- 20.4 Individual entries which were not checked by the Secretary of State may not be challenged as sufficient or insufficient.

Rule 21. Rules Concerning Ballot Issue Elections

- 21.1 Placing measures on the ballot for coordinated odd-year elections.
- 21.1.1 For statewide elections, the Secretary of State shall be responsible for determining whether the proposed initiative concerns state matters arising under Section 20 of Article X of the State Constitution and is eligible to appear on the ballot at an odd-year election.
- 21.1.2 For elections concerning counties or other 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.
- 21.2 Written comments concerning ballot issues submitted to the designated election official for the political subdivision shall not be withdrawn after the end of the business day on the last Friday immediately preceding the forty-fifth day before the election.

Rule 22. Rules Concerning Checking Candidate and Issue Petitions – Repealed

Rule 23. Rules Concerning Referendum Petitions. Sections 1-40-132 and 1-1-107(2)(a), C.R.S.

23.1 Applicability. This Rule 23 applies to statewide referendum petitions pursuant to Article V, Section 1 (3) of the Colorado Constitution.

23.2 Relationship to statutory and constitutional provisions.

23.2.1 The purpose of this Rule 23 is to administer and interpret, but not supersede, the provisions of Article V, Section 1, Colorado Constitution, and Article 40 of Title 1, Colorado Revised Statutes which apply to referendum petitions.

23.2.2 Where there is an irreconcilable conflict between this Rule 23 and any such statutory or constitutional provision, then such statutory or constitutional provision prevails.

23.3 Applicability of initiative statutes.

23.3.1 Except where this Rule 23 otherwise provides, or where the context otherwise requires, any statutory or constitutional provision that applies specifically to initiative petitions shall also apply to referendum petitions.

23.3.2 The following procedural steps that apply to initiative petitions do not apply to referendum petitions:

(a) Review and comment by legislative staff on the text of proposed initiated constitutional amendments and initiated laws, pursuant to Article V, Section 1 (5), Colorado Constitution, and section 1-40-105, C.R.S.

(b) Title-setting by the title setting review board established in section 1-40-106, C.R.S.

23.4 Approval of referendum petition form.

23.4.1 No referendum petition shall be printed, published, or otherwise circulated unless the form and the master original to be used for printing or reproduction have been approved by the Secretary of State. Section 1-40-113(1), C.R.S.

23.4.2 A referendum petition may be submitted to the Secretary of State for approval at any time after the bill has been presented to the governor for approval or disapproval. The Secretary of State shall not issue final approval of the referendum petition form until the bill has become law pursuant to Article IV, Section 11 of the Colorado Constitution.

23.4.3 Each referendum petition section shall consist of the following, in the order listed: Sections 1-40-113(1), and 1-40-102(6), C.R.S.

(a) The warning as specified in Section 1-40-110, C.R.S.

(b) The heading "Referendum Petition", followed by the demand upon the Secretary of State in substantially the following form, in which the underlined material is only for example:

"To: The Honorable _____, Secretary of State of the State of Colorado

We, the undersigned electors of the State of Colorado, do hereby respectfully petition, order, and demand that Sections 1 to 12, inclusive (being the entire Act), of House Bill No. 02-1010, by Representatives Abel, Baker, and Cain, and

Senators Smith, Thomas, and Jones, entitled "Concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation", passed by the Sixty-third General Assembly of the State of Colorado, at its regular session in the year 2002, shall be submitted to the voters for their adoption or rejection at the next biennial regular general election, to be held on Tuesday, the 5th day of November, 2002, and each of the signers of this petition says:

I sign this petition in my own proper person only, and I am a registered elector of the State of Colorado, my residence address and the date of my signing this petition are correctly written immediately after my name, and I do hereby designate the following persons to represent me in all matters affecting this petition:"

- (c) The name and mailing address of two persons who are designated to represent the signers thereof in all matters affecting the same.
- (d) The ballot title and submission clause in the form required by this Rule 23.
- (e) The text of the Act, or the item(s), section(s), or part(s) of the Act, on which the referendum is demanded. See sections 1-40-110; 1-40-102(6).
- (f) Succeeding pages that each contain the warning, the ballot title, and submission clause, and ruled lines numbered consecutively for electors' signatures.
- (g) A final page that contains the circulator's affidavit required by section 1-40-111(2), C.R.S.

23.4.4 Each referendum petition section shall include only the matters required by Article 40, Title 1, C.R.S., and this Rule 23, and no extraneous material. Section 1-40-113(1), C.R.S.

23.5 Ballot Title and Submission Clause.

23.5.1 The ballot title shall consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:

"An Act concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation, being House Bill No. 02-1010."

23.5.2 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause shall consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

"Shall Section 3 (concerning definition of terms) and Section 4 (eliminating licensing requirements for motor vehicle dealers) of the following Act of the General Assembly be approved:" The material in parentheses shall correctly and fairly summarize the subject or the effect of the portion of the Act referenced.

- 23.6 Election. If a referendum petition is timely filed with the Secretary of State with a sufficient number of valid signatures, it shall be voted upon at the next general election that occurs at least three months after the referendum petition is filed with the Secretary of State.

Rule 24. Rules concerning Congressional Term Limits Declaration

- 24.1 The Secretary of State shall make available to every candidate for United States House of Representatives or the United States Senate the Congressional Term Limits Declaration provided in Article XVIII, Section 12a of the Colorado Constitution. The Secretary of State will offer the Congressional Term Limits Declaration to every such candidate when the candidate files his or her candidate affidavit with the Secretary of State. Any failure of the Secretary of State to offer the Congressional Term Limits Declaration to a candidate shall have no effect on such candidate's candidacy.
- 24.2 Part A of the Term Limits Declaration shall be accepted by the Secretary of State if Part B of the Term Limits Declaration has not been duly executed and submitted. Art. XVIII, sec. 12a (7)
- 24.3 In the case of a candidate who has qualified as a candidate for a term that would exceed the number of terms set forth in Term Limits Declaration One, the Secretary of State shall not place the words, "Signed declaration to limit service to [3 terms] [2 terms]" after the candidate's name, even if the candidate has executed and submitted Parts A and B of Term Limits Declaration One.

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

- 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. Rules Concerning Provisional Voting

26.1 General Rules Regarding Provisional Voting

26.1.1 Eligible electors who have moved within the State of Colorado before the registration deadline may vote a provisional ballot at the polling place on Election Day or in the clerk and recorder's office or designated offices.

26.1.2 Repealed

26.1.3 An elector who has requested and has been issued a mail-in ballot shall be permitted to cast a provisional ballot on election day upon his or her declaration that they have not and will not cast any vote in the election other than by that provisional ballot.

26.1.4 Provisional ballots for voters who have requested mail-in ballots shall be separated from other provisional ballots and shall not be counted until all mail-in ballots cast in the election have been counted.

26.1.5 For the purposes of Title 1, Article 8.5, C.R.S. and this Rule 26, "statewide offices" shall be defined as the following:

- Governor-Lieutenant Governor (as a pair)
- Attorney General
- Secretary of State
- Treasurer
- Regent of the University of Colorado – At Large
- Justice of the Supreme Court
- Judge of the Court of Appeals

26.1.6 Repealed.

26.2 Emergency Registration and use of Provisional Ballots in the County Clerk and Recorder's Office

26.2.1 If the elector applies for an emergency registration that cannot be qualified in the clerk's office at the time of the registration pursuant to section 1-2-217.5(4), C.R.S., the elector shall be issued a provisional ballot. The elector's registration must be confirmed by the designated election official at the time that the provisional ballots are verified or the provisional ballot shall not be counted.

26.2.2 If an elector whose name is not in the registration records, appears in person at the county clerk and recorder's office and states that he or she has timely registered through an agency pursuant to section 1-2-504, C.R.S., can affirm to the name, location of, and approximate date he or she completed the application at the agency or provide an application receipt, and provides an ID as defined in section 1-1-104(19.5), C.R.S., the elector shall be offered emergency registration and be offered a regular ballot.

- 26.2.2.1 If the elector does not provide an ID the elector shall be offered a provisional ballot. The county clerk and recorder shall note on the provisional ballot envelope that the elector did not have an ID.
- 26.2.2.2 If the elector is able to produce an application receipt from the agency registration, but does not provide an ID pursuant to section 1-1-104(19.5), C.R.S., the elector shall surrender the receipt to the election judge, and the county clerk and recorder shall attach the receipt to the provisional ballot envelope.
- 26.2.3 If an elector whose name is not in the registration records, appears in person at the county clerk and recorder's office and states that he or she has timely registered through a Voter Registration Drive ("VRD") pursuant to section 1-2-504, C.R.S., can affirm to the location of, and approximate date he or she completed the application with the VRD or provide an application receipt, and provides an ID as defined in section 1-1-104(19.5), C.R.S., the elector shall be offered emergency registration and be offered a regular ballot.
- 26.2.3.1 If the elector does not provide an ID the elector shall be offered a provisional ballot. The county clerk and recorder shall note on the provisional ballot envelope that the elector did not have an ID.
- 26.2.3.2 If the elector is able to produce an application receipt from the VRD registration, but does not provide an ID pursuant to section 1-1-104(19.5), C.R.S., the elector shall surrender the receipt to the election judge, and the county clerk and recorder shall attach the receipt to the provisional ballot envelope.
- 26.2.4 If the elector's eligibility to vote cannot be verified, the provisional ballot shall not count, but may constitute a registration for future elections.
- 26.3 Provisional Voting in the Polling Place
- 26.3.1 If an elector whose name does not appear on the pollbook states that he or she has timely registered through an agency pursuant to section 1-2-504, C.R.S., the election judge shall:
- (a) Offer the elector a provisional ballot;
 - (b) Check the box on the provisional ballot affidavit indicating that the elector was an agency applicant;
 - (c) Ask the elector to provide the name and location of the agency and the approximate date he or she completed the application, or provide the application receipt, or both; and
 - (d) Note the agency registration information on the affidavit and attach the receipt, if provided, to the outside of the provisional ballot envelope.
- 26.3.2 If the elector whose name does not appear on the pollbook states that he or she applied to register to vote prior to the close of registration with a voter registration drive (VRD), the election judge shall:
- (a) Offer the elector a provisional ballot;

- (b) Check the box on the provisional ballot affidavit indicating that the elector is a VRD applicant,
- (c) Ask the elector to provide the location and the approximate date he or she completed the application, or provide the application receipt, or both; and
- (d) Note the VRD registration information on the affidavit and attach the receipt, if provided, to the outside of the provisional ballot envelope.

26.3.3 The word “provisional” shall be marked on the provisional ballot and on the pollbook or signature card next to the elector’s name.

26.4 Verification of Provisional Ballots

26.4.1 When the designated election official has concluded that all voted provisional ballots have been delivered to and received by the election office, the designated election official shall determine the time that provisional verification and processing begins in accordance with the deadlines set forth in Title 1, C.R.S., and these rules. The designated election official or designee shall complete preliminary verification without opening the provisional ballot envelopes.

26.4.2 Verification of an elector’s eligibility to have his or her provisional ballot counted shall be limited to the following sources:

- (a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement or on parole;
- (b) The State of Colorado Statewide Voter Registration Database;
- (c) The DMV Motor Voter database (Note: Possession of a driver’s license is not conclusive proof of voter registration; elector must have registered to vote through the DMV); and
- (d) The information provided on the provisional ballot envelope, including the affidavit.

26.4.3 When verifying provisional ballots, the designated election official shall check the State of Colorado Statewide voter registration database to determine whether the elector has already voted in the election.

26.4.4 If during verification it appears that the elector attempted to register but was deemed “not registered” in accordance with section 1-2-509(3), C.R.S., the ballot shall be verified and counted as follows:

- (a) If the elector substantially confirms the street address at which he or she attempted to register to vote anywhere on the provisional ballot affidavit, the affidavit is complete, and the elector is otherwise eligible, the ballot shall be counted. The elector shall be deemed registered as of the date of the original application.
- (b) If the elector does not substantially confirm the street address at which he or she attempted to register to vote anywhere on the provisional ballot affidavit, the ballot shall not be counted. The provisional ballot affidavit shall be treated as an application for future registration.

- 26.4.5 If during verification it appears that the elector's record was cancelled or consolidated as a duplicate in error, the ballot shall be counted so long as the elector has not cast a ballot in the election, the affidavit is complete, and the elector is otherwise eligible. The elector's record shall be reinstated or unconsolidated.
- 26.4.6 When the designated election official has received both a mail-in ballot and a provisional ballot from an elector, but there is a discrepancy between the signature on the returned mail-in ballot envelope and the elector's signature stored in the statewide voter registration system, the discrepancy must be resolved. Before the provisional ballot may be counted, the elector must affirm that the signature on the mail-in ballot envelope is not his or her signature. Section 1-8.5-105(4) and (5), C.R.S.
- 26.4.7 If during verification it appears that the elector timely applied for registration, but his or her application was incomplete the ballot shall be verified and counted as follows:
- (a) If the elector provided the required information on the provisional ballot affidavit at the time of voting, the ballot shall be counted so long as the elector is otherwise eligible, and has not cast a ballot in the election. The elector shall be deemed registered as of the date of the original application.
 - (b) If the elector did not provide the required information on the provisional ballot envelope at the time of voting, the ballot shall not be counted. However, if the provisional ballot envelope lacks a signature, the designated election official shall follow the signature verification procedures in accordance with section 1-8.5-105(3), C.R.S., and Rule 29.
- 26.4.8 If the elector moved within the state, the ballot shall be verified and counted as follows:
- (a) All races and issues shall be counted if the elector indicates that he or she moved to the new residence address in the new county or precinct at least 30 days prior to the election. If the elector does not indicate when he or she moved to the new residence address, all races and issues shall be counted so long as the affirmation is signed. [section 1-8.5-107(2), C.R.S.]
 - (b) Only federal and statewide races and issues shall be counted if the elector indicates that he or she moved to the new residence address in the new county or precinct after the close of registration. [section 1-8.5-108(2), C.R.S.]
- 26.4.9 If An elector whose voter registration record is tagged ID required casts a provisional ballot without providing valid identification, the ballot shall be verified and counted as follows:
- (a) The elector shall be sent a letter within three days after the ballot is cast, and no later than three days after election day, explaining that he/she has not provided the required identification. Nothing in this rule shall be construed to prohibit the designated election official from calling the elector; however, a phone call shall not substitute for notification to the elector in writing.
 - (b) If the elector provides a copy of valid identification within eight days after election day, the ballot shall be counted so long as the elector has not cast another ballot in the election, the affidavit is complete, and the elector is otherwise eligible.

26.5 Counting of Provisional Ballots

26.5.1 If the information contained in the provisional ballot envelope and affidavit provides adequate criteria so that the designated election official is able to confirm under election Rule 26 that the elector is eligible to cast a ballot, the provisional ballot shall count.

26.5.2 Repealed.

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 address at which the voter was registered to another address in the state not less than 30 days before the election and voted in the correct precinct where the new address is located. 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 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.

26.5.4 Rejection Codes (Any ballot given a rejection code shall not be counted):

RFS (Rejection federal or state) No federal or state candidates or issues to duplicate.

RNS (Rejection not signed) Provisional Ballot Affidavit not signed.

- RIN (Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.
- RNR (Rejection not registered) Voter did not register by the voter registration deadline or by emergency registration, Colorado voter registration record was not found, or voter was previously cancelled and has not been reinstated pursuant to section 1-2-605(10), C.R.S.
- REE (Rejection envelope empty) Provisional ballot envelope is empty.
- RAB (Rejection voter voted mail-in ballot) Designated election official has confirmed that voter voted a mail-in ballot.
- REV (Rejection based on ballot cast in early voting) Voter voted early.
- RED (Rejection based upon ballot cast on election day) Voter voted in a polling place
- RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
- RFE (Rejection felon not eligible to vote) Individual was convicted of a felony and is either serving a sentence of confinement or detention or is on parole.
- RWC (Rejection elector not registered in county or State of Colorado) Non-county or non-state resident; therefore voter not eligible to vote in the county where the provisional ballot was voted.
- RID (Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter who registered by mail or through a voter registration drive, is tagged as id deficient, and did not provide id at the time of voting.
- RRD (Rejection registration deficient) Voter had deficient or incomplete registration and required information was not provided prior to or at the time of filling in the provisional ballot envelope. Voter's eligibility cannot be established. Section 1-2-509(3), C.R.S.

- 26.6 The provisional ballot log required by section 1-8.5-110 (4), C.R.S., may be prepared by the designated election official in handwritten or computer-generated form.
- 26.7 Recount procedures for provisional ballots shall be the same as the recount procedures for other ballots as directed by the Secretary of State.
- 26.8 Pursuant to section 1-8.5-102(2), C.R.S., the provisional ballot affidavit shall contain the following language:

I do solemnly affirm that I am a citizen of the United States, that I have attained the age of eighteen years, and that I have resided in the State of Colorado and in my present precinct at least thirty days before the election, or at my current residence address since the date I moved as shown above. I further affirm that the address indicated in this affidavit is my sole legal residence and that I claim no other place as my legal residence. I affirm that if I applied for a Mail-in Ballot I have not and will not cast the Mail-in Ballot that I requested. I further affirm under penalty of law that I have not and will not cast any vote in this election except by the enclosed ballot, that I will not vote in any other precinct, county or state, and that my ballot is enclosed in accordance with the provisions of the "Uniform Election Code of 1992", Article 1 to 13 of Title 1, C.R.S.

- 26.9 Pursuant to section 1-8.5-103, C.R.S., the size of the provisional ballot envelope or affidavit form shall be in such a manner as to provide to the elector complete and legible information as shown on the state approved form. Any alterations to the standard format shall be submitted to the secretary of state pursuant to the policy statement concerning secretary of state approved forms.
- 26.10 Treatment of the provisional ballot affidavit as an application for, or a change to registration
- 26.10.1 If an elector is not registered to vote and he or she completes a provisional ballot affidavit, the county clerk and recorder must treat the affidavit as an application for registration for future elections. The application is subject to the requirements of any other voter registration application.
- 26.10.2 If a registered elector completes a provisional ballot affidavit that contains changes to the elector's registration, the county clerk and recorder must update the elector's registration record accordingly before marking the provisional ballot as accepted or rejected in the statewide voter registration database and before linking it to the elector's record.
- 26.10.3 If the county clerk and recorder cancelled or consolidated an elector's record in error, the clerk must reinstate or unconsolidate and update the elector's record before marking the elector's provisional ballot as accepted or rejected in the statewide voter registration database and before linking it to the elector's record.
- 26.11 Processing provisional ballot affidavits in the statewide voter registration database. Before closing an election, the county clerk and recorder must:
- 26.11.1 Enter all provisional ballot affidavits into the provisional module of the statewide voter registration database.
- 26.11.2 Link all provisional ballot affidavits to the appropriate elector's record.
- 26.12 the county clerk and recorder must process all pollbooks or signature cards in the statewide voter registration database before processing provisional ballots.
- 26.13 Voter Access to Provisional Ballot Information
- 26.13.1 The Secretary of State will provide a provisional ballot lookup on the Secretary's website.
- 26.13.2 The county clerk and recorder must number the provisional ballot envelope or affidavit stock using the standard numbering convention approved by the Secretary of State.
- 26.13.3 An elector may access the system during the 45 days following the election.

[Section 1-8.5-111, C.R.S.]

Rule 27. Rules Concerning Uniform Ballot Counting Standards

27.1 Definitions

27.1.1 Ballot Measure. As used in this Rule 27, ballot measure shall mean a ballot issue or ballot question as defined in sections 1-1-104 (2.3) and 1-1-104 (2.7), C.R.S.

27.1.2 Blank Ballot. A blank ballot is one on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the “read” area of the scanner.

27.1.3 Damaged Ballot. A damaged ballot is one that has been torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the optical scanner ballot reader.

(a) Damaged ballots shall include all ballots that contain a foreign substance that could potentially interfere with the optical scan machine (i.e. food, drink, etc.).

(b) Damaged ballots may include ballots that are marked in a medium other than the medium indicated in the ballot instructions.

27.1.4 Duplicated Ballot. A duplicated ballot is one for which a true copy is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a ballot tabulating machine from accurately counting the ballot.

27.1.5 Duplicated Provisional Ballot. A duplicated provisional ballot includes ballots duplicated for federal and state ballot measures for which a provisional voter is eligible to vote.

27.1.6 Overvote. An overvote is a race, or ballot measure which contains votes for more than the maximum number of candidates or responses for a ballot measure allowed.

27.1.7 Undervote. An undervote occurs when the voter does not vote for any candidate in a race, or for or against a ballot measure, or, when more than one person in a race is available, the voter does not vote for the maximum number of votes allowed.

27.1.8 Target area shall mean any of the following:

(a) The square or oval opposite the candidate’s name or ballot response on a paper ballot; or

(b) The oval, incomplete line, or incomplete arrow opposite the candidate’s name or ballot response (examples: “Yes”, “No”, “For” or “Against”) on an optical scan ballot

27.1.9 Write-In Vote. A vote on a ballot on which the voter physically writes in the name of a legally qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the oval or connects the arrow on optical scan ballots according to the directions provided to the voter.

27.2 Multiple Page Ballots. In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who has returned at least one page of a multiple page printed ballot will be considered to have voted and the votes on the submitted page(s) shall be counted. Any additional page returned at a later time shall not be

counted but shall be appropriately marked, set aside, and preserved as other election materials in accordance with section 1-7-802, C.R.S.

27.3 Uniform Counting Standards for hand-counted Paper Ballots

27.3.1 Pursuant to section 1-7-309, C.R.S., judges counting ballots on election day shall take into consideration the intent of the voter in accordance with Rule 27.7.

27.3.2 If a ballot contains markings for more than the maximum votes allowed in a candidate race or for a ballot measure, no vote shall count for that race or ballot measure.

27.3.3 If a candidate race or ballot measure contains no markings by the voter, no tally will be made for that race or ballot measure, but all other candidate races or ballot measures properly marked by the voter on the ballot shall be counted.

27.3.4 A ballot which has no markings for any candidate races or ballot measures shall be tallied as a blank ballot, but the voter shall be given credit for voting.

27.4 Uniform Counting Standards for Optical Scan Ballots

27.4.1 Precinct Optical Scan Procedures

- (a) Voters whose ballots are rejected or sorted by the precinct counter as a blank or overvoted ballot shall be given the opportunity to correct their ballot.
- (b) Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central counting center in a secure container.

27.4.2 Central Count Optical Scan Procedures

- (a) A visual inspection of every ballot should be completed for the limited purpose of separating damaged ballots into a unique batch.
- (b) Every damaged ballot and all ballots sorted by the optical scan machine shall be resolved, and where applicable duplicated, in accordance with this rule.
- (c) A resolution board, consisting of a team(s) of one (1) Republican and one (1) Democrat for partisan elections or two (2) qualified election judges for nonpartisan elections, shall resolve all ballots sorted by the central count optical scan equipment.
 - (1) The board shall be observed by two (2) witnesses, who in any partisan election shall be representatives of each major political party, who may not handle or process ballots.
 - (2) All persons engaged in the counting and processing of ballots shall be deputized or take an oath to faithfully perform their duties.
 - (3) The resolution board shall maintain a log for each step of verification, duplication, and counting.
- (d) Sequence of Resolution Procedures
 - (1) A zero tape, or similar report, shall be run indicating no votes cast or counted before the counting begins.

- (2) Official ballots shall be processed through the optical scanner, with sorted overvotes, blank ballots, and write-in ballots viewed and resolved by the resolution board. Ballots sorted by the optical scan equipment shall be subject to review by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized.
 - (3) A voter's intent shall be reviewed for every ballot that requires resolution.
 - (4) All ballots which are sorted by the optical scanner and resolved by the resolution board by duplication are to be indicated as such.
 - (5) The resolution board shall maintain an official audit log for all ballots resolved setting forth the precinct number, duplicate ballot number (where applicable), reason (with specificity) that the ballot was resolved, date of resolution, and the initials of the members of the duplication board responsible for resolving the ballot.
 - (6) The precinct judge's ballot reconciliation form is compared to the number of scanned ballots for the precinct.
 - (7) After the final precinct has been tallied, the total write-in votes shall be indicated on the final summary along with the seal numbers for each sealed box of scanned ballots.
- (e) Resolution of damaged ballots
- (1) Damaged ballots or defective ballots shall be duplicated utilizing the ballot duplication procedures as provided in Rule 27.6.
 - (2) Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures as set forth in Rule 27.6. If a ballot is truly blank it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races or ballot measures voted.
 - (3) Overvoted ballots shall be inspected by the resolution board and resolved in accordance with Rule 27.7.
 - (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.

- (5) The resolution board shall duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots shall be separated from the duplicate ballots and placed in a sealable container clearly marked "ORIGINAL BALLOTS." The duplicate ballots shall be counted in lieu of the original ballots.
 - (6) The resolution board shall maintain an official audit log setting forth the precinct number, duplicate ballot number, reason (with specificity) that the ballot was duplicated, date of duplication, and the initials of the members of the duplication board responsible for duplicating the ballot.
- (f) Recount Procedures for Optical Scan
- (1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested prior to the recount, and shall be programmed to sort undervotes for the individual race(s) or ballot measure(s) being recounted.
 - (2) The county will conduct a recount of a race with a write-in candidate as outlined in Rule 27.7.4.

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 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.

27.5 Uniform Counting Standards for DREs. A vote that is properly recorded, as specified by the voting instructions, on the voting device for an office or ballot measure shall be counted.

27.6 Duplication of Ballots.

- (a) Using the damaged ballot as the guide, a blank ballot shall be marked by a duplicating team, so that the votes recorded are identical to those indicated on the damaged ballot, and shall be proofed to ensure it is marked properly and accurately.
- (b) Every duplicated ballot shall be subject to the process for determining voter intent outlined in Rule 27.7.
- (c) A unique number shall be assigned to both the original and duplicated ballot. This will reference the two ballots together and provide an audit trail. (Example: the ballots may be marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers starting with the number one.)
- (d) The duplicated ballots shall be counted in the same manner as all other ballots to be counted.
- (e) The damaged or unreadable original ballot shall be marked "DUPLICATED" to indicate that the ballot has been duplicated and the duplication is completed. All duplicated

original ballots for a precinct along with any applicable printed material shall be placed in a sealable container and clearly marked "ORIGINAL BALLOTS."

27.7 Determination of Voter Intent

27.7.1 If a voter uses a consistent alternate ballot marking method that deviates from the method specified by the voting instructions (such as circling or placing a check mark behind a candidate's name or ballot response) and does not place an "X", check or other appropriate mark in the target area(s), the voter will be considered to have voted for the appropriate candidates and or ballot responses and the ballot shall be duplicated; except that, if a voter marks any of his/her choices by placing an "X", check or other appropriate mark in any target area on the voter's ballot, only those choices where the target area has been marked shall be counted.

27.7.2 A ballot that has a mark correctly in the target area that partially extends into another target area shall be counted as a vote for the candidate or ballot response so marked.

27.7.3 When resolving an overvoted race, marks indicating the voter's intent shall include, but not be limited to, circling the candidate's name and strike-outs or corrections of choices.

27.7.4 Write-in votes

27.7.4.1 If a voter designates a vote for a named candidate on the ballot and writes in the name of the same candidate in the write-in area, the vote shall be counted.

27.7.4.2 If a voter designates a named candidate on the ballot and writes in the name of a different candidate in the write-in area, it shall be considered an overvote for that office if the number of chosen candidates exceeds the number permitted to be voted for in that office and no vote shall be counted.

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, 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.

27.8 Repealed.

Rule 28. Rules Concerning Election Judges

- 28.1 For purposes of training election judges, an “election cycle” shall mean all elections held during a calendar year beginning with January 1 and ending December 31.
- 28.2 In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S., each person appointed to serve as a student election judge shall take a self-affirming oath or affirmation before beginning their duties as a student election judge, in substantially the following form:

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

Rule 29. Rules Concerning Procedures for the Verification of Signatures**29.1 Missing Signature on Mail Ballot, Provisional Ballot or Mail-in Ballot Envelope**

29.1.1 If a mail, mail-in, or provisional ballot return envelope lacks a signature, the election judge must contact the elector in writing no later than two calendar days after election day. The designated election official must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record. Nothing in this rule prohibits the designated election official from calling the elector. But a phone call may not substitute for written contact. If the designated election official calls any elector he or she must call all electors whose affidavits are unsigned.

[Sections 1-7.5-107.3, 1-8-114.5, and 1-8.5-105(3)(a), C.R.S.]

29.1.2 The letter shall inform the eligible elector that 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 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.

29.1.3 The letter and missing signature affidavit form does not violate section 1-13-801, C.R.S.

29.1.4 The letter or missing signature affidavit form must include the following language:

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

29.2 In accordance with section 1-8-114.5, C.R.S., for mail-in ballots and section 1-7.5-107.3, C.R.S., for mail ballots, the election judges shall compare the signature on the self-affirmation on each respective “Return Envelope” with the signature stored in the statewide voter registration system. Signatures shall require further research if any of the following discrepancies are discovered:

Code 1 – An obvious change in the slant of the signature

Code 2 – A printed signature on one document and a cursive signature on the other document

Code 3 – Differences in the size or scale of the signature

Code 4 – Differences in the individual characteristics of the signatures, such as how the “t’s” are crossed, “l’s” are dotted, loops are made on “Y’s” or “J’s”

Code 5 – Differences in the voter’s signature style, such as how the letters are connected at the top and bottom

Code 6 – Ballots or envelopes from the same household have been switched

Code 7 – ‘Other,’ including misspelled names & description of discrepancy

29.3 If further research is necessary, the election judge shall check the county clerk’s or election official’s file for at least two additional documents signed by the voter, if available. Additional

information, written by the voter on the “Return Envelope”, such as the voter’s address and date of signing may be compared for similarities. Any similarities noted when comparing this other information may be used as part of the signature verification decision process.

- 29.3.1 If it appears to the judges verifying the self-affirmation on the return envelopes that members of the same household who have applied for mail-in ballots or have been sent mail ballots have inadvertently switched envelopes or ballots, the ballot or ballots shall be counted and no letter of advisement to the elector is necessary.
- 29.4 Whenever a signature is disputed, the election judge shall document the discrepancy by completing a log. The log shall provide a record of the research steps taken to resolve the issue. The log will identify the voter using a unique tracking number. This tracking number shall not contain the voter’s social security number; Colorado issued driver’s license number, or the identification number issued by the Department of Revenue.
- 29.5 The log shall be approved by the Secretary of State pursuant to section 1-1-109, C.R.S.
- 29.6 There shall be no document containing the voter’s signature attached to the research log.
- 29.7 If both sets of election judges agree that the signatures do not match, the county clerk and recorder shall within two days after the election, send a letter to the eligible elector at the address indicated in the registration records and the address where the mail-in ballot or mail ballot was mailed explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder. (Sections 1-7.5-107.3(2)(a) and 1-8-114.5(2)(a), C.R.S.) The voted ballot itself should not under any circumstances be returned with this letter.
- 29.8 The election official must use the letter and the signature verification form approved by the Secretary of State.
- 29.9 The letter and signature verification form does not violate section 1-13-801 C.R.S.
- 29.10 The final signature verification resolution and ballot disposition shall be noted on the research log.
- 29.11 Any uncounted ballot shall remain sealed in the return envelope and stored under seal with all other uncounted ballots as part of the election record pursuant to section 1-7-802, C.R.S., and may be removed only under the authority of a district attorney or by order of a court having jurisdiction.
- 29.12 Use of Signature Verification Devices
- 29.12.1 A county clerk and recorder who chooses to use a signature verification device to process mail-in or mail ballots in accordance with sections 1-7.5-107.3 or 1-8-114.5, C.R.S., shall conduct acceptance testing on the device prior to its use in an election.
- 29.12.2 The acceptance testing conducted in accordance with this rule shall be sufficient to verify the accuracy of the device. The acceptance testing shall ensure that the device will not accept a signature that a reasonable, trained election judge would reject.

Rule 30. Rules Concerning Voter Identification

30.1 Definitions

- 30.1.1 "Registration in person" means any registration personally completed by the voter at any clerk's main or branch office or personally delivered by the voter to any clerk's main or branch office, driver's license office, or other voter registration agency.
- 30.1.2 "Mail Registration" or "Registration by mail" includes any registration not personally delivered by the voter to any clerk's main or branch office, voter registration agency, driver's license office, or other human services agency. These registrations include, but are not limited to, postmarked registration forms and voter registration drives.
- 30.1.3 As referenced in these rules, "tagging a voter" for ID before voting means identifying a voter in the voter registration database as one who registered by mail and did not supply required identification. Tagged voters require a copy of the required identification to be enclosed with a mail-in or mail ballot.
- 30.1.4 A tagged voter may present the required voter ID or a number which is subsequently verified to the county clerk and recorder at any time prior to returning a voted mail or mail-in ballot to satisfy the provisions of Rule 30.1.3.
- 30.1.5 "SSN" as used in these rules shall mean either the entire Social Security Number or the last four (4) digits of the Social Security Number.
- 30.1.6 "ID" as used in these rules means a copy of any of the following identification as defined in section 1-1-104(19.5), C.R.S.:
- (a) A valid Colorado driver's license;
 - (b) A valid identification card issued by the Department of Revenue in accordance with the requirements of Part 3 of Article 2 of Title 42, C.R.S.;
 - (c) A valid U.S. passport;
 - (d) A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;
 - (e) A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;
 - (f) A valid U.S. military identification card with a photograph of the eligible elector;
 - (g) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector. For example:
 - (i) A cable bill or telephone bill;
 - (ii) A paycheck from a government institution or private company; or
 - (iii) A Certificate of Degree of Indian or Alaskan Native Blood.

- (h) A valid Medicare or Medicaid card issued by the Centers for Medicare and Medicaid Services (formerly the United States Health Care Financing Administration);
- (i) A certified copy of a U.S. birth certificate for the elector issued in the United States;
- (j) Certified documentation of naturalization;
- (k) A valid student identification card with a photograph of the eligible elector issued by an institute of higher education in Colorado, as defined in section 23-3.1-102(5), C.R.S.;
- (l) A valid veteran identification card issued by the United States department of veterans affairs veterans health administration with a photograph of the eligible elector; or
- (m) A valid identification card issued by a federally recognized tribal government certifying tribal membership.

30.1.7 As used in section 1-1-104(19.5)(a)(VII) “current” refers to current utility bill, current bank statement, and current government check, paycheck, or other government document that shows the name and address of the elector. Current means that the date of the document is within 60 days of the date submitted for identification purposes unless the document states a longer billing cycle.

30.2 Voter registration in person.

30.2.1 Registering in Person. The elector must provide:

- A valid Colorado Driver’s License number;
- if the voter does not have a valid Colorado Driver’s License, the voter shall provide the number of the voter’s current and valid identification card issued by the Colorado Department of Revenue.
- If the voter has not been issued a valid Colorado Driver’s License or ID card issued by the Department of Revenue, then the voter shall provide at least the four last digits of the voter’s social security number.

Authority: Section 1-2-204(2)(f.5), C.R.S.

30.2.2 A voter is not required to show or present his current and valid Colorado driver’s license or ID. It is sufficient for the voter to provide the number.

30.2.3 If an applicant for voter registration has not been issued a current and valid Colorado driver’s license or a current and valid identification card issued by the Department of Revenue or a social security number, the election official shall nevertheless register the voter. The applicant shall be assigned a unique identification number that will serve to identify the applicant for voter registration purposes. Section 1-2-204 (2.5), C.R.S.

30.3 Voter Registration by Mail

30.3.1 Registering by Mail. (Including Voter Registration Drives).

- (a) The voter must provide one of the following identification numbers:

- (b) The person's Colorado Driver's License number or ID number issued by the Department of Revenue; if the voter does not have a current and valid Colorado Driver's License or ID card issued by the Department of Revenue, the voter shall provide the last four digits of the voter's social security number.
- (c) If a voter has not been issued a Colorado Driver's License number, ID card issued by the Department of Revenue or a Social Security card, the voter must provide a copy of one of the forms of identification listed in 30.1.6.

Authority: Sections 1-2-501(2)(a), C.R.S. and 1-1-104(19.5), C.R.S.

- 30.3.2 Prior to the implementation of the statewide voter registration database, For any voter registration application received by mail that does not have enclosed a copy of the Colorado Driver's License number, number of an identification card issued by the Department of Revenue, or Social Security number listed, the ID number shall be verified against the Department of Motor Vehicle Motor/Voter Database and the Secretary of State voter registration database. When access to the Social Security database becomes available, that database shall also be utilized. If a number cannot be verified and the voter failed to supply one of the forms of ID listed in 30.1.6, the voter's record will be tagged. (Upon creation of the statewide voter registration system, the check will be performed automatically.)
 - 30.3.3 If, for a registration by mail, a copy of an ID is enclosed per section 1-1-104(19.5), C.R.S., no further verification against the Department of Motor Vehicle Motor/Voter Database, the Secretary of State voter registration database or the Social Security database is required. The voter shall not be tagged and shall be allowed to vote by mail or mail-in ballot without submitting additional identification requirements.
 - 30.3.4 Subject to Rule 30.5.1, if the identification number supplied does not match the identification number on the database record for the name and date of birth, the registration by mail shall not be considered verified. However, if the voter has made a minor error, the Clerk and Recorder may use good judgment and correct the error, and consider the voter verified. Minor errors include, but are not limited to, a transposition of two numbers, or accidentally adding or omitting a number.
- 30.4 Verification of Identification:
- 30.4.1 Verification shall include a match of name, date of birth and ID number on an existing state identification record. A match of only one or two of these items shall not be considered verification. During verification, names given which are similar common variants or nicknames of the name shall be acceptable.
- 30.5 Tagging a voter:
- 30.5.1 Only a voter who has registered by mail may be tagged; a person who registers in person shall not be tagged.
 - 30.5.2 A voter who registers by mail and provides a copy of an acceptable ID as provided in section 1-1-104(19.5), C.R.S., shall not be tagged. A social security card is not listed as ID in section 1-1-104(19.5), C.R.S.
 - 30.5.3 If a voter registers by mail and supplies a Colorado Driver's License number or Colorado Department of Revenue ID number (but not a copy) and/or the social security number, and if at least one of the numbers can be verified with an existing state identification record bearing the same number, name and date of birth, the voter shall

- not be tagged.
- 30.5.4 A voter, who registers by mail and does not supply a copy of an acceptable ID as provided in 1-1-104(19.5), C.R.S., and does not list his/her driver's license number, Colorado Department of Revenue ID number or social security number, shall not be registered.
- 30.5.5 If a voter registers by mail and supplies either a Colorado Driver's License number or Colorado Department of Revenue ID Number (but not a copy) and/or social security number, but no number can be verified with an existing state identification record bearing the same number, name and date of birth against the Driver's License database, Secretary of State voter database or Social Security database once access to the Social Security database becomes available, the voter shall be tagged.
- 30.5.6 The tag status for a voter shall be removed if the voter votes in person showing an acceptable ID or votes by mail or and encloses a valid ID.
- 30.5.7 If the identification number supplied is discovered as incorrect upon verification, and the county clerk and recorder discovers the correct number, the clerk and recorder may enter the correct number on the voter's permanent voter registration record, but the voter shall be tagged.
- 30.6 If a voter registering by mail does not provide a Colorado Driver's License number, Colorado identification card number or the last four digits of the voter's social security number on the voter registration application, and the county clerk and recorder discovers such identification number, the clerk and recorder may enter the applicable identification number on the voter's permanent voter registration record. Any number entered on the voter's permanent voter registration record by the clerk and recorder does not remove the tag status of a voter. Such voter is still required to provide valid identification prior to voting in person, by mail ballot or by mail-in ballot.
- 30.7 Addresses on identification
- 30.7.1 Some forms of identification may not contain an address. If the address appears on the identification, the address must be in Colorado. If ID presented lists only a box number or Post Office box number instead of a residence address, the registrar shall accept the voter's affirmation, as long as the city is in Colorado.
- 30.7.2 Utility bills, bank statements, government checks, government paychecks or other government documents must show the name of the voter and Colorado address.
- 30.8 A suspended license is considered current and valid. A revoked or expired license is not considered current and valid and is not acceptable.
- 30.9 The Colorado Driver's License or Department of Revenue issued ID referred to in section 1-2-217.5(1)(b), C.R.S., or elsewhere in statute, where not specifically stated, must be current and valid.
- 30.10 Pursuant to section 1-1-104(19.5)(a), C.R.S., if an ID that requires a photograph does not contain a photograph, it is not an acceptable ID for registration by mail or voting purposes.
- 30.11 Identification for Voting in Person
- 30.11.1 Voting in Person. (Including early voting, polling place voting).
- (a) The acceptable forms of ID for voting in person are listed in Rule 30.1.6

- (b) A Social Security Number (or last four digits) is NOT a legal form of ID for voting in person.

Authority: Sections 1-7-201 and 1-1-104(19.5), C.R.S.

- 30.11.2 When the voter shows ID pursuant to section 1-1-104(19.5), C.R.S., the election judge shall check to ensure that the name matches, and that the address, if one is listed, is in the State of Colorado. During verification, names given which are similar common variants or nicknames of the name shall be acceptable.
 - 30.11.3 In accordance with section 1-1-104(19.5)(c), C.R.S., an elector that does not present identification at the time of voting shall be offered a regular ballot if he or she presents a letter from the director or administrator of a group residential facility that indicates that the elector is a resident of the facility and that he or she resides at the street address listed in the pollbook. [Sections 1-1-104(18.5), (19.5)(c), and 1-7-110, C.R.S.]
- 30.12 Identification for Voting by Mail
- 30.12.1 Voting By Mail (Including Mail-in Ballot)
 - (a) The acceptable forms of ID for voting by mail for first time voters are listed in Rule 30.1.6.
 - (b) A Social Security Number (or last four digits) is NOT a legal form of ID for voting by mail.
- 30.13 Identification presented by the voter when registering to vote by mail, or presented by the voter when returning the voted mail ballot or mail-in ballot, is not required to be scanned or imaged into the permanent voter registration database, but shall be retained by the designated election official for a period of 25 months after the date of the election.
- 30.14 If a voter has been directed to return identification with his or her voted ballot, the election judge shall open the returned envelope to retrieve the required information. If the required information cannot be found in the return envelope, the election judge shall open the secrecy envelope/sleeve to find the required identification in an effort to not disenfranchise the voter.
- 30.15 If a tagged voter requests a mail-in ballot, the local election official shall send such ballot with written instructions advising the voter of the requisite forms of identification needed to be provided with the mail-in ballot. The local election official shall send the mail-in ballot by the deadline set forth in section 1-8-104(3), C.R.S. If a mail-in ballot is returned without ID as defined in Rule 30.1.6, then the ballot shall be treated as a provisional ballot and verified pursuant to Rule 26.4.

Rule 31. Rules Concerning Help America Vote Act, Title III: Administrative Complaint Procedures

31.1 The HAVA Title III complaints may be received by the Secretary of State's office or the designated election official's office. The HAVA Complaint procedure shall be uniform and nondiscriminatory. The Complaint procedure shall conform to section 1-1.5-105(2)(a), C.R.S., as follows:

- (a) A uniform and nondiscriminatory complaint procedure;
- (b) Authorization for any person who has either been personally aggrieved by or has personally witnessed a violation of title III of HAVA that has occurred, is occurring, or that is about to occur, as applicable, to file a complaint;
- (c) A description by the complainant in his or her complaint of the alleged violation with particularity and a reference to the section of HAVA alleged to have been violated;
- (d) A requirement that the complaint be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later;
- (e) A requirement that each complaint be in writing and notarized, signed, and sworn by the person filing the complaint;
- (f) Authorization for the secretary to consolidate two or more complaints;
- (g) At the request of the complainant, a hearing on the record;
- (h) Authorization for the secretary to provide an appropriate remedy if the secretary determines that any provision of title III of HAVA has been violated or to dismiss the complaint and publish the results of his or her review if the secretary determines that no provision of title III of HAVA has been violated.
- (i) A final determination on the complaint by the secretary prior to the expiration of the ninety-day period that begins on the date the complaint is filed, unless the complainant consents to an extension of time for making such determination;
- (j) Resolution of the complaint within sixty days under an alternative dispute resolution procedure that the secretary shall establish in accordance with the requirements of this rule if the secretary fails to satisfy the applicable deadline specified in section 1-1.5-105(2)(i), C.R.S., and the availability of the record and any other materials from any proceedings conducted under the complaint procedures established for use under such alternative dispute resolution procedures;
- (k) Authorization for the secretary to conduct a preliminary review of any complaint submitted to him or her and to dismiss any complaint that he or she finds is not supported by credible evidence; and
- (l) Recovery by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary pursuant to section 1-1.5-105(2)(i), is found on the basis of clear and convincing evidence to be frivolous, groundless, or vexatious.

31.2 The complaint must be in writing and may be submitted on a form designated by the Secretary of State or in a letter written by the complainant. The letter shall contain the following:

- (a) The complainant's name;
 - (b) The complainant's full residence address, including county, and mailing address (if different from residence);
 - (c) A description of the alleged violation with particularity and a reference to the section of Title III of HAVA alleged to have been violated;
 - (d) A completed, notarized oath signed by the complainant where he or she states that the facts of the complaint are true and correct to the best of his or her knowledge and belief.
- 31.3 Whenever possible, any completed complaints mailed to the Secretary of State or the designated election official shall be sent in a unique, distinguishable envelope as approved by the Secretary of State. This unique envelope shall be given to the complainant at the same time as the complaint form and instructions.
- 31.4 Upon receipt of the HAVA complaint, the Secretary of State or designated election official shall note the date received and unique tracking number on the complaint form. The Secretary of State's office shall establish a unique tracking number for its use, and the designated election official shall use the Secretary of State's county ID number for that county, the last two digits of the present year, and a sequence number according to the amount of complaints already received by the county, placing hyphens between groupings of numbers. (For example, the first one received would be the two digit county number-last two digits of the year-03 with 01, 02, 03, etc. numbering any sequential complaints).
- 31.5 If the complaint is received by the Secretary of State's office, the unique tracking number shall be added to the form and the form shall be faxed to the designated election official in the county where the alleged violation occurred. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included.
- 31.6 If the complaint is received by the designated election official, the county tracking number shall be added to the form and the form shall be faxed to the Secretary of State's office within one business day. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included. The original complaint form shall be hand delivered or mailed to the Secretary of State's office, and a copy shall be retained by the designated election official.
- 31.7 Any original mailed complaints sent by the designated election official and received by the Secretary of State's office shall be sent in a unique, distinguishable mailing envelope as approved by the Secretary of State. This unique envelope will ensure that the complaint is easily recognizable and will be processed in a timely manner.
- 31.8 If the complaint is received by the designated election official and the original sent to the Secretary of State's office, the Secretary of State's office shall notify the designated election official, either by fax or letter, of the office's unique tracking number when the form is received at the Secretary of State's office. This official notification may be used for documentation purposes.
- 31.9 The designated election official shall not make any determination as to the validity of the alleged complaint during the submission process, but shall forward all information to the Secretary of State's office. The county may, however, begin researching the alleged violation on the local level once the complaint is received.
- 31.10 Any information gathered by the designated election official shall be documented with specific details, including the date, and shall be used for reference purposes.

Rule 32. Rules Concerning Recall

32.1 Repealed.

32.2 Signature requirements

32.2.1 For petitions to recall school district directors the petition must be signed by the eligible electors of the director's district equal in number to at least 40% of the ballots cast in the district in the last preceding election at which the director to be recalled was elected as indicated by the pollbook or abstract for the election. See section 1-12-105, C.R.S.

32.2.2 When determining the number of required valid signatures for an elected office for which electors were allowed to vote for more than one candidate in a single race, the signature requirements shall be based on the number of ballots cast for that race as indicated by the pollbook or abstract for the election.

32.3 Repealed.

32.4 Repealed.

32.5 Repealed.

Rule 33. Rules Concerning Voters Who Vote After the Polls Close Pursuant to a Court Order

33.1 Any individual who votes in an election for federal office as a result of a federal or state court order or any other order that is in effect 10 days before that election and which extends the time established for closing the polls by state law may only vote in that election by casting a provisional ballot pursuant to state law and the rules and regulations prescribed by the Secretary of State.

33.1.1 Any such provisional ballot cast under this rule shall be separated and held apart from other provisional ballots cast by those voters not affected by the court order.

Rule 34. Rules Concerning the Adoption of Accessible Voting Systems under The Help America Vote Act of 2002.

- 34.1 The requirements of §301(a)(3) of The Help America Vote Act of 2002 ("HAVA") to implement voting systems that: (1) are accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters and (2) provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a) are triggered when a political subdivision acquires a new voting system by lease or purchase using HAVA §301(a)(3) funds after January 1, 2003.
- 34.2 No political subdivision shall purchase or lease direct recording electronic (DRE) voting systems or other voting systems equipped for individuals with disabilities at each polling place unless such voting system(s) are fully certified pursuant to standards and guidelines recommended by the National Institute of Standards and Testing (NIST) and adopted by the U.S. Election Assistance Commission (EAC).
- 34.3 The Secretary of State, as custodian of §301(a)(3) of HAVA funds, will not distribute such funds to any political subdivision to pay for accessible voting systems that have not been fully certified by the EAC and the Secretary of State.
- 34.4 Only the acquisition of a new voting system (or substantial modification of an existing voting system) that will change voters' interaction with the ballot at the polling sites triggers §301(a)(3) of HAVA.
- 34.5 If a political subdivision acquires a new voting system, the system must be accessible to persons with physical, cultural/educational, mental/cognitive disabilities and provide the voter in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.
- 34.6 The Help America Vote Act requires that a newly acquired voting system be placed in every early voting and Election Day polling site by January 1, 2006.

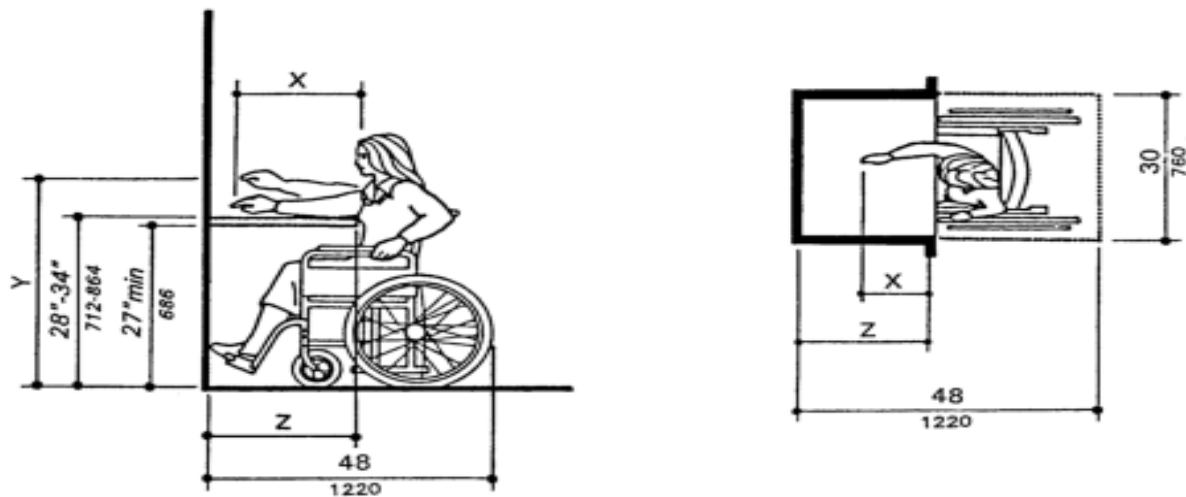
Rule 35. Rules Concerning Requirements for Voting System Accessibility

- 35.1 A voting system shall be accessible to voters with physical disabilities including no vision, low vision (visual acuity between 20/70 and 20/200, and/or 30 degree or greater visual-field loss), no hearing, low hearing, limited manual dexterity, limited reach, limited strength, no mobility, low mobility, or any combination of the foregoing by providing voters with physical disabilities with a practical and effective means to cast an independent and secret ballot in accordance with each of the following, assessed independently and collectively:
- 35.1.1 The voting system shall provide a tactile-input or speech-input device, or both; and
 - 35.1.2 The voting system shall provide a method by which voters can confirm any tactile or audio input by having the capability of audio output using synthetic or recorded human speech, which is reasonably phonetically accurate; and
 - 35.1.3 The voting system shall provide a means for a voter to change the voter's selection prior to the voter casting the ballot; and
 - 35.1.4 Any operable controls on the input device that are needed for voters without vision shall be discernable tactilely without actuating the keys. As a result, all the buttons on the device do not have to be discernable tactilely, only those buttons that are actually required for the individual to use the "operation without vision" mode; and
 - 35.1.5 Any audio and non-audio access approaches shall be able to work both separately and simultaneously; and
 - 35.1.6 If a non-audio access approach is provided, the system shall not require color perception; the system shall use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the office of the Secretary of State approves other high-contrast color combinations that do not require color perception; and
 - 35.1.7 Any voting system that requires any visual perception shall offer the election official who programs the system, prior to its being sent to the polling place, the capability to set the font size to a level that can be read by voters with low vision. While there is no standard font size for this situation, a san-serif font of 18 points as printed on a standard 8.5" x 11" piece of paper will allow the most universal access; and
 - 35.1.8 The voting system shall provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode (e.g., by handset or headset) in enhanced auditory fashion (i.e., increased amplification), and shall provide incremental volume control with output amplification up to a level of at least 97 decibels Sound Pressure Level ("dB SPL"), with at least one intermediate step of 89 dB SPL; and
 - 35.1.9 For transmitted voice signals, the voting system shall provide a gain adjustable up to a minimum of 20 decibels ("dB") with at least one intermediate step of 12 dB of gain; and
 - 35.1.10 For the safety of others, if the voting system has the possibility of exceeding 120 dB SPL, then a mechanism shall be included to reset the volume automatically to a safe level after every use (e.g., when handset is replaced) but not before; and
 - 35.1.11 If sound cues and audible information, such as "beeps" are used, there shall be

simultaneous corresponding visual cues and information; and

- 35.1.12 If a non-audio approach is used in conjunction with an audio counterpart, any spoken text shall also be presented on screen. A graphic representation of a ballot with a check, "X," etc. beside a candidate or proposition is allowed; and
- 35.1.13 All controls and operable mechanisms shall be operable with one hand, including with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist; and
- 35.1.14 The force required to operate or activate the controls shall be no greater than 5 pounds per square foot ("lb./sq.ft."); and
- 35.1.15 If a forward approach by a person in a wheelchair to a voting system is necessary, the maximum high-forward reach allowed shall be 48 inches (1220 mm) and the minimum low-forward reach shall be 15 inches (380 mm). If the high-forward reach is over an obstruction, reach and clearances shall be as shown in the Figure 1., or otherwise in accordance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities ("ADAAG"), as written at the time the system is certified for use in the state of Colorado; and

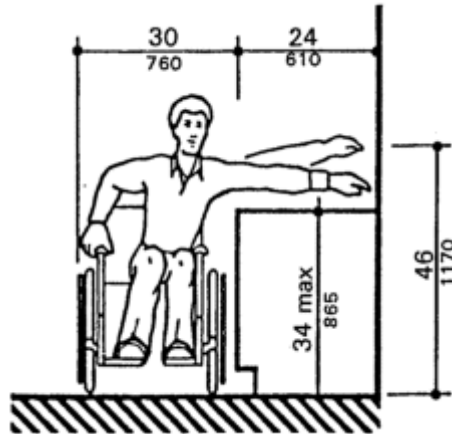
Figure 1.



NOTE: x shall be ≤ 25 in(635 mm); z shall be $\geq x$. When x < 20 in(510 mm), then y shall be 48 in(1220 mm) maximum. When x is 20 to 25 in(510 to 635 mm), then y shall be 44 in(1120 mm) maximum.

- 35.1.16 If a side or parallel approach by a person in a wheelchair to a voting system is necessary, the maximum side reach allowed shall be 54 inches (1370 mm) and the low side reach shall be no less than 9 inches (230 mm) above the floor. If the side reach is over an obstruction, reach and clearances shall be as shown in the Figure 2., or otherwise in accordance with the ADAAG, as written at the time the system is certified for use in the state of Colorado; and

Figure 2.



- 35.1.17 The highest operable part of controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges outlined in paragraphs (15) and (16) of this subsection.
- 35.2 Voting systems shall be substantially compliant with the following prior to being certified for use in the State of Colorado:
- 35.2.1 Audio ballots shall meet the following standards:
- The voting system shall allow the voter to pause and resume the audio presentation.
 - The audio system shall allow voters to control, within reasonable limits, the rate of speech.
- 35.2.2 All voting systems shall also include any form of switches, sip and puff devices, or additional blink control devices.
- 35.2.3 Adjustability of color settings, screen contrasts, and/or screen angles/tilt may be made by either the poll worker or voter if the system uses a display screen. A minimum of two color settings, two contrast settings and two angles shall be available for all display screens.
- 35.2.4 Documentation of the accessibility of the voting system shall include the following items at a minimum:
- If appropriate, voting booth design features that provide for privacy for the voter while voting (if a voting booth is not included with the system, then describe how voter privacy is accomplished);
 - Adaptability of the proposed system for voters with disabilities as outlined in the Americans with Disabilities Act guidelines;
 - Technology used by the voting system that prevents headset/headphone interference with hearing aids;
 - Types and size of voice file(s) the voting system uses;

- (e) Method for recording, sharing and storing voice files in the voting system;
- (f) How navigation through viewable screens is accomplished if it is required with the voting system;
- (g) Various methods of voting to ensure access by persons with multiple disabilities;
- (h) Capabilities of the voting system to accurately accept a non-human touch as input on the touch screen; and
- (i) Method for adjusting color settings, screen contrasts, and screen angles/tilt if the system uses a display screen.

Rule 36. Rules Concerning Notice of Voting System Malfunction Required; Submission of Explanatory Report by Vendor Required Upon Request of Secretary of State

- 36.1 A vendor (or the political subdivision, if no private vendor supports their system) must give notice to the Secretary of State within 24 hours of a malfunction of its voting/election system (including, but not limited to, software, firmware, hardware, or other equipment) in preparation for and on an election held in this state. The notice may be verbal, but must also be in writing.
- 36.2 Following the notice, the Secretary of State shall determine whether further information on the malfunction is required. At the request of the Secretary of State, a vendor (or the political subdivision, if no private vendor supports their system) must submit a report to the Secretary of State's office detailing the reprogramming (or any other actions) necessary to correct a voting system malfunction in preparation for and on an election held using the vendor's system. The report shall address whether permanent changes are necessary to prevent similar malfunctions in the future. If the malfunction requires a programming or election setup change to the database or other parts of the voting system, the designated election official shall submit an updated electronic copy of the election system database to the Secretary of State's office as set forth in Rule 11.
- 36.3 The report shall be submitted within 30 days after the date of the request by the Secretary of State. Notwithstanding the foregoing, if an election is scheduled within 60 days of the date of request by the Secretary of State, the Secretary of State may set an emergency deadline for filing the report. The request may be verbal, but must also be in writing.
- 36.4 Failure to submit a report within the required period shall be grounds to decertify the system.
- 36.5 The political subdivision holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.
- 36.6 A copy of this report will be attached to the system's most recent certification on file in the Secretary of State's office.
- 36.7 The Secretary of State's office will distribute a copy of this report to all counties using the voting system in question.

Rule 37. The Acquisition, Purchase or Lease of Voting Systems.

37.1 Declaration of Intent

37.1.1 The federal Help America Vote Act of 2002 (“HAVA”) established uniform voting systems standards used in elections. The following rules seek to conform Colorado requirements to federal HAVA requirements pertaining to voting systems.

37.1.2 Voting systems (including optical scanning voting systems or direct recording electronic systems) certified by the Secretary of State and acquired, purchased or leased by counties pursuant to state law shall:

- (a) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
- (b) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
- (c) if the voter selects votes for more than one candidate for a single office:
 - (i) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;
 - (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
 - (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.
- (d) Ensure that any notification required under this paragraph preserves the privacy of the vote and the confidentiality of the ballot.

37.1.3 Counties of the State of Colorado that use a paper ballot voting system or a central count voting system (including mail-in ballots and mail ballots), may meet the requirements of this rule by:

- (a) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and
- (b) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any errors).

37.1.4 The voting systems described in the foregoing paragraphs shall produce a record with an audit capacity for such system.

- (a) The voting system shall produce a permanent paper record with a manual audit capacity for such system.
- (b) The voting system shall provide the voter with an opportunity to change the ballot

or correct any error before the permanent paper record is produced.

- (c) The paper record produced under subparagraph (a) shall be available as an official record for any recount conducted with respect to any election in which the system is used.
- (d) The paper record shall be accessible for individuals with disabilities including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

37.1.5 The voting system shall:

- (a) be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;
- (b) satisfy the requirements of Rule 37.1.5(a) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and
- (c) be installed in each polling place in the state.

37.1.6 The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965.

37.2 Prohibition of lease, purchase, or acquisition of voting systems pending action by the Election Assistance Commission (EAC) and certification through the Secretary of State.

37.2.1 No voting system may be leased, purchased, or acquired by any county or political subdivision of this state until the EAC and the Secretary of State have promulgated voting systems standards that address these concerns. This rule shall not apply to voting systems that have been certified by the Secretary of State and purchased by the political subdivisions pursuant to state law prior to the effective date of this rule.

37.3 Adoption of April 30, 2002 Voting System Standards promulgated by the Federal Election Commission for voting systems.

37.3.1 The Secretary of State hereby adopts the April 30, 2002 Voting System Standards promulgated by the Federal Election Commission for voting systems. Therefore, all voting systems, including, but not limited to, optical scan voting systems, direct record electronic voting systems, and touch screens, purchased by the political subdivisions of the State of Colorado are required to meet the qualifications of the Voting System Standards promulgated by the Federal Election Commission on April 30, 2002.

37.3.2 Any voting system or equipment submitted to the Secretary of State for certification shall comply with the 2002 Voting System Standard or later. For certification in Colorado, the 2002 Voting System Standard shall take precedent except as superseded within these rules.

37.3.3 The governing body or designated election official of a political subdivision may purchase any voting system certified by the Secretary of State under the 2002 Voting Systems Guidelines.

- 37.4 The Secretary of State requires all voting systems and all individual parts of voting systems to pass certification criteria as outlined in the State of Colorado Voting Systems Certification Program. The designated election official shall retain records of all certification procedures pertaining to voting systems and parts of voting systems.

Rule 38. Minimum Security Procedures for Transmission of Election Records by Secure, Dedicated Teleprocessing Lines Employed by Vote Centers. See section 1-5-102.7, C.R.S.

38.1 Definitions.

38.1.1 "Vote Center" means a polling place at which any registered elector in the political subdivision holding the election may vote, regardless of the precinct in which the elector resides.

38.1.2 "Teleprocessing Lines" means secure, dedicated communication transmission facilities used for the purpose of transferring Elector Data between Vote Centers and a centralized computerized pollbook maintained by the county clerk and recorder, to ensure the security and integrity of voting information so that no deviation can go undetected.

38.1.3 "Elector Data" means voting information, including but not limited to, voter registration, voting history, and voting tabulations.

38.1.4 "Electronic Pollbook" is a list of eligible electors in electronic format who are permitted to vote at a polling place in an election conducted under the Election Code, which shall be processed by a computer at a Vote Center to be immediately accessible to all other computers at all Vote Centers in the county.

38.2 This Rule applies to each designated election official who transmits election records via Teleprocessing Lines to a centralized Electronic Pollbook maintained by the county clerk and recorder for the purpose of running an election and compiling complete returns. This rule 38 shall only apply to electronic pollbooks used for vote centers.

38.3 Minimum Contingency and Security Procedures

38.3.1 The designated election official shall establish written security procedures covering the transference of Vote Center teleprocessing information.

38.3.2 Such procedures shall include security covering the transmission of Elector Data processed through the Electronic Pollbook and reconciliation of the registration and history of voters casting ballots at a Vote Center.

38.3.3 Such procedures shall include contingency procedures for network and power failure. Such procedures shall at a minimum include procedures to address all single point failures including:

- a. Network failure;
- b. Power failure that lasts less than one (1) hour; and
- c. Power failure that lasts more than one (1) hour.

38.3.4 Acceptable alternatives for addressing such failures include either:

- a. A paper backup of the pollbook with the minimum information required to verify a voter's eligibility; or
- b. A sufficient number of computers per vote center to ensure that the voter check-in continues in an efficient manner. The computers shall have the ability to function on batteries or an external power source for up to two (2) hours. In

addition, each computer shall have an electronic backup of the current pollbook in one (1) of the following formats:

- i. A Portable Document File (PDF);
- ii. A spreadsheet that is limited to sixty-four thousand (64, 000) lines if in Excel; or
- iii. A database with a basic look-up interface.

38.3.5 In addition to acceptable backup pollbook procedures, the security procedures shall address contingency procedures to protect against activities such as voting twice, including but not limited to the use of an affidavit that the voter has not and will not cast another ballot.

38.4 Minimum Standards for Data Encryption

38.4.1 The designated election official shall submit to the secretary of state evidence that the connection to an electronic pollbook is secure including details concerning encryption methodology. In addition, the electronic pollbook shall meet or exceed the following standards. The requirements of this rule shall not apply to counties using the Statewide Colorado Registration and Election (SCORE) system electronic pollbook as the secretary of state shall ensure compliance with the minimum standards for data encryption required by this rule 38.4.

- a. Proven, standard algorithms such as DES, Blowfish, RSA, RC5 and IDEA should be used as the basis for encryption technologies.
- b. If an electronic pollbook utilizes a Virtual Private Network (VPN), the following shall apply:
 1. It is the responsibility of the county to ensure that unauthorized users are not allowed access to internal networks.
 2. VPN use is to be controlled using either a one-time password authentication such as a token device or a public/private key system with a strong passphrase.
 3. When actively connected to the network, VPNs will force all traffic to and from the PC over the VPN tunnel: all other traffic will be dropped.
 4. Dual (split) tunneling is not permitted; only one (1) network connection is allowed.
 5. VPN gateways will be set up and managed by the county or its designee.
 6. All computers connected to internal networks via VPN or any other technology must use up-to-date anti-virus software.
 7. The VPN concentrator is limited to an absolute connection time of twenty-four (24) hours.
 8. Only InfoSec-approved VPN clients may be used.

38.5 Minimum Electronic Pollbook Requirements

- 38.5.1 The designated election official shall adhere to the following minimum procedures and shall include in the security plan, pursuant to section 1-5-616(5), C.R.S., documentation of the county's plan for compliance and assurance that pre-election testing will be conducted. The requirements of this rule shall not apply to counties using the Statewide Colorado Registration and Election (SCORE) system electronic pollbook as the secretary of state shall ensure compliance with the minimum electronic pollbook requirements.
- 38.5.2 The system shall contain enough bandwidth to handle the processing time, taking into account secured transaction method, for any computer on the system as follows:
- a. A maximum of five (5) seconds to update voter credit;
 - b. A maximum of one and a half (1.5) seconds to process a voter inquiry by identification number; and
 - c. A maximum of forty-five (45) seconds for session startup and password verification.
- 38.5.3 The county shall submit in the security plan the system data transfer requirements to completely process a single voter record. This shall include at a minimum the following:
- a. The data stream information on both send and receiving data for all points of the transaction until the transaction is complete;
 - b. Information on all points where the connection is closed and the data stream released between the remote computer and the server; and
 - c. The proposed method of securing transmissions across public networks.
- 38.5.4 The county shall submit in the security plan a detailed list of all vote centers, with a proposed number of workstations connecting to the database and the proposed connection (including bandwidth and security) for each location.
- 38.5.5 Electronic Pollbook Pre-Election Testing Procedures
- 38.5.5.1 The Electronic pollbook application shall be tested to ensure that it meets the minimum system requirements prior to the first election in which it is used.
- a. The application shall also be tested after the implementation of any system modifications. The county shall indicate in the subsequent security plan whether such retesting has occurred.
- 38.5.5.2 The test shall, at a minimum, include the following:
- a. A load test shall be demonstrated through either sixty percent (60%) of actual computers running at proposed bandwidth and security settings, or by simulating a load test with commercial-off-the-shelf ("COTS") technology designed for load testing such as Mercury;
 - b. A contingency/failure test shall be demonstrated and documented illustrating the effects of failures identified in Rule 38.3.3; and
 - c. All tests shall be conducted with clients and servers in normal, typical, deployed operating mode.

- 38.5.5.3 All records and documentation of the testing shall be retained by the designated election official for a period of twenty-five (25) months as part of the election record pursuant to section 1-7-802, C.R.S. The testing record and documentation shall include but is not limited to the following:
- a. A formal test plan containing all test scripts used;
 - i. The test plan shall include test environment containing make, model, type of hardware and software versions used in testing.
 - ii. The test plan shall also include the number of client computers, servers, and physical locations involved in testing.
 - b. Test logs of all events that were observed during testing including:
 - i. The sequence of actions necessary to set up the tests;
 - ii. The actions necessary to start the tests;
 - iii. The actions taken during the execution of the tests;
 - iv. Any measurements taken or observed during the tests;
 - v. Any actions necessary to stop and/or shut down the tests;
 - vi. Any actions necessary to bring the tests to a halt; and
 - vii. Any actions necessary or taken to deal with anomalies experienced during testing.
 - c. Performance logs and reports taken from both server(s) and workstation(s) during the testing which contain performance information of:
 - i. Network usage (bandwidth);
 - ii. Processor utilization;
 - iii. Random Access Memory (RAM) Utilization; and
 - iv. Any additional performance monitoring reports necessary to explain the process taken and to support the findings of the tests.
 - d. All test logs shall contain date, time, operator, test status (or outcome), and any additional information to assist the secretary in making a determination.

38.6 Minimum Number of Computers Required for a Vote Center

- 38.6.1 Counties shall allocate computers to their vote centers based upon the following minimum requirements. Voter registration numbers shall be calculated based upon the total number of registered voters in the county ninety (90) days preceding the election. The minimum computers required shall be on-site at each vote center. For primary or coordinated elections, counties shall allocate no less than 2 on-site computers at each

vote center with the exception provided in this Rule 38.6.1 (A). This Rule 38.6 shall not apply to early voting.

- a. Counties with fewer than ten thousand (10,000) registered voters shall allocate a minimum of two (2) computers to each vote center, except that a county with fewer than ten thousand (10,000) registered voters may allocate a single computer to each vote center so long as the county has established paper backup contingency procedures of the pollbook with the minimum information required to verify a voter's eligibility.
- b. Counties having at least ten thousand (10,000) but fewer than twenty-five thousand (25,000) registered voters shall allocate a minimum of three (3) computers to each vote center.
- c. Counties having at least twenty-five thousand (25,000) but fewer than fifty thousand (50,000) registered voters shall allocate a minimum of thirty-two (32) computers to be dispersed as equally as possible among all vote centers.
- d. Counties having at least fifty thousand (50,000) but fewer than seventy-five thousand (75,000) registered voters shall allocate a minimum of sixty-three (63) computers to be dispersed as equally as possible among all vote centers.
- e. Counties with more than seventy-five thousand (75,000) registered voters shall allocate a minimum of ninety-five (95) computers to be dispersed as equally as possible among all vote centers.

38.6.1.1 A county may submit to the secretary of state an alternate plan establishing the number of computers allocated to each vote center. Such alternate plan shall:

- Establish the reason(s) for proposed computer allocation and provide statistical information based on historical voter turnout at each vote center;
- Provide information relating to population centers within the county; and
- Include other relevant information, as necessary.

In no event shall an alternate plan be submitted to the secretary of state unless the minimum amount of computers allocated by a county is equal to or greater than the minimum number of computers established in this Rule and there are no less than two (2) computers allocated to each vote center except for the requirements established in Rule 38.6.1 (A).

38.7 Written procedures and reports required by this Rule 38 shall be submitted to the Secretary of State and received by that Office for approval no later than sixty (60) days before the election date. The Secretary of State shall either approve the procedures submitted or notify the designated election official of recommended changes.

38.8 If the Secretary of State rejects or approves the written procedures, the Secretary of State shall provide written notice of such rejection/approval, including specifics of non-compliance with this Rule, within fifteen (15) days of receiving the written procedures.

38.9 If the Secretary of State rejects the written procedures, the designated election official shall submit a revised procedure within fifteen (15) days thereafter.

- 38.10 The Secretary of State shall permit the filing of the revised procedures at a later date if it is determined that compliance with the fifteen day requirement is impossible.
- 38.11 All reconciliations must be accomplished prior to canvassing board certification of final results and shall be certified by the canvassing board. The certification of reconciliation shall be filed with the Secretary of State at the time the canvassing board certification of official election results is filed.
- 38.12 Where the Elector Data is transmitted via Teleprocessing Lines for the purpose of combining with other such tabulations to produce complete returns, the designated election official shall establish procedures to reconcile received transmitted tabulations so that no deviation can go undetected.
- 38.13 Prior to January 1, 2008, election judges shall make one certificate for each Vote Center in the form required by section 1-7-601, C.R.S.
- 38.14 Certificate of Reconciliation
- (a) In addition to the statutory form required by section 1-7-601, C.R.S., the election judges for each vote Center shall submit a certification of reconciliation in substantially the following form:
- During the ____ Election held in _____ County on _____ 20____, Elector Data was transmitted using dedicated Teleprocessing Lines. The canvassing board hereby certifies that the reconciliation procedures required by Rule 38.11, Minimum Security Procedures for Transmission of Election Records by Dedicated Teleprocessing Lines in Vote Centers has been complied with.*
- (b) The Certification of Reconciliation must be signed and dated by the designated election official.
- 38.15 After January 1, 2008, reconciliation shall consist of race-by-race comparison by precinct of the received tabulation to a tabulation report produced from the original tabulations sent from the precinct to those received at the Vote Center. All tabulation reconciliations must be accomplished prior to canvassing board certification of final results and shall be certified by the canvassing board. This certification of reconciliation shall be filed with the Secretary of State at the time the canvassing board certification of official election results is filed.

Rule 39. Cancellation of Felons' Voter Registrations

- 39.1 Upon being provided information concerning felony convictions and pursuant to section 1-2-302(3.5)(b), C.R.S., the Secretary of State shall direct the cancellation of the registration of persons convicted of a felony who are serving a sentence of confinement or detention or are on parole.
- 39.1.1 This rule does not pertain to a felon serving a period of probation.
- 39.2 The Secretary of State shall compare the felony conviction data with the Secretary of State's voter registration database to match voter registration information with the individuals listed using the following criteria:
- (1) The last name and first name of each individual,
 - (2) The date of birth,
 - (3) The social security number or last four digits (if provided).
- 39.2.1 Any confirmed match of the last name and first name of the individual and the date of birth, the social security number, or at least the last four digits, will be considered adequate cancellation criteria.
- 39.2.2 The county clerk and recorder shall send written notice to all individuals cancelled pursuant to this rule advising the individual that his or her voter registration has been cancelled. The felon notification of cancellation letter shall be in a format approved by the Secretary of State, and shall be mailed to the last known mailing address as shown on the clerk and recorder's records.
- 39.3 For any confirmed matches of convicted felons found pursuant to Rule 39.2, such matches shall be provided to the county clerk and recorder of the county of residence of the individual as recorded in the Secretary of State voter registration database to be cancelled pursuant to sections 1-2-302(3.5)(b) and 1-2-103(4), C.R.S.
- 39.4 Each county clerk shall solicit a listing of individuals convicted of a felony from the county sheriff of their respective counties.
- 39.4.1 Such lists shall be obtained at least once a month throughout the year. During any month in which an election occurs, such lists shall be obtained up to and including the day prior to the election.
- 39.4.2 The registrations of confirmed matches of individuals on the lists furnished by the county sheriffs shall be cancelled under the criteria set forth in Rule 39.2.

Rule 40. Rules Concerning Certification and Education of Designated Election Officials

40.1 Purpose and Definitions:

- 40.1.1 The Secretary of State recognizes that the oversight of elections is a profession that requires thorough knowledge of complex state and federal election law and election procedures. It is recognized that state and federal law, voting equipment and election procedures are complex, and therefore necessitates extensive training. The purpose of the certification program is to standardize election procedures and education so that Colorado voters have a greater confidence in their election officials and the election process.
- 40.1.2 “local election official” for the purpose of section 1-1-301(1), C.R.S., shall mean a county clerk and recorder.
- 40.1.3 “Persons required to complete certification” for the purpose of section 1-1-302, C.R.S., and this rule shall mean:
- (a) The county clerk and recorder; and
 - (b) Employees in the clerk and recorder’s office who are directly responsible for overseeing election activities, including but not limited to voter registration, candidate qualifications and ballot certification, poll worker training, ballot design and setup, ballot counting, and canvassing.

40.2 Advisory Board created

- 40.2.1 The Secretary of State shall create an advisory board to oversee the certification program and curriculum. The advisory board shall meet at least twice each calendar year to approve the curriculum and make necessary changes. The advisory board shall also review evaluations and recommend changes to the certification program.
- 40.2.2 The advisory board shall review individual applications for certification and shall approve applications that are accurate and complete. The advisory board shall have the authority to take into account special circumstances in reviewing and approving applications.
- 40.2.3 The advisory board shall include the following members appointed by the Secretary of State:
- (a) Four county clerks or designated staff members
 - (b) Two Secretary of State Office representatives
 - (c) Any individual(s) whom the Secretary of State believes could make a valuable contribution to the Board.
- 40.2.4 Board members shall be appointed by the Secretary of State to serve a two-year term. Board members may be terminated without cause. Failure to attend meetings or meaningfully contribute may result in termination.

40.3 Core Curriculum

- 40.3.1 The certification program shall include core requirements. All training outlined herein shall be provided under the direction of the Secretary of State. Persons applying for certification shall complete at least eight core classes. The core classes shall generally include but are not limited to:

- (a) Navigating election laws and procedures
- (b) Testing and maintenance of voting equipment
- (c) Canvass procedures
- (d) Mail-in voting
- (e) Pollworker training and recruiting
- (f) Overseas and military voting
- (g) Ethics
- (h) Mail ballot elections
- (i) Accessibility for people with disabilities
- (j) Provisional voting
- (k) Issues in voter registration

40.3.2 The classes may be offered as a whole or in sections.

40.4 Elective Curriculum

40.4.1 The certification program shall include electives as part of the certification program. All training outlined herein shall be provided under the direction of the Secretary of State. Persons applying for certification shall select and complete at least six elective courses. The elective courses shall generally include but are not limited to:

- (a) Voter outreach
- (b) Media relations and the Colorado Open Records Act (CORA)
- (c) Elections refresher course
- (d) Petitions
- (e) Recall elections
- (f) Security planning
- (g) SCORE functional training
- (h) Polling place set up/management
- (i) Vote Center training
- (j) Budgeting
- (k) Recounts and election contests
- (l) Other timely, relevant topics as determined by the Secretary of State

- 40.4.2 The classes may be offered as a whole or in sections.
- 40.5 Credit for training offered by the Secretary of State.
- 40.5.1 Individuals applying for certification shall have received at least eight unique core credits and six unique elective credits. The advisory board may reject applications for certification if any of the core or elective credit requirements have been achieved through a duplication of course credits.
- 40.5.2 The advisory board shall not accept applications for certification if more than two SCORE functional training elective credits are submitted to achieve the six elective credit requirement.
- 40.5.3 One credit shall be awarded after successful completion of any course scheduled for two hours or less. Two credits shall be awarded for successful completion of any course scheduled for more than two hours. However, only one elective credit shall be awarded for each four hours of SCORE Functional Training.
- 40.5.4 Training assessment
- (a) To receive certification credit for any course presented by the Secretary of State in accordance with this rule, participants shall successfully complete a training assessment with a minimum score of 85%.
 - (b) Participants failing to achieve a score of at least 85% may retake the assessment.
 - (c) Assessments may be administered by the Secretary of State during or after presentation of the course, either by a paper assessment or by utilizing electronic assessment software.
- 40.6 Credit for training offered by other agencies or organizations
- 40.6.1 Persons may apply to the advisory board to request credit towards Colorado certification for training provided by other agencies or organizations.
- 40.6.2 The Board shall grant core or elective hours if such trainings are elections related and provide an appropriate level of specificity and applicability as similar courses provided by the Secretary of State.
- 40.6.3 The Board may review agendas, materials, and other documentation for training not provided by the Secretary of State prior to granting core or elective credit.
- 40.6.4 For initial certification, the Board may grant up to one core and two elective credits to any participant for training provided by other agencies or organizations.
- 40.6.5 Successful completion of an assessment shall not be required for training provided by other agencies or organizations.
- 40.7 Continuing Elections Education (CEE)
- 40.7.1 In order to maintain certification, a person shall attend and complete at least two electives or one core class every calendar year.
- 40.7.2 Credit received for duplicate classes within the same calendar year may be applied only once toward maintaining certification. No more than two SCORE

functional training elective credits may be submitted within the same calendar year towards maintaining certification.

- 40.7.3 After a person has completed the requirements for maintaining certification, he or she shall submit an application for continuing certification to the Secretary of State's office on the form approved by the Secretary of State.

40.8 Completing Colorado certification

- 40.8.1 After a person has completed the requirements for certification, the person shall submit an application for Colorado certification to the Secretary of State's office on the form approved by the Secretary of State.

40.8.2 Repealed.

- 40.8.3 The Secretary of State shall review the application with reference to the Secretary of State records. If the application is complete and accurate, the Secretary of State shall forward it to the advisory board for its review and approval. Upon approval by the advisory board, the Secretary of State shall issue a certificate that the person is a Certified Colorado Election Official.

- 40.8.4 The Secretary of State shall track attendance at all classes and keep records of attendance, continuing elections education, and records of those persons who are certified and persons who are in the certification process.

40.9 Decertification

40.9.1 Repealed

- 40.9.2 If a certified election official fails to satisfy continuing elections education requirements in one calendar year, then the election official shall have a maximum of 12 months to complete continuing education requirements for the previous calendar year and the current calendar year.

- 40.9.3 Failure to satisfy continuing education requirements for two consecutive years shall result in de-certification.

40.10 Credit for Teaching Classes

- 40.10.1 Any person who teaches or substantially assists with preparation of a class offered for certification may receive the equivalent of two core or three elective credits.

- 40.10.2 The participant shall submit a written request to the Secretary of State's office requesting either two core or three elective credits.

- 40.10.3 The Secretary of state shall forward the application to the advisory board, which shall determine whether the applicant is eligible to receive the requested credits.

40.11 Web-based training

- 40.11.1 The Secretary of State may utilize web-based technology to make certification and training more accessible. Virtual and web-based training may be provided for any course the Secretary of State deems appropriate.

40.11.2 Web-based training may be conducted live or by reviewing material previously presented by the Secretary of State. In either case, participants must achieve a satisfactory score on assessments prior to receiving credit for the course.

Rule 41. Rules Concerning Canvassing

41.1 Definitions

- 41.1.1 “Canvass board” means a committee composed of the county clerk and recorder and the registered electors appointed by the major parties in accordance with section 1-10-101, C.R.S.
- 41.1.2 “Canvass workers” means workers appointed or hired by the designated election official to assist in the preparation and conduct of the canvass.
- 41.1.3 “Statement of Ballots Form” means the form used at the polling location that accounts for all ballots at that location and includes all information required by this rule.

41.2 Appointment to the Canvass Board

- 41.2.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.
- 41.2.2 For a partisan election, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.
- 41.2.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents.
- 41.2.4 A candidate for office and members of the candidate’s immediate family may not serve on the canvass board.

41.3 Duties of the Canvass Board

- 41.3.1 The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(3), C.R.S.
- 41.3.2 The canvass board’s duties are:
- (a) Conduct the canvass in accordance with section 1-10.5-101, C.R.S., including:
 - i. Account and balance the election and certify the official abstract of votes;
 - ii. Reconcile the number of ballots counted to the number of ballots cast; and
 - iii. Reconcile the number of ballots cast to the number of voters who voted by reviewing the reconciled detailed ballot logs and Statement of Ballots;
 - (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule 11.5.4;
 - (c) In coordination with the county clerk and recorder, investigate and report discrepancies found in the audit under section 1-7-514(2), C.R.S.; and
 - (d) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and Election

Rule 14. The canvass board's role in conducting a recount includes selecting ballots for the random test, observing the recounting of ballots, and certifying the results.

- 41.3.3 If the board identifies a discrepancy in the Statement of Ballots, the Board may review the particular ballots at issue to identify, correct, and account for the error.
- 41.3.4 The canvass board may not perform duties typically reserved for election judges, including:
 - (a) Determining voter intent;
 - (b) evaluating voter eligibility; and
 - (c) Requesting new logs or reports that were not created to conduct the election.
- 41.4 Detailed Ballot Log
 - 41.4.1 The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are ordered and received. The election judges must reconcile the log at the conclusion of each workday.
 - 41.4.2 The designated election official must keep and reconcile daily logs of mail-in, mail, and early voting ballots.
 - 41.4.3 The designated election official must indicate in the detailed log the number of paper ballots that are sent to each polling location for use on election day.
 - 41.4.4 The designated election official must keep required logs in either electronic or manual format.
- 41.5 Election Day Tracking Process
 - 41.5.1 The designated election official must supply each polling location with a Statement of Ballots Form. Combined precincts may use one form. The form must include a place for the judges to account for the following information:
 - (a) The name or number(s) of the precinct or vote center;
 - (b) The number of ballots provided to the polling location;
 - (c) The number of ballots cast;
 - (d) The number of unvoted ballots;
 - (e) The number of damaged or spoiled ballots; and
 - (f) The number of voted provisional ballots.
 - 41.5.2 The election judge must reconcile the total number of voted ballots with the number of voters who voted.
 - 41.5.3 The election judge must verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to the polling location.

- 41.5.4 The election judge must reconcile the number of people who signed the pollbook to the total of the number of ballots cast.
 - 41.5.5 If there is a discrepancy in the numbers on the Statement of Ballots form, the judge must explain the discrepancy in writing (for example, the voter signed in but left the polling place without voting, etc.).
 - 41.5.6 The judge must return the completed Statement of Ballots form to the designated election official with the other precinct supplies and mail a duplicate copy to the designated election official's office.
- 41.6 Designated Election Official's Disposition of Forms
- 41.6.1 The designated election official must review the Statement of Ballots form for completion and accuracy.
 - 41.6.2 If the designated election official or the canvass board discovers a problem with the Statement of Ballots form that cannot be easily resolved, they may contact the election judges for an explanation or correction.
- 41.7 Procedures for the Day of the Canvass
- 41.7.1 The designated election official must provide the following information to the canvass board:
 - (a) The name of each candidate, office, and votes received;
 - (b) The number/letter of each ballot issue or question and votes received;
 - (c) The number of voters who voted early;
 - (d) The number of mail-in or mail ballots cast, including the number accepted and rejected; and
 - (e) The number of provisional ballots counted.
 - 41.7.2 Any written documentation regarding official numbers is included as part of the canvass.
- 41.8 Official Abstract
- 41.8.1 The designated election official must include the number of eligible voters on election day on the official abstract.
 - 41.8.2 The canvass board must use the official abstract in a format approved by the Secretary of State.
 - 41.8.3 The official abstract must include, by precinct/ballot style or vote center, where applicable:
 - (a) The statement of votes counted by race and ballot question or issue;
 - (b) The total active registered electors in the precinct and the total for the jurisdiction holding the election;

- (c) The total number of electors voting in each precinct and the total for the jurisdiction holding the election;
 - (d) The number of voters who voted early;
 - (e) The number of emergency registrations;
 - (f) The number of mail-in or mail ballots counted and the number rejected;
 - (g) The number of provisional ballots counted and the number rejected listed by each rejection code; and
 - (h) The number of damaged and spoiled ballots.
- 41.9 The Abstract is the Official Permanent Record.
- 41.9.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.
 - 41.9.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.
- 41.10 Appointment of Canvass Workers. The designated election official may appoint canvass workers to help prepare and conduct the canvass.
- 41.11 Voter History
- 41.11.1 After the canvass, the designated election official must give credit to each voter who votes by mail, at an early voting site, or at a polling location.
 - 41.11.2 If the voter history records do not match the number of voters who voted at that election, the designated election official must ensure the following:
 - (a) Each voter received credit for voting; and
 - (b) All pollbooks and signature cards are accounted for.
 - 41.11.3 All research concerning discrepancies must be explained and documented.
- 41.12 Written Complaints. The designated election official must provide the canvass board with any written complaint submitted by a registered elector about a voting device.
- 41.12.1 If the complaint is resolved, the designated election official must provide the details of the resolution
 - 41.12.2 If the complaint is pending resolution when the board meets to conduct the canvass, the designated election official must provide a proposal for how the issue will be resolved.
- 41.13 Role of Watchers. Watchers appointed under section 1-10.5-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.
- 41.14 Role of the Secretary of State. As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections as outlined below.
- 41.14.1 The county clerk and recorder or the canvass board may request that the Secretary of

State provide guidance and support to the canvass board in the exercise of the board's duties.

- 41.14.2 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.
- 41.14.3 Imperfect returns or failure to certify.
- (a) If the canvass board fails to certify or certifies imperfect returns that have no reasonable potential to change the outcome of any race or ballot measure, the Secretary of State and county clerk must certify the election and order recounts, if any, in accordance with Part 1, Article 11 of Title 1, C.R.S.
 - (b) If the canvass board fails to certify or certifies imperfect returns that have a reasonable potential to change the outcome of any race or ballot measure, the Secretary of State will conduct an investigation to identify the nature of, and advise the county clerk and recorder in correcting, the inaccuracy.

Rule 42. Rules Concerning Use of Facsimile for Administrative or Medical Emergency Outside of the UOCAVA Context.

- 42.1 Pursuant to section 1-8-115, C.R.S., the designated election official may use means of electronic transfer to provide a mail-in ballot to the eligible elector for an administrative or medical emergency following the procedures outlined in section 1-8-115 C.R.S., and this rule.
- 42.2 “Electronic Transfer” means fax or e-mail (section 1-8-115, C.R.S.).
- 42.3 If a mail-in ballot is delivered to an elector by facsimile transmission, the elector may return the ballot by facsimile transmission.
- 42.4 Mail-in ballots sent by facsimile transmission shall include all races, ballot issues, and questions on which the elector may vote. Counties are encouraged to work with their vendors to develop a ballot that is clearly legible to the elector 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.
- 42.5 Instructions faxed to the elector with the ballot shall include the following information:
- (a) The name of the elector;
 - (b) The recipient’s fax number;
 - (c) The total number of pages to be transmitted;
 - (d) The total number of ballot pages;
 - (e) The telephone number or e-mail address where the eligible elector may send questions regarding the ballot;
 - (f) A notice that the recipient shall not duplicate the ballot for any other voter;
 - (g) The fax number where the eligible elector may return their completed ballot.
 - (h) Return address information for the designated election official and instructions to mark, “official ballot enclosed” on the elector’s return envelope;
 - (i) A notice that the ballot must be received by the designated election official by mail, hand delivery or received by fax no later than 7:00 p.m. Mountain Standard Time on election day; and
 - (j) Instructions for returning the medical/administrative emergency form.
 - (k) A notice that the ballot will not be a confidential ballot.
- 42.6 The transmission must also include a mail-in ballot self-affirmation.
- 42.7 The fax transmission log as well as any other fax record shall be part of the official election record.
- 42.7.1 A Fax Transmission log shall be maintained by the designated election official of each ballot sent to a voter by facsimile indicating:

- (a) The name of the voter;
 - (b) The fax number to which the ballot was sent;
 - (c) The unique identification number of the faxed ballot;
 - (d) The date the ballot and instructions were faxed; and
 - (e) The initials of the designated election official's employee sending the fax.
- 42.8 The designated election official shall fax the blank ballot with the instructions to the fax number provided by the elector. If the transmission is unsuccessful, the designated election official shall attempt to fax at least two more times and make reasonable effort, if possible, to ensure the transmission was successful.
- 42.9 Upon receipt of the ballot, when the information from the signed affidavit has been verified, a bipartisan team of judges shall duplicate the ballot. Duplicating judges shall not reveal how the elector has cast his or her ballot.
- 42.10 Medical Emergency
- 42.10.1 For purposes of section 1-8-115(1)(a), C.R.S., "second degree" is defined as spouse, parents, children, brothers and sisters, grandparents, and grandchildren related by blood or marriage.
- 42.10.2 For the purposes of section 1-8-115(1)(a), C.R.S., the "last day to apply for a mail-in ballot" is defined as the last day to apply for a ballot by mail in accordance with section 1-8-104(3), C.R.S.
- 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 may send an emergency mail-in ballot to the elector.
- 42.11.3 Repealed.
- 42.11.4 Repealed.
- 42.11.5 Repealed.
- 42.11.6 Repealed.
- 42.11.7 Repealed.
- 42.12 Timeliness of filing applications for emergency mail-in ballots
- 42.12.1 Requests for emergency mail-in ballots issued for medical reasons pursuant to Section 1-8-115(1)(a), C.R.S. must be received by the designated election official no later than 5:00 p.m. on the day of election.

42.12.2 Requests for emergency mail-in ballots issued for administrative reasons pursuant to Section 1-8-115(2), C.R.S. must be received by the designated election official no later than 5:00 P.M. on the day of the election.

42.12.3 Requests for emergency mail-in ballots shall not be processed if the request is received after the required deadline.

Rule 43. County Security Procedures

43.1 Definitions

- 43.1.1 “Chain-of-custody log” means a written record that shows that the equipment and all associated data are secured according to these procedures and in the documented control of an employee or deputized election judge through the entire time of ownership by the jurisdiction.
- 43.1.2 “DRE” means a direct recording electronic voting device. A DRE is a voting device that records votes by means of a ballot display provided with mechanical or electro-optical components or an audio ballot that the voter can activate; that processes data by means of a computer program; and that records voting data and ballot images in memory components or other media. The device may produce a tabulation of the voting data stored in a removable memory component and as printed copy. The device may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from remote sites to the central location.
- 43.1.3 “Employee” means all full-time, part-time, permanent, and contract employees of the county who have had a criminal history check conducted in accordance with Rule 11.2 and are deputized by the county clerk and recorder to prepare or maintain the voting system or election setup materials, staff the counting center and who have any access to the electromechanical voting systems or electronic vote tabulating equipment.
- 43.1.4 “Removable card or cartridge” means any programming card or cartridge, except a voter activation card, that stores firmware, software, or data.
- 43.1.5 “Seal” means a serial-numbered tamper-evident device that indicates a seal is broken or removed.
- 43.1.6 “Trusted Build” means the write-once installation disk or disks for software and firmware for which the Secretary of State or his/her agent has established the chain of evidence to the building of a disk, which is then used to establish and/or re-establish the chain of custody of any component of a voting system that contains newly installed firmware or software. The trusted build is the origin of the chain of evidence for any software and firmware component of the voting system.
- 43.1.7 “Video security surveillance recording” means video monitoring by a device that continuously records a designated location or a system using motion detection that records one frame, or more, per minute until detection of motion triggers continuous recording.

43.2 Annual security plan. In accordance with section 1-5-616(5), C.R.S., each county must submit a security plan to the Secretary of State annually and no later than 60 days prior to the first election in which the security plan procedures are used. The plan must, at a minimum, include the following:

43.2.1 General Requirements:

- (a) The county clerk and recorder shall maintain on file all documentation of seals, chain of custody, and other documents related to the transfer of equipment between parties. These documents are subject to inspection by the Secretary of State.

- (b) The county must maintain and document the chain of custody for each voting device throughout the county's ownership or leasing of the device.
- (c) Only deputized clerks, election judges, or canvass board members sworn under oath are allowed to handle ballots, which include V-VPAT records.
- (d) The county may install additional or modified software developed by the Vendor on any component of the voting system only if the software is specifically listed on the Secretary of State's certificate and verified against the state trusted build. Nothing in this rule shall preclude the use of commercial off-the-shelf software, provided that the software is included in the certified list of services and executables for the certified voting systems.
- (e) Any form or log containing "date" means to note the month, calendar day, year, hour, minute, and whether the time is a.m. or p.m.

43.2.2 Physical Locking Mechanisms and Seals. The county must record the serial number of every seal on the appropriate chain-of-custody log. Two individuals must verify, and indicate by signing and dating the log, that the seal serial numbers match the logged serial numbers. If a seal is inaccessible and cannot be removed, then it is not necessary to verify that seal serial number.

- (a) DREs. The county must seal DRE voting devices as follows:
 - (1) The county must place a seal over any removable card or cartridge that is inserted into the unit, or over the slot or door covering the card or cartridge.
 - (2) The county must place a seal over any removable card slot or cartridge slot when no card or cartridge is inserted into the unit.
 - (3) If the county cannot verify the firmware or software hash value (MD5 or SHA-1), the county must seal the DRE case. To detect unauthorized access, the county must use seals at either the seams of the case or at key entry points such as screw access points.
 - (4) If the voting device contains one or more slots for a flash memory card, the county shall affix a seal over each each flash card slot, door, or access panel.
 - (5) These same procedures also apply to the Judge's Booth Controller (JBC) unit for the Hart InterCivic System.
 - (6) Two employees or election judges must verify, and indicate by signing and dating the chain-of-custody log, that all seal serial numbers match the logged serial numbers.
- (b) V-VPATs. Prior to attaching a V-VPAT to a specific voting device, the judges shall seal the unit after verifying that no votes were cast. At least two election judges must verify that seals are intact prior to the start of voting, and at the close of voting, V-VPAT records shall either remain in the V-VPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule 11.

- (c) Remote or Central-count Optical Scanners. Optical scanners used in a remote or central tabulating location shall meet the following seal requirements:
 - (1) The county must place a seal over each card or cartridge inserted into the unit, or over any door or slot containing the card or cartridge.
 - (2) The county must place a seal over each empty card or cartridge slot or door covering the area where the card or cartridge is inserted.
 - (3) Prior to the start of voting and after the close of voting, two employees or election judges must visually confirm that all seals are intact and that the seal serial numbers match those logged in the chain-of-custody log.
- (d) Memory Cards/Cartridges.
 - (1) The county must assign and securely affix a permanent serial number to each removable card or cartridge. The county may use the manufacturer assigned serial number for this purpose.
 - (2) The county must handle Removable memory cards and cartridges in a secure manner at all times. The county must transfer and store any removable card and/or cartridge that is not sealed in a voting machine in a secure container with at least one seal. Upon delivery and receipt, election judges or county personnel must verify, and indicate by signing and dating the chain-of custody log, that all seal serial numbers match those listed in the log.
 - (3) The county clerk and recorder must maintain a written or electronic log to record card or cartridge seal serial numbers and track seals for each voting unit. The county clerk and recorder must be notified if control of a card/cartridge or door or slot for a card/cartridge is breached before an election, and he/she must follow the procedures specific to the incident outlined in Rule 43.2.11.

43.2.3 Individuals with Access to Keys, Door Codes, and Vault Combinations

- (a) For employees with access to areas addressed in Rule 43.2.3(c), the county must state the employees' titles and the dates of CBI background checks. [Section 24-72-305.6, C.R.S.]
- (b) The county must change all keypad door codes or locks, vault combinations, computer and server passwords, encryption key codes, and administrator passwords at least once per calendar year prior to the first election of the year.
- (c) Employee access
 - (1) The county may grant employees access to the codes, combinations, passwords, and encryption keys described in this Rule 43.2.3 in accordance with the following limitations:
 - (A) Access to the code, combination, password, or encryption key for the storage area for voting equipment and the mail-in ballot counting areas is restricted to employees as defined in Rule 43.1.3.

- (B) Access to the code, combination, password, or encryption key for the mail-in ballot storage area and counting room or tabulation workstations is restricted to ten employees as defined in Rule 43.1.3.
- (C) Except for emergency personnel, no other individuals shall be present in these locations unless supervised by one or more employees as defined in Rule 43.1.3.
 - (i) Each individual who has access to the central election management system or central tabulator shall have their own unique username and password. No individual shall use any other individual's username or password. Shared accounts are prohibited.
 - (ii) The county shall maintain a log of each person who enters the ballot storage room, including the person's name, signature, and date and time of entry. If access to the ballot storage room is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log shall meet the requirements of this rule.
- (2) In extreme circumstance, the county may request and the Secretary of State may grant exemption from the requirements outlined in Rule 43.2.3(c)(1).
- (d) Computer room access is limited to authorized employees and election judges only. Messengers or runners delivering ballots between the preparation room and computer room shall wear distinguishing identification. This rule does not supersede access by watchers, official observers, and media observers in accordance with Rule 8.

43.2.4 Temperature-controlled Storage.

The county must maintain all components of the voting system and ballots in a temperature-controlled environment. The county shall attest to the temperature-control settings used with the following components of a voting system. Information submitted to the Secretary of State shall indicate the specifics for each type of component, as well as the specific environment used, which may include, but is not limited to controlled offices, controlled vaults, and controlled warehouses. The county must maintain the following required temperature settings:

- (a) Servers and Workstations. The county shall maintain the temperature so that the maximum temperature at no time exceeds 90 degrees Fahrenheit.
- (b) DREs. The county shall maintain the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.
- (c) Optical Scanners. The county shall maintain the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.
- (d) V-VPAT Records. In addition to the requirements set forth in Rule 11, the county shall maintain the temperature at a minimum of 50 degrees Fahrenheit and a

maximum of 90 degrees Fahrenheit. The county shall maintain V-VPAT records in a dry environment, with storage at least four inches above the finished floor, for a period of 25 months following the election. The humidity of the environment shall not exceed 80% humidity for a period of more than 24 hours. The county shall store V-VPAT records in a manner that prevents exposure to light, except as necessary during recounts and audits.

- (e) Paper Ballots. The county shall maintain paper ballots in a dry, humidity-controlled environment. The humidity of the environment shall not exceed 80% humidity for a period of more than 24 hours. The county shall store paper ballots at least four inches above the finished floor, for a period of 25 months following the election.
- (f) Video Data Records. The county shall maintain video data records in a dry, temperature-controlled environment. The humidity of the environment shall not exceed 80% humidity for a period of more than 24 hours. The county shall maintain temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit. The county shall store video data records at least four inches above the finished floor, for a period of 25 months following the election.

43.2.5 Security Cameras or Other Surveillance

- (a) Unless otherwise instructed, the county shall make video security surveillance recordings of specified areas beginning at least 60 days prior to the election and continuing through at least 30 days after the election, unless there is a recount or contest. The recording system shall ensure that records are not written over when the system is full. The recording system shall provide a method to transfer the video records to a different recording device or to replace the recording media. If replaceable media is used then the county shall provide a process that ensures that the media is replaced often enough to prevent periods when recording is not available. If a recount or contest occurs, the recording shall continue through the conclusion of all such activity. The following are the specific minimum requirements:
 - (1) If the county has 50,000 or more registered voters, then the county shall make video security surveillance recordings of the following areas, excluding voting booths:
 - (A) All areas in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.
 - (B) All areas used for processing mail-in ballots, including but not limited to areas used for Signature Verification, tabulation, or storage of voted ballots beginning at least 35 days prior to the election and continuing through at least 30 days after the election, unless there is a recount or contest. If a recount or contest occurs, the recording shall continue through the conclusion of all such activity.
 - (C) The storage area for all voting equipment.
 - (2) If the county has fewer than 50,000 registered voters then the county shall make video security surveillance recordings of all areas, excluding

voting booths, in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.

- (b) The county must adequately and continuously light the area(s) subject to video surveillance to provide visibility for video recording.

43.2.6 Equipment Maintenance Procedures.

In addition to the requirements for voting systems specified in Rule 11, the county shall adhere to the following minimum standards:

- (a) The county shall store all equipment throughout the year with seals over the memory card slots for each device. The county shall maintain a log of the seals used for each device consistent to the logs used for tracking Election Day seals.
- (b) For equipment being sent to the vendor for offsite repairs/replacements, the county must keep a maintenance log for the device that shall contain the following: the model number, serial number, and the type of device; the firmware version; the software version (as applicable); the printed name and signature of the person sending the equipment; and the date of submission to the vendor.
- (c) When a vendor provides on-site maintenance of equipment, vendor personnel shall annually provide to the county a CBI or equivalent background check for all vendor personnel that will have access to any component of the voting system. The county must keep current CBI or equivalent background check information on file. Additionally, an employee shall escort the vendor's representative at all times while on-site. At no time shall the voting system vendor have access to any component of the voting system without supervision by an employee. [Section 24-72-305.6, C.R.S.]
- (d) Upon completion of any maintenance, the county shall verify or reinstate the trusted build and conduct a full acceptance test of equipment that shall, at a minimum, include the Hardware Diagnostics test, as indicated in Rule 11, and conduct a mock election in which an employee(s) shall cast a minimum of five ballots on the device to ensure tabulation of votes is working correctly. The county shall maintain all documentation of the results of the acceptance testing on file with the specific device.
- (e) The Secretary of State will annually inspect county maintenance records on a randomly selected basis.

43.2.7 Transportation of Equipment, Memory Cards, Ballot Boxes, and Ballots

- (a) The county shall submit detailed plans to the Secretary of State prior to an election regarding the transportation of equipment and ballots both to remote voting sites and back to the central elections office or storage facility. While the method of transportation of equipment may vary, the following standards shall apply when transporting voting equipment to the voting location:
 - (1) Transportation by County Personnel. County personnel shall at all times display a badge or other identification provided by the County. Two signatures and date of employees are required at the departure location verifying that the equipment, including memory card or cartridge, is sealed to prevent tampering. Upon delivery of equipment, at least two employees or

election judges shall verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact and that the serial numbers on the seals match the logged serial numbers. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.

- (2) **Transportation by Election Judges.** Election judges that are receiving equipment from county personnel shall inspect all components of voting devices and verify the specific numbers by signature and date on the chain-of-custody log for the device. The election judge receiving the equipment shall request two election judges at the voting location to inspect the devices and to sign and date the chain-of-custody log indicating that all seals are intact and that the serial numbers on the seals match with those on the seal-tracking log. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.
- (3) **Transportation by Contract.** A county electing to contract the delivery of equipment to remote voting locations shall perform CBI background checks on the specific individuals who will be delivering the equipment. Two employees or election judges shall verify, sign, and date the chain-of-custody log upon release of the equipment to the individual(s) delivering the equipment. Two other employees or election judges shall verify, sign, and date the chain-of-custody log after delivery of the equipment, and prior to the opening of the polls. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11. [Section 24-72-305.6, C.R.S.]

(b) **Standards for transporting voting equipment to and from the voting location:**

- (1) **Required procedures if memory cards or cartridges are removed from voting devices at remote voting locations:**
 - (A) Before removing a memory card or cartridge, two election judges shall inspect and verify that all seals on the device are intact and that the serial numbers on the seals match those listed on the chain-of-custody log. Both election judges shall sign and date the chain-of-custody log prior to breaking the seal. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.
 - (B) Election judges shall place the memory cards or cartridges in a sealable transfer case and must seal the case with at least one seal. The election judges shall maintain a chain-of-custody log for the transfer case of the memory cards or cartridges.

- (C) Election judges shall place new seals over the empty memory card/cartridge slot and/or door and document the seal numbers used.
 - (D) At least two county personnel or election judges shall accompany the transfer case containing the memory cards/cartridges to the drop off location. The election judges who receive the equipment must verify, and indicate by signing and dating the chain-of-custody log, that the seals are intact and seal serial numbers match those listed in the log. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, the county personnel or election judges shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.
 - (E) County personnel or election judges transporting secured voting equipment must maintain chain-of-custody logs. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.
- (2) Required procedures if devices are delivered with memory cards/cartridges intact:
- (A) Two county personnel or election judges shall verify that all seals are intact at the close of polls. Election judges shall sign and date the chain-of-custody log with such indication. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.
 - (B) At least two county personnel or election judges shall accompany the secured equipment to the drop-off location. Seals will be verified, and logs will be signed and dated by the county election official receiving the equipment. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, they shall immediately notify the county clerk and recorder who shall follow the procedures specific to the incident as described in Rule 43.2.11.
 - (C) Upon confirmation that the seals are intact and bear the correct numbers, election judges shall remove and upload the memory cards/cartridges into the central count system.
 - (D) to secure the equipment, election judges shall place a tamper-evident seal over the memory card slot and update the chain-of-custody log to reflect the new seal number(s).
- (c) Required procedures for transportation of ballot boxes:

- (1) Election judges shall seal all ballot boxes that contain voted ballots so that no person can access the ballots without breaking a seal. The election judges shall record all seals in the chain-of-custody log and two election judges shall verify, and indicate by signing and dating the log, that the required seals are intact.
- (2) Two county personnel or election judges shall accompany all ballot boxes that contain voted ballots at all times, except when the ballot box is located in a vault or secure physical location.
- (3) The ballot box exchange requirements of section 1-7-305, C.R.S., are met if a chain-in-custody log is completed for each ballot box.

43.2.8 Contingency plans

(a) Emergency Contingency Plans for Voting Equipment and Voting Locations

- (1) All remote devices used in an election shall have sufficient battery backup for at least two hours of use. If this requirement is met by reliance on the internal battery of the voting device, then the county clerk and recorder shall verify that all batteries are fully charged and in working order prior to the opening of polls at the voting location. The use of third-party battery backup systems also meets this requirement.
- (2) In the event of a serious or catastrophic equipment failure, or when equipment is removed from service at one or more polling locations, or there is not adequate backup equipment to meet the requirements of section 1-5-501, C.R.S., the county clerk and recorder shall notify the Secretary of State that the county is using provisional ballots or mail-in ballots as an emergency voting method.

(b) A security plan must contain a section entitled "contingency plan" that includes the following:

- (1) Evacuation procedures for emergency situations including fire, bomb threat, civil unrest, and any other emergency situations identified by the designated election official;
- (2) Back up plans for emergency situations including fire, severe weather, bomb threat, civil unrest, electrical blackout, equipment failure, and any other emergency situations identified by the designated election official;
- (3) An emergency checklist for election judges; and
- (4) A list of emergency contact numbers provided to election judges.

43.2.9 Internal Controls for the Voting System

- (a) The County must enable, create, and use passwords.
- (b) In addition to the access controls discussed in Rule 43.2.3(c), the county shall change all passwords and limit access to the following areas:
 - (1) Software. The county shall change all software passwords once per calendar year prior to the first election. This includes any boot or startup passwords in

- use, as well as any administrator and user passwords and remote device passwords.
- (2) Hardware. The county shall change all hardware passwords once per calendar year prior to the first election. This includes any encryption keys, key card tools, supervisor codes, poll worker passwords on smart cards, USB keys, tokens, and voting devices themselves as it applies to the specific system.
 - (3) Password Management. The county shall limit access to the administrative passwords to the election management software to two employees. The county shall limit access to passwords for all components of the election software and hardware to two employees. The county may provide an additional ten employees with access to the administrative passwords for the software components, and an additional ten employees with access to the administrative passwords for the hardware components of the voting system.
 - (4) Internet Access. The county must never connect or allow a connection of any voting system component to the Internet.
 - (5) Modem Transmission. The county must never connect any component of the voting system to another device by modem except for the vote tally software as allowable by the certification of the specific device.
 - (6) Remote sites may use modem functions of optical scanners and DREs only for the purpose of transmitting unofficial results, as permitted by the Secretary of State's certification documents for the specific systems. A county using modem devices to transmit results shall meet the following requirements:
 - (A) A county may use a modem device only after all steps to close the polls are complete and summary tapes are printed, and may only use the device to transmit test data or unofficial results.
 - (B) The county shall not use a modem for any programming, setup, or individual ballot-casting transmissions.
 - (C) The county shall change the receiving telephone number for the modem transmission at least once per calendar year prior to the first election.
 - (D) The county may provide the telephone number of the modem receiving the transmission to no more than six employees. The county shall not publish or print the receiving modem telephone number for any election judge. To the extent possible, the county shall program the telephone number into the device and use the device in a way that hides the display of the number from the view of election judges and voters at all times.
 - (7) Authorized Employees. The county shall include in their security plan the employees' titles and the dates of CBI background checks for employees with access to any of the areas or equipment set forth in this Rule. Each county shall maintain a storage facility access log that details employee name, date, and time of access to the storage facility in which the software, hardware, or components of any voting system are maintained. If access to

the storage facility is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log shall meet the requirements of this rule. [Section 24-72-305.6, C.R.S.]

43.2.10 Security Training for Election Judges

- (a) The county shall include in their security plan the details of their security training for their election judges. The county must address the anticipated time of training, location of training, and number of election judges receiving the security training, as it applies to the following requirements:
 - (1) The county shall conduct a separate training module for field technicians and election judges responsible for overseeing the transportation and use of the voting systems, picking up supplies, and troubleshooting device problems throughout the Election Day.
 - (2) Security training shall include the following components:
 - (A) Proper application and verification of seals and chain-of-custody logs;
 - (B) How to detect tampering with voting equipment, memory cards/cartridges, or election data on the part of anyone coming in contact with voting equipment, including employees, other election judges, vendor personnel, or voters;
 - (C) Ensuring privacy in voting booths;
 - (D) The nature of and reasons for the steps taken to mitigate the security vulnerabilities of voting systems;
 - (E) V-VPAT requirements;
 - (F) Chain-of-custody requirements for voting equipment, memory cards/cartridges, and other election materials;
 - (G) Ballot security;
 - (H) Voter anonymity; and
 - (I) Recognition and reporting of security incidents.

43.2.11 Remedies

- (a) If a seal is broken or if there is a discrepancy in a chain-of-custody log, the election judges shall immediately notify the county clerk and recorder, who shall investigate, complete and submit to the Secretary of State an internal incident report, and follow the appropriate remedy as indicated in this rule or as directed by the Secretary of State.
- (b) If the county clerk and recorder conducts an investigation in accordance with Rule 43.2.11(a) and is unable to determine why a seal was broken or why a

discrepancy exists in a chain-of-custody log, then the county clerk and recorder shall file an incident report with the Secretary of State as soon as practicable, but no later than the close of the canvass period for the election. Any unit involved must undergo the reinstatement or verification of the trusted build, in accordance with State instructions. The following remedial actions are required if a device was tampered with (the county clerk and recorder may determine additional requirements based on the details of the incident report):

- (1) For instances where the county can display, verify, or print the trusted build hash value (MD5 or SHA-1) of the firmware or software, the election official shall document and verify that the hash value matches the documented number associated with the Trusted Build for the software or firmware of that device.
- (2) If the evidence indicates that the tampering occurred prior to the start of voting:
 - (A) The election judges shall seal the device and securely deliver it to the county clerk and recorder.
 - (B) The county clerk and recorder or his or her designee shall remove and secure the memory card following the procedures in Rule 43.2.2(d). The county clerk and recorder or his or her designee shall follow the State instructions for installing/verifying the trusted build for the specific device. The county clerk and recorder or his or her designee shall install a new, secure memory card into the device, conduct a hardware diagnostics test as prescribed in Rule 11, and proceed to conduct a logic and accuracy test on the machine in full election mode, casting at least 25 ballots on the device. The county shall maintain on file all documentation of testing and chain of custody for each specific device.
 - (C) The county shall complete the necessary seal process and documentation to re-establish the chain of custody for the device and new memory card.
 - (D) The county shall set the machine to election mode ready for a zero report.
 - (E) Repealed.
- (3) If the evidence indicates that the tampering occurred after votes were cast on the device but before the close of polls:
 - (A) The election judges shall seal the device and securely deliver it to the county clerk and recorder.
 - (B) The county clerk and recorder or his or her designee shall close the election on that device, and perform a complete manual verification of the paper ballots (or V-VPAT records) to the summary tape printed on the device that represents the record of votes on the memory card.

- (C) If the totals do not match then only the paper record will be accepted as the official results for that device. The county clerk and recorder shall re-seal and secure the device and immediately report the discrepancy to the Secretary of State. The county must not use the device for the remainder of the election unless the trusted build is reinstalled.
 - (D) If the totals match, the county may upload the memory card into the tally software at the close of polls.
 - (E) After verifying the totals, the county shall secure the paper records and memory card with seals and a chain-of-custody log.
 - (F) The county shall place a new and secure memory card in the device. The county clerk and recorder or his or her designee shall follow the State instructions for installing/verifying the trusted build for the specific device. The county clerk and recorder or his or her designee shall conduct a hardware diagnostics test as prescribed in Rule 11. The county shall maintain on file all documentation of testing and chain of custody for the device.
 - (G) The county shall complete the necessary seal process and documentation to establish the chain of custody for the device and memory card.
 - (H) The county shall set the machine to election mode ready for a zero report.
 - (I) At the conclusion of the election, the county shall conduct a full (all races) post-election audit on the device and report results to the Secretary of State as required by Rule 11. This requirement is in addition to the random selection conducted by the Secretary of State.
 - (J) Repealed.
- (4) If the evidence indicates that the tampering occurred after the close of polls:
- (A) The election judges shall seal the device and securely deliver it to the county clerk and recorder.
 - (B) The county clerk and recorder or his or her designee shall perform a complete manual verification of the paper ballots (or V-VPAT records) to the summary tape printed on the device that represents the record of votes on the memory card.
 - (C) If the totals do not match then only the paper record will be accepted as the official results for that device. The county clerk and recorder shall re-seal and secure the device and immediately report the discrepancy to the Secretary of State. The county must not use the device for the remainder of the election unless trusted build is reinstalled.

- (D) If the totals match, the county may upload the memory card into the tally software at the close of polls.
 - (E) After verifying the totals, the county shall secure the paper records and memory card with seals and a chain-of-custody log
 - (F) The county clerk and recorder or his or he designee shall follow the State instructions for installing/verifying the trusted build for the specific device and complete the necessary seal process and documentation to establish the chain of custody for the device.
 - (G) During the canvass process, the county shall conduct a full (all races) post-election audit on the device and report results to the Secretary of State as required by Rule 11. This requirement is in addition to the random selection conducted by the Secretary of State.
 - (H) Repealed.
- (c) The county shall make all documentation related to the voting system and for every device used in the election available for Secretary of State inspection.
- 43.2.12 The county shall submit any additional physical security procedures not discussed in this rule to the Secretary of State for approval prior to the election.
- 43.3 The county shall submit with the security plan sample copies of all referenced forms, schedules, logs, and checklists.
- 43.4 Amendments and review of Security Plans
- 43.4.1 If no changes have occurred since the last security plan was filed, the county shall file a statement to that effect.
 - 43.4.2 The county shall clearly identify and describe any revisions to a previously filed security plan.
 - 43.4.3 The county may change the security plan within 60 days of an election as a result of an emergency situation or other unforeseen circumstance. The county must document the changes and file the revisions with the Secretary of State within five days of the change.
 - 43.4.4 If, under section 1-5-616(5)(b), C.R.S., the Secretary of State is unable to complete its review, the Secretary will notify the county that the security plan or revisions are temporarily approved until the review is complete.
- 43.5 Lease, Loan, or Rental of Election Equipment
- 43.5.1 Nothing in this Rule requires a county clerk to lease, loan, or rent any election equipment to any municipality, special district or other local jurisdiction.
 - 43.5.2 A county clerk who chooses to lease, loan, or rent any certified election equipment to a municipality, special district, or other local jurisdiction for use in their elections shall follow at least one of the following procedures in order to maintain or reestablish an acceptable chain of custody and appropriate documentation in accordance with Rule 43.2.1.

- (a) After the local jurisdiction returns the certified equipment to the county clerk, the county clerk must reinstate or verify the trusted build in accordance with Rule 43 before the equipment is used in any primary, general, congressional vacancy, statewide ballot issue (including recall), or special election conducted by the county clerk.
 - (b) The county clerk or their deputized representative shall:
 - (1) Deliver the certified equipment to the jurisdiction;
 - (2) Witness and document the installation of the memory card(s) or cartridge(s) used by the jurisdiction;
 - (3) Place one or more secure and numbered seals on the voting equipment in accordance with Rule 43.2.2. If during the course of the jurisdiction's election, the designated election official requires removal of a memory card or cartridge as a function of the election process, the county clerk or their deputized representative shall witness and document the removal and proper resealing of the memory card or cartridge; and
 - (4) Upon return of the equipment to the county clerk and recorder, the county clerk shall verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact. If any seal is damaged or removed, the county clerk shall reinstall or verify the trusted build in accordance with this Rule 43.
 - (c) The county clerk and recorder shall designate and station deputized county staff with the loaned certified equipment at all times while the equipment is under control of the designated election official. The deputized county staff must maintain physical custody of the certified equipment at all times to ensure that no unauthorized access occurs.
 - (d) In accordance with section 1-5-605.5, C.R.S., the county clerk shall appoint the designated election official as a deputy for the purposes of supervising the certified voting equipment. The designated election official shall:
 - (1) Sign and submit to the county clerk and recorder an affirmation that he/she will ensure the security and integrity of the certified voting equipment at all times;
 - (2) Affirm that the use of the certified voting equipment is conducted in accordance with Rule 43 and the specific Conditions for Use of the certified voting equipment; and
 - (3) Agree to maintain all chain-of-custody logs for the voting device(s).
- 43.5.3 Upon return of the certified voting equipment to the county clerk and recorder, the county clerk is required to verify the trusted build, in accordance with State instructions, if the documentation and chain of custody does not support the proper maintenance of the trusted build software and chain of custody.

Rule 44. Rules Regulating Voter Registration Drives

44.1 Statement of Intent

44.1.1 In accordance with section 1-2-701, C.R.S., *et seq.*, the organizer of a Voter Registration Drive (“VRD”) shall file a Statement of Intent with the Secretary of State to conduct a voter registration drive on a form prescribed by the Secretary of State. The Statement of Intent shall include the following information:

- (a) The name of the group conducting the VRD, and the name and contact information of the individual organizing the VRD;
- (b) The name of the agent (who is required to be a Colorado resident) and the contact information for that agent, if different from the person organizing the VRD;
- (c) A statement specifying that the VRD intends to operate within the State of Colorado;
- (d) A notice that the VRD number expires at the end of the calendar year; and
- (e) A signature line requiring the organizer’s signature.

44.1.2 Any amendments to the Statement of Intent shall be filed in writing with the Secretary of State no later than three business days after the change(s) occurs. Amendments may be made by fax, email, mail or in person.

44.1.3 The Secretary of State shall immediately attempt to verify the information provided in the Statement of Intent prior to issuing a number to the VRD organizer. The Secretary of State may deny a number to the voter registration drive organizer if the information provided on the Statement of Intent cannot be verified.

44.1.4 The last day for a VRD to file a Statement of Intent with the Secretary of State shall be 30 days before the General Election in a given calendar year.

44.2 Training

44.2.1 In order to be issued a VRD number, the organizer VRD shall successfully complete the online training and test provided by the Secretary of State, and submit a Statement of Intent along with a Training Acknowledgment form to the Secretary of State.

44.2.2 In addition to training for the organizer, the Secretary of State shall make available information for the organizer to train individual circulators. Organizers shall provide training to all circulators. Organizers shall obtain and maintain on file signed attestations from each circulator that he or she will adhere to all the requirements of the Secretary of State election rules and the Colorado Revised Statutes pertaining to elections, and that they are aware of the penalties associated with the mishandling of voter registration application forms. The organizers shall furnish the circulator attestations to the secretary of state upon request.

44.2.3 The mandatory training provided by the Secretary of State shall include, but not be limited to:

- (a) The use of the VRD Application;
- (b) Information on where to obtain the VRD Application;
- (c) Information on how to ensure that a VRD Application is filled out completely; including which fields are optional and which are required, and how to fill out the circulator portion of the Application;
- (d) Notice of statutory deadlines relating to Voter Registration Applications and VRDs;
- (e) The requirements for when and where the Voter Registration Applications must be turned in;
- (f) Penalties for violating statutory prohibitions including fraud, intimidation, mishandling Applications, failing to turn in Applications and other penalties relevant to VRDs;
- (g) The handling and treatment of confidential information on the Voter Registration Applications; and
- (h) Notice that circulators shall not be paid per Voter Registration Application, but if compensated, shall be paid by the hour or day.

44.2.4 The training shall be provided online. If a VRD organizer prefers, he or she may schedule a time to view the training at the office of the Secretary of State.

44.2.5 After completing the training, the VRD organizer must complete the training test and answer the questions 100% correctly before a VRD number will be issued.

44.2.6 After completing the training and test, the VRD organizer shall sign a Training Acknowledgement confirming that the training and test have been completed and that he or she has been duly informed of rules, laws and penalties relating to voter registration drives.

44.2.7 A Voter Registration Drive organizer must complete the training and test every calendar year in which he or she intends to conduct a VRD.

44.3 Number Assigned

44.3.1 After successful completion of the required training and test, and submission of the required forms, the Secretary of State shall assign a unique number to the VRD. After issuing a unique number to the VRD, the Secretary of State shall:

- (a) Advise the VRD organizer of their unique number;
- (b) Notify the county clerks within 24 hours after each VRD number has been issued by the Secretary of State; and
- (c) Post the agent and the name of the group conducting the drive on the Secretary of State website.

- 44.3.2 All assigned VRD numbers are valid through December 31 of the year that the number is assigned.
- 44.4 Voter Registration Drive Voter Application Forms
- 44.4.1 The Secretary of State shall approve a standard Colorado Voter Registration Application Form to be used by the VRD that shall include a tear off receipt.
- (a) The VRD may also use the National Mail Voter Registration Form. Because the National Mail Voter Registration Form does not include a tear off receipt, the applicant and VRD are afforded greater protection when the standard Colorado form is used.
- 44.4.2 The Secretary of State and county clerks shall make available the official, approved Colorado Voter Registration Drive Application Forms to the VRD organizer
- 44.4.3 The organizer shall be responsible for placing the VRD number on the application form and the receipt portion of the standard Colorado form.
- 44.4.4 The person circulating the Voter Registration Application Forms shall ensure that the tear-off receipt on the standard Colorado Application is completed and given to the applicant. The person circulating the voter application forms shall advise the applicant that the receipt may be needed when he or she votes.
- 44.4.5 The VRD organizer is not eligible to receive the approved Colorado Voter Registration drive Application Forms until the organizer has completed training, signed the statement of intent, completed and signed the Acknowledgement, and been assigned a number.
- 44.4.6 Any voter registration drive that provides a voter registration application on its website or a link to such voter registration form must direct the applicant to return the completed form directly to the county clerk and recorder of the applicant's legal residence. No voter registration drive may provide a voter registration form on its website or a link to such voter registration form which instructs or directs, in any way, the applicant to return the completed form to anyone or any group other than directly to the county clerk and recorder of the applicant's legal residence or, in the case of overseas electors or UOCAVA electors, the county clerk and recorder or the Secretary of State.
- 44.5 Repealed.
- 44.6 Voter Registration Drive Complaints and fines
- 44.6.1 Any person, including the Secretary of State, who believes a VRD organizer or circulator has not complied with the requirements of section 1-2-701 *et seq.*, C.R.S., or this Rule 44 may file a written complaint with the Secretary of State.
- 44.6.2 A written complaint filed with the Secretary of State shall contain the following information:
- a. The complainant's name;
 - b. The complainant's full residence address and mailing address (if different from residence);
 - c. A description of the alleged violation, which may include a reference to the particular statute or rule;

- d. The name and assigned number of the VRD, if known;
- e. The date and location of the alleged violation, if known; and
- f. Other applicable or relevant information

44.6.3 Repealed.

44.6.4 The Secretary of State shall review all complaints submitted in writing and conduct such investigations as may be necessary and appropriate. If the Secretary of State determines that a violation has occurred, the Secretary of State shall impose a fine in accordance with section 1-2-703, C.R.S., and notify the VRD organizer of:

44.6.4.1 The date and factual basis of each act with which the VRD organizer is being charged;

44.6.4.2 The particular provision of the statute violated; and

44.6.4.3 The amount of the fine imposed.

44.6.5 Notification of violation shall be sent by certified or registered mail, return receipt requested, to the last known address of the VRD organizer.

44.6.6 The VRD organizer may appeal a fine and shall have thirty (30) days following receipt of notification to submit a written response setting forth the reason(s) that the VRD organizer is appealing the fine. The VRD organizer may request, within the thirty (30) days, a hearing with the secretary of state to dispute the fine.

44.6.7 Within thirty (30) days after receipt of the written response, or hearing procedures, the secretary of state shall issue an order affirming or dismissing the imposed fine.

Rule 45. Rules Concerning Voting System Standards for Certification

45.1 Definitions. The following definitions apply to their use in this rule only, unless otherwise stated.

45.1.1 “Audio ballot” means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote in an election. It also provides the voter with audio stimuli and allows the voter to communicate voting intent to the voting system through vocalization or physical actions.

45.1.2 “Audit log” means a system-generated record, in printed and/or electronic format, providing a record of activities and events relevant to initializing election software and hardware, the identification of files containing election parameters, initializing the tabulation process, processing voted ballots and terminating the tabulation process.

45.1.3 “Ballot image” means a corresponding representation in electronic form of the marks or vote positions of a cast ballot that are captured by a direct recording electronic voting device.

45.1.4 “Ballot style” means a specific ballot layout or content for an election. The ballot style is the presentation of the unique combination of contests and candidates for which the voter is eligible to vote. It includes the order of contests and candidates, the list of ballot positions for each contest, and the binding of candidate names to ballot positions within the presentation. Multiple precincts may use a single ballot style. Multiple styles may appear in a single precinct where voters are split between two or more districts or other categories defining voter eligibility for particular contests and candidates.

45.1.5 “Closed network” means a network structure in which devices are not connected to the internet or other office automation networks, except as allowable under Rule 45.5.2.7.

45.1.6 “Communications devices” means devices that may be incorporated in, or attached to, components of the voting system for the purpose of transmitting tabulation data between components or to another data processing system, printing system or display device.

45.1.7 “DRE” means a direct recording electronic voting device. A DRE is a voting device that records votes by means of a ballot display provided with mechanical or electro-optical components or an audio ballot that can be activated by the voter, processes data by means of a computer program and records voting data and ballot images in memory components or other media. The device may produce a tabulation of the voting data stored in a removable memory component and as printed copy. The device may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from remote sites to the central location.

45.1.8 “EAC” means the United States Election Assistance Commission.

45.1.9 “Election management system” includes, but is not limited to, the ballot definition subsystem and the election reporting subsystem. The election management system may provide utilities for other election administration tasks, including maintaining equipment inventories, estimating ballot printing needs and maintaining information on polling places.

45.1.10 “Election media” means any device including a cartridge, card, memory device or hard drive used in a voting system for the purposes of programming ballot image data (ballot or card styles), recording voting results from electronic vote tabulating equipment or any other data storage required by the voting system for a particular election function. The

election management system typically downloads ballot style information to the election media and uploads results and ballot images from the election media.

- 45.1.11 “Equipment” or “device” means a complete, inclusive term to represent all items submitted for certification by the voting system provider. This can include, but is not limited to, any voting device, accessory to voting device, DRE, touch screen voting device, card programming device, software and hardware. “Equipment” may also mean a complete end to end voting system solution.
- 45.1.12 “Remote site” means any physical location identified by a designated election official as a location where the jurisdiction shall conduct the casting of ballots for a given election. A remote site includes, but is not limited to, locations such as precinct polling places, vote centers, early voting sites and mail-in ballot counting sites.
- 45.1.13 “Removable Storage Media” means storage devices that can be removed from the system and transported to another location for readout and report generation. Examples of removable storage media include, but are not limited to, programmable read-only memory (PROM), random access memory (RAM) with battery backup, thumb drives, magnetic media and optical media.
- 45.1.14 “Secretary of State” within the context of this rule, means the Colorado Secretary of State and his or her designated agents including employees, contractors and volunteers.
- 45.1.15 “Security” means the ability of a voting system to protect election information and election system resources with respect to confidentiality, integrity and availability.
- 45.1.16 “Split Precinct” means a precinct that has a geographical divide between one or more political jurisdictions which results in each jurisdiction within the precinct to be assigned different ballot styles for a specific election.
- 45.1.17 “Test Log” or “Test Records” means the documentation of certification testing and processes. This documentation may include, but is not limited to, certification testing reports, test plans, requirements matrices, photographs, written notes, video and/or audio recordings.
- 45.1.18 “Trusted Build” means the write-once installation disk or disks for software and firmware for which the Secretary of State or his/her agent has established the chain of evidence to the building of a disk, which is then used to establish and/or re-establish the chain of custody of any component of the voting system which contains firmware or software. The trusted build is the origin of the chain of evidence for any software and firmware component of the voting system.
- 45.1.19 “Voting System Test Laboratory” or “VSTL” means a “Federally Accredited Laboratory”, as defined in section 1-1-104(16.5), C.R.S., which is accredited by the EAC to conduct certification testing for voting systems.

45.2 Introduction

45.2.1 Definition of voting system for certification purposes

- 45.2.1.1 The definition of a voting system for the purposes of this rule shall be as the term is defined in HAVA Section 301(b). For Colorado purposes, no single component of a voting system, or device, meets the definition of a voting system except that nothing in this rule shall be interpreted to require the testing of an entire modified system if the Secretary of State determines

pursuant to section 1-5-618, C.R.S., that a modification to any certified voting system requires testing for security and accuracy. only the modification shall be required to be tested to ensure compliance with this Rule 45.

45.2.1.2 Sufficient components shall be assembled to create a configuration that allows the system or modification as a whole to meet the requirements as described for a voting system in this rule.

45.2.2 Authority

45.2.2.1 Pursuant to Articles 5 and 7 of Title 1, C.R.S., the Secretary of State is expressly authorized to adopt this rule.

45.2.3 Documents Incorporated by Reference

45.2.3.1 All documents incorporated by reference in this Rule 45 do not include any later amendments or editions of those documents.

45.2.3.2 All documents incorporated by reference in this Rule 45 may be viewed on the "Voting Systems" page of the "Elections Center" on the Secretary of State's website at www.sos.state.co.us, or by contacting the Secretary of State Voting Equipment Certification Program/1700 Broadway – Suite 200/Denver, CO 80290.

45.3 Certification Process Overview and Timeline

45.3.1 The voting system shall be considered as a unit, and all components of such system shall be tested at once, unless the circumstances necessitate otherwise. Any change made to individual components of a voting system shall require the entire voting system be recertified in accordance with this rule unless the change is a modification that can be approved under the provisions of section 1-5-618(1.5), C.R.S.

45.3.2 For a voting system to be certified, the voting system provider shall successfully complete all phases of the certification process, to include submitting a complete application, a review of the documentation to evaluate whether the system meets the requirements of this rule, a public demonstration of the system, functional testing of the voting system to demonstrate substantial compliance with the requirements of this rule and Colorado Election Code as well as any additional testing that is deemed necessary by the Secretary of State.

45.3.3 The flow of each phase of certification is as follows:

- (a) Phase I – Voting system provider submits an application and all documentation required in Rule 45.4. The Secretary of State reviews the application and informs the voting system provider whether or not the application is complete. If the application is complete, the Secretary of State makes arrangements with the voting system provider for a public demonstration. If the application is incomplete, the Secretary of State shall identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete.
- (b) Phase II – The Secretary of State reviews the submitted documentation, conducts the review of VSTL or evaluations provided by another State under Rule 45.5.1.3, prepares a certification test plan for the system and presents the test plan to the voting system provider.

- (c) Phase III – Upon receipt of the voting system provider’s agreement to the test plan, the Secretary of State performs the functional tests.
- (d) Phase IV – The Secretary of State reviews the results of the functional tests and decides whether to certify or not to certify the voting system. Within 30 days of the decision to certify or not certify the voting system, the certification test report for the voting system shall be posted on the Secretary of State’s website.

45.4 Application Procedure

- 45.4.1 Any voting system provider may apply to the Secretary of State for certification at any time.
- 45.4.2 A voting system provider that submits a voting system for certification shall complete the Secretary of State’s “Application for Certification of Voting System”.
- 45.4.3 The Secretary of State, in accordance with section 24-21-104(1)(a), C.R.S., shall charge the voting system provider all direct and indirect costs associated with the testing of a voting system submitted for certification. The Secretary of State shall provide, upon request, an estimate of costs for certification testing at the conclusion of Phase II evaluation. All costs shall be paid in full prior to the issuance of a final determination by the Secretary of State.
- 45.4.4 Along with the application, the voting system provider shall submit all documentation required in this Rule 45. The requirements include documentation necessary for the identification of the full system configuration submitted for certification. Documentation shall include information that defines the voting system design, method of operation and related resources. It shall also include a system overview and documentation of the voting system’s functionality, accessibility, hardware, software, security, test and verification specifications, operations procedures, maintenance procedures and personnel deployment and training requirements. In addition, the documentation submitted shall include the voting system provider’s configuration management plan and quality assurance program.
- 45.4.5 Electronic copies of documentation are preferred and shall be submitted in lieu of a hard copy when possible.
- 45.4.6 The vendor shall identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, section 24-72-204, et. seq., C.R.S., together with a citation to the specific grounds for exemption. The request shall be made prior to the start of Phase III of the certification process.
- 45.4.7 If the EAC has established a trusted build for the system submitted for certification, the trusted build shall be provided by the EAC. The voting system provider shall execute and submit to the EAC any necessary releases for the EAC to provide the same and provide the Secretary of State with a copy of such executed releases. The voting system provider shall pay directly to the EAC any cost associated with same. In addition, the voting system provider shall submit all documentation and instructions necessary for the creation and guided installation of files contained in the trusted build which will be created at the start of functional testing and will be the model tested. The Secretary of State reserves the right to add additional instructions or guidance for the use of the trusted build when initiating the chain of custody process for a jurisdiction using the specified equipment.
- 45.4.8 If the EAC does not have a trusted build for the voting system submitted for certification,

the voting system provider shall coordinate with the Secretary of State for the establishment of the trusted build. At a minimum, this shall include a compilation of files placed on write-once media for which the Secretary of State has observed the chain of evidence from the time of source code compilation through delivery, and an established hash file distributed from a VSTL or the National Software Reference Library to compare federally certified versions. All or any part of the trusted build disks may be encrypted. If applicable, they should all be labeled as proprietary information and with identification of the voting system provider's name and release version based on the voting system provider's release instructions.

45.4.9 All materials submitted to the Secretary of State shall remain in the custody of the Secretary of State during the life of the certification and for 25 months after the last election in which the system is used with the exception of any equipment provided by the voting system provider for the purposes of testing.

45.4.10 In addition to the application and the documentation specified above, the Secretary of State may request additional information from the applicant, as deemed necessary.

45.5 Voting System Standards

45.5.1 Federal Standards

45.5.1.1 All voting systems shall meet the voting systems standards pursuant to section 1-5-601.5, C.R.S., and Secretary of State Rule 37.3.

45.5.1.2 All voting system software, hardware and firmware shall meet all requirements of federal law that address accessibility for the voter interface of the voting system. These laws include, but are not limited to, (a) the Help America Vote Act, (b) the Americans with Disabilities Act and (c) the Federal Rehabilitation Act. The voting system provider shall explicitly acknowledge that their proposed software, hardware and firmware are all in compliance with the relevant accessibility portions of these laws.

45.5.1.3 The Secretary of State may use and rely upon the testing of a voting system performed by a VSTL or by another state upon satisfaction of the following conditions:

- (a) The Secretary of State has complete access to any documentation, data, reports or similar information upon which the VSTL or another state relied in performing its tests and will make such information available to the public subject to any redaction required by law; and
- (b) The Secretary of State makes written findings and certifies that he or she has reviewed such information and determines that the tests were conducted in accordance with appropriate engineering standards in use when the tests were conducted and the extent to which the tests satisfy the requirements of sections 1-5-615 and 1-5-616, C.R.S., and all rules promulgated under those sections.

45.5.2 State Standards

45.5.2.1 Functional requirements

45.5.2.1.1 Functional requirements shall address any and all detailed operations of the voting system related to the management and

controls required to successfully conduct an election on the voting system.

- 45.5.2.1.2 The voting system shall provide for appropriately authorized users to:
- (a) Prepare the system for an election;
 - (b) Setup and prepare ballots for an election;
 - (c) Lock and unlock system to prevent or allow changes to ballot design;
 - (d) Conduct hardware and diagnostic testing as required herein;
 - (e) Conduct logic and accuracy testing as required herein;
 - (f) Conduct an election and meet additional requirements as identified in this section for procedures for voting, auditing information, inventory control, counting ballots, opening and closing polls, recounts, reporting and accumulating results as required herein;
 - (g) Conduct the post election audit as required herein; and
 - (h) Preserve the system for future election use.
- 45.5.2.1.3 The voting system shall integrate Election Day voting results with mail-in, early voting and provisional ballot results.
- 45.5.2.1.4 The voting system shall be able to count all of an elector's votes on a provisional ballot or only federal and statewide offices and statewide ballot issues and questions, as provided under section 1-8.5-108(2), C.R.S.
- 45.5.2.1.5 The voting system shall provide for the tabulation of votes cast in split precincts where all voters residing in one precinct are not voting the same ballot style.
- 45.5.2.1.6 The voting system shall provide for the tabulation of votes cast in combined precincts at remote sites, where more than one precinct is voting at the same location, on either the same ballot style or a different ballot style.
- 45.5.2.1.7 The voting system application shall provide authorized users with the capability to produce electronic files including election results in either ASCII (both comma-delimited and fixed-width) or web-based format that shall contain (a) all data or (b) any user selected data elements from the database. The software shall provide authorized users with the ability to generate these files on an "on-demand" basis. After creating such files, the authorized users shall, at their discretion, have the capability to copy the files to diskette, tape, CD-ROM or to transmit the files to another information system.

- (a) Exports necessary for the Secretary of State shall conform to a format agreed upon by the Secretary of State and the voting system provider. If the voting system provider and the Secretary of State have not previously agreed upon a format, the voting system provider shall provide the Secretary of State with specifications for all available export file formats. As part of the certification test, the voting system provider will demonstrate that preliminary and canvassing level election result data, using one or more of the provided formats, can be imported to a commercially available data management program such as a spreadsheet, database, or report generator which can accept that format and which is used and selected by the Secretary of State's office. Using the imported data, the Secretary of State's test team shall confirm that the election results data may be consolidated with results from one or more additional election jurisdictions, searched, selected, sorted, generate totals from selected subsets of the data, and formatted for reporting.
- (b) Export files shall be generated so that election results can be communicated to the Secretary of State on election night both during the accumulation of results and after all results have been accumulated.

45.5.2.1.8 The voting system shall include hardware and software to enable the closing of the remote voting location and disabling the acceptance of ballots on all vote tabulation devices to allow for the following:

- (a) Machine-generated paper record of the time the voting system was closed.
- (b) Readings of the public counter and protective counter shall become a part of the paper audit record upon disabling the voting system to prevent further voting.
- (c) Ability to print an abstract of the count of votes which shall contain:
 - (i) Names of the offices;
 - (ii) Names of the candidates and party when applicable;
 - (iii) A tabulation of votes from ballots of different political parties at the same voting location in a primary election;
 - (iv) Ballot titles;
 - (v) Submission clauses of all initiated, referred or other ballot issues or questions; and
 - (vi) The number of votes counted for or against each candidate or ballot issue.

- (d) Abstract shall include an election judge's certificate and statement that contains:
 - (i) Date of election (day, month and year);
 - (ii) Precinct Number (ten digit format);
 - (iii) County or Jurisdiction Name;
 - (iv) State of Colorado;
 - (v) Count of votes as indicated in this section; and
 - (vi) Area for judges' signatures with the words similar to: "Certified by us", and "Election Judges". Space should allow for a minimum of two signatures.
- (e) Votes counted by a summary of the voting location and by individual precincts.
- (f) Ability to produce multiple copies of the unofficial results at the close of the election.
- (g) Ability to accommodate a two page ballot (races on four faces) is required.

45.5.2.1.9 Voters voting on a DRE shall be able to navigate through the screens without the use of page scrolling. Features such as next or previous page options shall be used.

45.5.2.1.10 The voting system application shall ensure that an election setup may not be changed once ballots are printed and/or election media devices are downloaded for votes to be conducted without proper authorization and acknowledgement by the application administrative account. The application and database audit transaction logs shall accurately reflect the name of the system operator making the change(s), the date and time of the change(s), and the "old" and "new" values of the change(s).

45.5.2.1.11 The voting system shall ensure that all tabulated results will be accurately captured, interpreted, and reported to the level of accuracy required in the 2002 Voting System Standards.

45.5.2.2 Performance Level

45.5.2.2.1 Performance Level shall refer to any operation related to the speed and efficiency required from the voting system to accomplish the successful conduct of an election on the voting system.

45.5.2.2.2 The voting system shall meet the requirements for casting ballots as detailed in the vendor documentation required for certification.

- 45.5.2.2.3 The voting system provider shall publish and specify processing standards for each component of the voting system as part of the documentation required for certification.
- 45.5.2.2.4 For the purpose of evaluating software, the voting system provider shall be required to provide detailed information as to the type of hardware required to execute the software.
- 45.5.2.2.5 At no time shall third party hardware or software have a negative effect on performance levels of the voting system application, unless, through documentation, a voting system provider specifically details the specific hardware or software, the performance effect and a workaround for the end user to overcome the issue.

45.5.2.3 Physical and Design Characteristics

- 45.5.2.3.1 Physical and design characteristics shall address any and all external or internal construction of the physical environment of the voting system or the internal workings of the software necessary for the voting system to function. The voting system shall substantially comply with these requirements to be considered successful in the conduct of an election on the voting system.
- 45.5.2.3.2 The voting system shall meet the following environmental controls allowing for storage and operation in the following physical ranges:
 - (a) Operating Temperature – Maximum 95 Degrees Fahrenheit; Minimum 50 Degrees Fahrenheit, with maximum humidity of 90%, normal or minimum operating humidity of 15%.
 - (b) Non-Operating Temperature – Maximum 140 Degrees Fahrenheit; Minimum minus 4 Degrees Fahrenheit. Non-operating humidity ranges from 5% to 90% for various intervals throughout the day.

The documentation supplied by the voting system provider shall include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other facility or resource required for the installation, operation and storage of the voting system.

- 45.5.2.3.3 The ballot definition subsystem of the voting system application consists of hardware and software required to accomplish the functions outlined in this Rule 45.5.2.3. System databases contained in the ballot definition subsystem may be constructed individually or they may be integrated into one database. These databases are treated as separate databases to identify the necessary types of data to be handled and to specify, where appropriate, those attributes that can be measured or assessed

for determining compliance with the requirements of this standard.

- 45.5.2.3.4 The ballot definition subsystem shall be capable of formatting ballot styles in English and any alternate languages as are necessary to comply with The "Voting Rights Act of 1965" 42 U.S.C. § 1973c et seq. (1965).
- 45.5.2.3.5 The voting system application shall allow the operator to generate and maintain an administrative database containing the definitions and descriptions of political subdivisions and offices within the jurisdiction.
- 45.5.2.3.6 The ballot definition subsystem shall provide for the definition of political and administrative subdivisions where the list of candidates or contests may vary within the remote site and for the activation or exclusion of any portion of the ballot upon which the entitlement of a voter to vote may vary by reason of place of residence or other such administrative or geographical criteria. This database shall be used by the system with the administrative database to format ballots or edit formatted ballots within the jurisdiction.
- 45.5.2.3.7 For each election, the subsystem shall allow the user to generate and maintain a candidate and contest database and provide for the production and/or definition of properly formatted ballots and software.
- 45.5.2.3.8 The ballot definition subsystem shall be capable of handling at least 500 potentially active voting positions, arranged to identify party affiliations in a primary election, offices with their associated labels and instructions, candidate names with their associated labels and instructions and ballot issues or questions with their associated text and instructions.
- 45.5.2.3.9 The ballot display may consist of a matrix of rows or columns assigned to political parties or non-partisan candidates and columns or rows assigned to offices and contests. The display may consist of a contiguous matrix of the entire ballot or it may be segmented to present portions of the ballot in succession.
- 45.5.2.3.10 The voting system application shall provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates. It shall provide for all voting options and specifications as provided for in Articles 5 and 7, Title 1, C.R.S. The system shall generate all required masters and distributed copies of the voting program in conformance with the definition of the ballot for each voting device and remote site. The distributed copies, resident or installed, in each voting device shall include all software modules required to monitor system status and generate machine-level audit reports, accommodate device control functions performed by remote location officials and maintenance personnel and register and accumulate votes.

- 45.5.2.3.11 The trusted build of the voting system software, installation programs and third party software used to install or to be installed on voting system devices shall be distributed on a write-once media.
- 45.5.2.3.12 The voting system shall allow the system administrative account to verify that the software installed is the certified software by comparing it to the trusted build or other reference information.
- 45.5.2.3.13 All DRE voting devices shall use touch screen technology or other technology providing visual ballot display and selection. The voting system provider shall provide documentation concerning the use of touch screen or other display and selection technology including, but not limited to:
- (a) Technical documentation describing the nature and sensitivity of the tactile device (if the system uses touch screen technology);
 - (b) Technical documentation describing the nature and sensitivity of any other technology used to display and select offices, candidates or issues;
 - (c) Any mean time between failure (MTBF) data collected on the vote recording devices; and
 - (d) Any available data on problems caused for persons who experience epileptic seizures due to the DRE voting device's screen refresh rate.
- 45.5.2.3.14 All electronic voting devices supplied by the voting system provider shall have the capability to continue operations and provide continuous device availability during a period of electrical outage without any loss of election data.
- (a) For optical scan devices, this capability shall include, at a minimum, for a period of not less than two hours the ability to:
 - (i) Continue to scan or image voters' ballots;
 - (ii) Accurately tabulate voters' choices from the ballots;
 - (iii) Accurately store voters' ballot choices; and
 - (iv) Transmit required results files accurately if power failure occurs during transmittal of results.
 - (b) For DRE devices, this capability shall include, at a minimum, for a period of not less than two hours the ability to:
 - (i) Continue to present ballots accurately to voters;
 - (ii) Accept voters' choices accurately on the devices;

- (iii) Tabulate voters' choices accurately;
 - (iv) Store voters' choices accurately in all storage locations on the device; and
 - (v) Transmit required results files accurately if power failure is experienced during transmittal of results.
- (c) For V-VPAT devices connected to DREs, this capability shall include, at a minimum, for a period of not less than two hours the ability to:
- (i) Continue to print voters' choices on the DRE accurately and in a manner that is identical to the manner of the printers' operations during a period of normal electrical operations; and
 - (ii) Continue to store the printed ballots in a secure manner that is identical to the manner of the printers' operations during a period of normal electrical operations.
- (d) The voting system provider shall deliver to the Secretary of State documentation detailing estimated time of battery operation for each type of optical scanner, ballot imager, DRE and V-VPAT they provide, assuming continuous use of the devices by voters during an interruption of normal electrical power.
- (e) The voting system provider shall deliver to the Secretary of State documentation specifying the steps and times required for charging batteries for each type of optical scanner, ballot imager, DRE and V-VPAT they provide.

45.5.2.3.15 The voting system provider's software application shall be able to recover operations after a power outage or other abnormal shutdown of the system on which that application and database are operating without loss of more than the current transaction data record on which the administrative account or authorized operator account is currently working.

45.5.2.3.16 The voting system shall provide capabilities to protect the confidentiality of voters' ballot choices.

- (a) All optical scan devices, associated ballot boxes and V-VPAT storage devices shall provide physical locks and procedures to prevent disclosure of voters' confidential ballot choices during and after the vote casting operation.
- (b) All DRE devices shall provide randomization of all voter choices and stored electronic ballot information, regardless of format, to prevent disclosure of voters' confidential ballot choices during and after storage of the voters' ballot selections.

45.5.2.3.17 The voting system provider shall submit drawings, photographs and any related brochures or documents to assist with the evaluation of the physical design of the use of the voting system.

45.5.2.4 Documentation Requirements

45.5.2.4.1 In addition to other documentation requirements in this rule, the voting system provider shall provide the following documents:

- (a) Standard Issue Users/Operator Manual;
- (b) System Administrator's/Application Administration Manual;
- (c) Training Manual and related materials;
- (d) Systems Programming and Diagnostics Manuals; and
- (e) A list of minimum services needed for the successful, secure and hardened operation of all components of voting system.

45.5.2.4.2 For the review of VSTL or other state testing in Rule 45.5.1.3 copies of all VSTL or state qualification reports, test logs and technical data packages shall be provided to the Secretary of State.

- (a) The voting system provider shall execute and submit any necessary releases for the applicable VSTL, state and/or EAC to discuss any and all procedures and findings relevant to the voting system submitted for certification with the Secretary of State and allow the review by the Secretary of State of any documentation, data, reports or similar information upon which the VSTL or other state relied in performing its testing. The voting system provider shall provide a copy of the same to the Secretary of State.
- (b) The voting system provider, the VSTL, the state and/or the EAC will identify to the Secretary of State any specific sections of documents for which they assert a legal requirement for redaction.

45.5.2.4.3 Prior to completion of functional testing, all voting system providers submitting a voting system shall have completed an independent analysis of the system.

- (a) The independent analysis shall include:
 - (i) An application penetration test conducted to analyze the system for any potential vulnerabilities that may result from poor or improper system configuration, known and/or unknown hardware or software flaws, or operational weaknesses in process or technical countermeasures. The test shall involve active exploitation of security vulnerabilities of the voting

system, whether or not the vulnerabilities can be mitigated through compensating controls.

- (ii) A source code evaluation conducted pursuant to the requirements identified in Rule 45.5.2.6.1(f), requiring compliance with the 2002 voting system standards.
- (b) A complete report detailing all findings and recommended compensating controls for vulnerabilities and deficiencies identified.
- (c) The vendor shall use an EAC approved VSTL to perform the independent analysis, or submit the results of testing conducted in another state, or some combination of such VSTL and state testing that meets the requirements of this rule.
- (d) The Secretary of State shall conduct a quality review of all work under this section. The review may include an examination of the testing records, interviews of the individuals who performed the work, or both. Review of testing records may be conducted at the VSTL, the state in which the testing was conducted, or at the site of any contractor or subcontractor utilized by another state to conduct the testing.
- (e) When an analysis performed by another state is used, the Secretary of State has the right to reject any evaluation if not satisfied with the work product and to require additional analysis to meet the requirements of section 1-5-608.5, C.R.S., and this Rule.

45.5.2.4.4 Documentation submitted to the Secretary of State shall be reviewed to determine the extent to which the voting system has been tested to federal standards.

45.5.2.4.5 Documentation shall include the financial statements set forth in Rule 45.13, which shall be for the prior fiscal year, and any quarterly financial statements for the period following the prior fiscal year and preceding the date of application for certification.

45.5.2.4.6 Failure by the voting system provider to provide any documentation with their application for certification will delay processing the application until the documentation is provided.

45.5.2.5 Audit capacity

45.5.2.5.1 The voting system shall be capable of producing electronic and printed audit logs of system operation and system operators' actions which shall be substantially compliant to allow operations and input commands to be audited.

45.5.2.5.2 The voting system shall include detailed documentation as to the level, location and programming of audit trail information throughout the system. The audit information shall apply to:

- (a) Operating Systems (workstation, server and/or DRE);
- (b) Election Programming Software;
- (c) Election Tabulation Devices – optical scan and DRE; and
- (d) Election Reporting Subsystem.

45.5.2.5.3 The voting system shall track and maintain audit information of the following voting system application events:

- (a) Log on and log off activity;
- (b) Application start and stop;
- (c) Printing activity, where applicable;
- (d) Election events – setup, set for election, unset for election, open polls, close polls, end election, upload devices, download devices, create ballots, create precincts, create districts, create poll places (or Vote Centers), initialize devices, backup devices and voting activity; and
- (e) Hardware events – add hardware, remove hardware, initialize hardware and change hardware properties.

45.5.2.5.4 All tabulation devices shall display the unit serial number(s) both physically and within any applicable software, logs or reports.

45.5.2.5.5 Vote tabulation devices shall allow for an alternate method of transfer of audit records if the device or a memory storage device is damaged or destroyed.

45.5.2.5.6 All transaction audit records of the voting system application database shall be maintained in a file outside of or separate from the database, which is not accessible by user/operator accounts.

45.5.2.6 Security Requirements

45.5.2.6.1 All voting systems submitted for certification shall meet the following minimum system security requirements:

- (a) The voting system shall accommodate a general system of access by least privilege and role based access control. The following requirements shall apply:
 - (i) The operating system administrative account shall not have access to read or write data to the database and shall not have the ability or knowledge of the database administrator password;
 - (ii) The operating system administrative account shall not be required to use any function of the voting system during normal operations;

- (iii) A unique system user/operator account shall be created for operating system use that is restricted from the following aspects of the operating system:
 - a. No access to system root directory;
 - b. No access to operating system specific folders;
 - c. No access to install or remove programs; and
 - d. No access to modify other user accounts on the system.
 - (iv) A unique application administrative account shall be created which has full access and rights to the application and database;
 - (v) A unique application user/operator account shall be created with limited rights specifically designed to perform functional operation within the scope of the application. This user/operator shall be restricted in the creation or modification of any user/operator accounts; and
 - (vi) The voting system provider shall not have an administrative account or administrative account access.
- (b) The voting system shall meet the following requirements for network security:
- (i) All components of the voting system shall have the ability to operate on a closed network dedicated to the voting system;
 - (ii) All components of the voting system shall include the limited use of non-routable IP address configurations for any device connected to the closed network. For the purposes of this requirement, non-routable IP addresses are those defined in the RFC 1918 Address base; and
 - (iii) The voting system shall be tested to contain provisions for updating security patches, software and/or service packs without access to the open network.
- (c) All voting systems submitted for certification shall meet the following requirements for database security:
- (i) All voting systems submitted for certification shall have databases hardened to specifications developed by the voting system provider. Documentation included with the application shall provide a detailed prescription for hardening and the

procedure used to harden the system. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.

- (d) The voting system shall meet the following requirements for operating system security:
 - (i) All voting systems submitted for certification shall have all operating systems hardened to specifications developed by the voting system provider. Documentation included with the application shall provide a detailed prescription for hardening and the procedure used to harden the system. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.
 - (ii) The voting system provider shall submit documentation containing a list of minimum services and executables required to run the voting system application.
 - (iii) The voting system provider shall configure the voting system operating system of the workstation and/or server used for the election management software to the following requirements:
 - a. The ability for the system to take an action upon inserting a removable media (Auto run) shall be disabled; and
 - b. The voting system shall only boot from the drive or device identified as the primary drive. The voting system shall not boot from any alternative device.
 - (iv) The voting system provider shall use a virus protection/prevention application on the election management server(s)/workstations which shall be capable of manual updates without the use of the internet.
- (e) The voting system shall meet the following requirements for password security:
 - (i) All passwords shall be stored and used in a non-reversible format;
 - (ii) Passwords to database shall not be stored in database;
 - (iii) Password to database shall be owned and only known by the application;
 - (iv) The application's database management system shall require separate passwords for the administrative

- account and each operator account with access to the application;
- (v) The system shall be designed in such a way to ensure the use of the administrative account password shall not be required for normal operating functions at any remote location;
 - (vi) The system shall be designed in such a way to facilitate the changing of passwords for each election cycle;
 - (vii) The use of blank or empty passwords shall not be permitted at any time with the exception of a limited one-time use startup password which requires a new password to be assigned before the system can be used; and
 - (viii) All voting systems submitted for certification shall have all components of voting system capable of supporting passwords of a minimum of eight characters, which shall be capable of including numeric, alpha and special characters in upper case or lower case used in any combination.
- (f) All voting system software submitted for certification shall be in compliance with the Software Design and Coding Standards of the Voting System Standards adopted in Rule 37.3.
- (g) All modules of the system shall meet the following requirements for installation of software, including hardware with embedded firmware.
- (i) If software is resident in the system as firmware, the voting system provider shall provide documentation that describes how devices may be retested to validate each ROM prior to the start of elections operations.
 - (ii) No software shall be permanently installed or resident in the voting system unless the system documentation states that the jurisdiction shall provide a secure physical and procedural environment for the storage, handling, preparation and transportation of the system hardware.
 - (iii) The voting system bootstrap, monitor and device-controller software may be resident permanently as firmware, provided that this firmware has been shown to be inaccessible to activation or control by any means other than by the authorized initiation and execution of the vote counting program and its associated exception handlers.

- (iv) The election-specific programming may be installed and resident as firmware, provided that such firmware is installed on a component (such as a computer chip) other than the component on which the operating system resides.
- (v) After initiation of Election Day testing under Rule 11.5.3, no source code, compilers or assemblers shall be resident or accessible.
- (vi) Where the system includes a feature to interpret and control execution using data from a script, code tokens, or other form of control data file separate from the source code, the human-readable source information shall be made available as part of the source code review and the data files used shall be defined and controlled as part of the Trusted Build as if it were part of the executable code.
- (vii) Security features and procedures shall be defined and implemented to prevent any changes of interpreted data files after the initial election testing of the final election definition and only allow authorized replacement of the data files with tested and approved files from the Trusted Build by authorized personnel before the election definition is finalized for an election.
- (viii) The introduction of interpreted data during execution shall not be permitted unless defined as a pre-defined set of commands or actions subject to security review and the interpretation function provides security edits on input to prevent the introduction of other commands or the modification or replacement of existing code.
- (ix) Independent analysis will test for the following conditions and report on absence or presence of the following input validations in accordance with Rule 45.5.2.4.3:
 - a. Path manipulation;
 - b. Cross Site Scripting;
 - c. Resource Injection;
 - d. OS Command Injection (also called "Shell Injection"); and
 - e. SQL Injection.
- (x) Independent analysis will test for the following conditions and report on their absence or presence of

the following range errors in accordance with Rule 45.5.2.4.3:

- a. Stack Overflow;
 - b. Heap Overflow;
 - c. Format string vulnerability; and
 - d. Improper Null Termination.
- (xi) Independent analysis will test for the following conditions and report on their absence or presence of the following Application Programming Interface (API) abuses in accordance with Rule 45.5.2.4.3:
- a. Heap Inspection; and
 - b. String Management/Manipulation.
- (xii) Independent analysis will test for the following conditions and report on the absence or presence of the following time and state conditions in accordance with Rule 45.5.2.4.3:
- a. Time-of-check/Time-of-use race condition; and
 - b. Unchecked Error Condition.
- (xiii) Independent analysis will test for the following conditions and report on the absence or presence of the following code quality conditions accordance with Rule 45.5.2.4.3:
- a. Memory Leaks;
 - b. Unrestricted Critical Resource Lock;
 - c. Double Free;
 - d. Use After Free;
 - e. Uninitialized variable;
 - f. Unintentional pointer scaling;
 - g. Improper pointer subtraction; and
 - h. Null Dereference.
- (xiv) Independent analysis will test for the following conditions and report on the absence or presence of the following encapsulation conditions in accordance with Rule 45.5.2.4.3:

- a. Private Array-Typed Field Returned from a Public Method;
 - b. Public Data Assigned to Private Array-Typed Field;
 - c. Overflow of static internal buffer; and
 - d. Leftover Debug Code.
- (xv) The application shall not open database tables for direct editing.
- (h) All voting systems submitted for certification shall meet the following minimum requirements for removable storage media with data controls:
- (i) All voting data stored that includes vote records, ballot images, tally data and cast votes shall be authenticated and validated.
 - (ii) All non-voting data stored shall be authenticated, encrypted, and validated.
 - (iii) All removable media, upon insertion of media or media device on server and/or workstations hosting the elections management software, shall be scanned by antivirus software.
- 45.5.2.6.2 The voting system provider shall provide documentation detailing voting system security in the areas listed below. The system shall contain documented configurations, properties and procedures to prevent, detect and log changes to system capabilities for:
- (a) Defining ballot formats;
 - (b) Casting and recording votes;
 - (c) Calculating vote totals consistent with defined ballot formats;
 - (d) Reporting vote totals;
 - (e) Altering of voting system audit records;
 - (f) Changing or preventing the recording of a vote;
 - (g) Introducing data for a vote not cast by a registered voter;
 - (h) Changing calculated vote totals;
 - (i) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and

- (j) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.

45.5.2.6.3 The voting system provider shall submit to the Secretary of State its recommended policies or guidelines governing:

- (a) Software access controls;
- (b) Hardware access controls;
- (c) Data communications;
- (d) Effective password management;
- (e) Protection abilities of a particular operating system;
- (f) General characteristics of supervisory access privileges;
- (g) Segregation of duties; and
- (h) Any additional relevant characteristics.

45.5.2.6.4 The voting system shall include detailed documentation regarding the security measures it has in place for all systems, applicable software, devices that act as connectors (upload, download, and other programming devices) and any security measures the voting system provider recommends to the jurisdictions that purchase the voting system.

45.5.2.7 Telecommunications Requirements

45.5.2.7.1 Telecommunications includes all components of the system that transmit data outside of the closed network as defined in this Rule 45.

45.5.2.7.2 All electronic transmissions from a voting system shall meet the following minimum standards:

- (a) Modems from remote devices shall be “dial only” and cannot be programmed to receive a call;
- (b) Use an encryption standard currently documented and validated for use by an agency of the United States Federal Government; and
- (c) Provide a means to detect the presence of an intrusive process, such as an Intrusion Detection System.

45.5.2.7.3 Any modem in any component failing to meet these criteria shall not be used by any voting system.

45.5.2.7.4 All wireless components in voting systems shall be disabled with the exception of line of sight infrared technology used in a closed environment where the transmission and reception is shielded

from external infrared signals and can only accept infrared signals generated from within the system.

- 45.5.2.7.5 All systems that transmit data over public telecommunications networks shall maintain a clear audit trail that can be provided to the Secretary of State when election results are transmitted by telephone, microwave or other type of electronic communication.
- 45.5.2.7.6 Systems designed for transmission of voter information over public networks shall meet security standards that address the security risks attendant with the casting of ballots at remote sites controlled by election officials using the voting system configured and installed by election officials and/or their voting system provider or contractor, and using in-person authentication of individual voters.
- 45.5.2.7.7 Any voting system provider of systems that cast individual ballots over a public telecommunications network shall provide detailed descriptions of:
- (a) All activities mandatory to ensure effective system security to be performed in setting up the system for operation, including testing security before an election.
 - (b) All activities that should be prohibited during system setup and during the time frame for voting operations, including the hours when polls are open and when polls are closed.
- 45.5.2.7.8 In any situation in which the voting system provider's system transmits data through any telecommunications medium, the system shall be able to recover, either automatically or with manual intervention, from incomplete or failed transmission sessions and resume transmissions automatically when telecommunications are re-established.
- (a) Recovery of transmissions shall include notations of the interrupted transmission session and the resumed transmission session in the system and application transaction logs.
 - (b) Failure and recovery of transmissions shall not cause any error in data transmitted from the polling place to the central election site during a recovered transmission session.
- 45.5.2.7.9 Voting systems that use public telecommunications networks shall provide system documentation that clearly identifies all COTS hardware and software products and communications services used in the development and/or operation of the voting system, including operating systems, communications routers, modem drivers and dial-up networking software. Documentation shall identify the name, voting system provider and version used for each such component.
- 45.5.2.7.10 Voting systems providers shall document how they plan to monitor and respond to known threats to which their voting

systems are vulnerable. This documentation shall provide a detailed description, including scheduling information, of the procedures the voting system provider will use to:

- (a) Monitor threats, such as through the review of assessments, advisories and alerts for COTS components;
- (b) Evaluate the threats and, if any, proposed responses;
- (c) Develop responsive updates to the system and/or corrective procedures; and
- (d) As part of the certification requirements of the proposed system, provide assistance to customers, either directly or through detailed written procedures, how to update their systems and/or to implement the corrective procedures within the timeframe established by the Secretary of State.

45.5.2.8 Repealed.

45.5.2.9 Voter-Verifiable Paper Record Requirements (V-VPAT)

45.5.2.9.1 V-VPAT shall refer to a Voter-verified paper record as defined in section 1-1-104(50.6)(a), C.R.S.

45.5.2.9.2 Existing systems that are retrofitted to comply with this law shall be examined for certification by the Secretary of State. Any retrofitted voting system shall comply with the process and application for certification as identified by this Rule 45.

45.5.2.9.3 The V-VPAT shall consist of the following minimum components:

- (a) The voting device shall contain a paper audit trail writer or printer that shall be attached, built into or used in conjunction with the DRE. The printer shall duplicate a voter's selections from the DRE onto a paper record;
- (b) The unit or device shall have a paper record display unit or area that shall allow a voter to view his or her paper record;
- (c) The V-VPAT unit shall contain a paper record storage unit that shall store cast and spoiled paper record copies securely; and
- (d) These devices may be integrated as appropriate to their operation.

45.5.2.9.4 V-VPAT devices shall allow voters to verify his or her selections on a paper record prior to casting ballots. The voter shall either accept or reject the choices represented on the paper record. Both the electronic record and the paper record shall be stored and retained when the ballot is cast.

- 45.5.2.9.5 The V-VPAT printer connection may be any standard, publicly documented printer port (or the equivalent) using a standard communication protocol.
- 45.5.2.9.6 The printer shall not be permitted to communicate with any device other than the voting device to which it is connected.
- 45.5.2.9.7 The printer shall only be able to function as a printer, and not perform any other non-printer related services.
- 45.5.2.9.8 Every electronic voting record shall have a corresponding paper record.
- 45.5.2.9.9 The paper record shall be considered an official record of the election available for recounts, and shall be sturdy, clean, and of sufficient durability to be used for this purpose.
- 45.5.2.9.10 The V-VPAT device shall be designed to allow every voter to review and accept or reject his/her paper record in as private and independent manner as possible for both disabled and non-disabled voters.
- 45.5.2.9.11 The V-VPAT system shall be designed in conjunction with state law to ensure the secrecy of votes so that it is not possible to determine which voter cast which paper record.
- 45.5.2.9.12 The V-VPAT printer shall print at a font size no less than ten point for ease of readability. Any protective covering intended to be transparent shall be in such condition that it can be made transparent by ordinary cleaning of its exposed surface.
- 45.5.2.9.13 The V-VPAT system shall be designed to allow each voter to verify his or her vote on a paper record in the same language they voted in on the DRE.
- 45.5.2.9.14 The V-VPAT system shall be designed to prevent tampering with unique keys and/or seals for the compartment that stores the paper record as well as meet the security requirements of this rule. Additional security measures may be in place on the printer to prevent tampering with the device.
- 45.5.2.9.15 The V-VPAT system shall be capable of printing and storing paper record copies for at least 75 ballots cast without requiring the paper supply source, ink or toner supply, or any other similar consumable supply to be changed, assuming a fully printed double sided 18 inch ballot with a minimum of 20 contests.
- 45.5.2.9.16 The V-VPAT unit shall provide a "low supply" warning to the election judge to add paper, ink, toner, ribbon or other like supplies. In the event that an election judge is required to change supplies during the process of voting, the voter shall be allowed to reprint and review the paper audit trail without having to re-mark his or her ballot, and the device shall prevent the election judge from seeing any voters' ballots.

- 45.5.2.9.17 All voting systems submitted for certification shall stop the V-VPAT printer of all forward operations of the DRE if the printer is not working due to paper jams, out of other consumables or any other issue which may cause the correct readable printing of information on the V-VPAT record as designed.
- 45.5.2.9.18 The voting system provider shall provide procedures and documentation for the use of the V-VPAT device.
- 45.5.2.9.19 The printed information on the printed ballot or verification portion of the V-VPAT device shall contain at least the following items:
- (a) Name or header information of race, question or issue;
 - (b) Voter's selections for the race information;
 - (c) Write-in candidate's names if selected;
 - (d) Undervote or overvote information – this is in addition to the information on the review screen of the DRE;
 - (e) Ability to optionally produce a unique serial number (randomized to protect privacy); and
 - (f) Identification that the ballot was cancelled or cast.
- 45.5.2.9.20 The V-VPAT shall allow a voter to spoil his or her paper record no more than two times. Upon spoiling, the voter shall be able to modify and verify selections on the DRE without having to reselect all of his or her choices.
- 45.5.2.9.21 Before the voter causes a third and final record to be printed, the voter shall be presented with a warning notice that the selections made on screen shall be final and the voter shall see and verify a printout of his or her vote, but shall not be given additional opportunities to change their vote.
- 45.5.2.9.22 When V-VPAT components are integrated into voting systems the new configuration of the system must comply with existing state testing and auditing requirements.
- 45.5.2.9.23 The V-VPAT component should print a barcode with each record that contains the human readable contents of the paper record and digital signature information. The voting system provider shall include documentation of the barcode type, protocol, and/or description of barcode and the method of reading the barcode as applicable to the voting system.
- 45.5.2.9.24 The V-VPAT component shall be designed such that a voter shall not be able to leave the voting area with the paper record.
- 45.5.2.9.25 If used for provisional ballots, the V-VPAT system shall be able to mark paper records as a provisional ballot through the use of human readable text and optionally printing barcode and/or serial

number information which shall provide for mapping the record back to the electronic record and the provisional voter for processing after verification in accordance with Article 8.5 of Title 1, C.R.S.

45.5.2.9.26 The voting system provider shall provide procedures to the Secretary of State with the application for certification which describe how to investigate and resolve malfunctions including, but not limited to the following: misreporting votes, unreadable paper records, paper jams, low-ink, misfeeds, preventing the V-VPAT from being a single point of failure, recovering votes in the case of malfunction and power failures.

45.6 Testing

45.6.1 Voting System Provider Demonstration

45.6.1.1 The voting system provider shall demonstrate the exact proposed voting system to the Secretary of State prior to any functional testing.

45.6.1.2 The demonstration period does not have a pre-determined agenda for the voting system provider to follow; however, presentations should be prepared to address and demonstrate, within the specific system, the following items as they pertain to each area and use within the voting system:

- (a) System overview;
- (b) Verification of complete system matching EAC certification;
- (c) Ballot definition creation;
- (d) Printing ballots on demand;
- (e) Hardware diagnostics testing;
- (f) Programming election media devices for various count methods:
- (i) Mail-in Ballots;
 - (ii) Early Voting;
 - (iii) Precinct/Poll Place;
 - (iv) Provisional; and
 - (v) Vote Center.
- (g) Sealing and securing system devices;
- (h) Logic and accuracy testing;
- (i) Processing ballots;
- (j) Accessible use;

- (k) Accumulating results;
- (l) Post-election audit;
- (m) Canvass process handling;
- (n) Audit steps and procedures throughout all processes;
- (o) Certification of results; and
- (p) Troubleshooting.

45.6.1.3 The voting system provider shall have access to the demonstration room for one day prior to the start of the demonstration to provide time for setup of the voting system.

45.6.1.4 A maximum of one business day is normally allowed for the demonstration. If the voting system provider requests more time for the demonstration or, if the Secretary of State finds that the complexity of the system is such that more time is needed for a demonstration, more time may be granted.

45.6.1.5 The demonstration shall be open to representatives of the press and the public to the extent allowable. The Secretary of State may limit the number of representatives from each group to accommodate space limitations and other considerations.

45.6.1.6 The Secretary of State shall post notice of the fact that the demonstration will take place in the designated public place for posting such notices for at least seven days prior to the demonstration. The notice shall indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.

45.6.1.7 The voting system provider shall provide the same class of workstation and/or server for testing the voting system as the normal production environment for the State of Colorado.

45.6.2 Functional Testing

45.6.2.1 Voting system provider requirements for testing

45.6.2.1.1 Based upon the review of VSTL or other state reports and test records, the Secretary of State will prepare a test plan. The test plan shall be designed to test for any requirements specific to Colorado law which were not addressed in prior testing and for any federal or Colorado requirements which were not addressed to the satisfaction of the Secretary of State in the reports and records from prior testing.

45.6.2.1.2 The test plan shall include the election definitions to be used in testing and specifications for test ballots. Test ballots and election definitions shall generally follow all requirements for election definitions, ballot layout and printing to verify the system's ability to meet those requirements. Some election

definitions and ballots may depart from the requirements in order to test specific functions.

- 45.6.2.1.3 For each system tested, a requirements matrix shall be prepared to identify those requirements satisfied by the review of VSTL or other state reports and test data and how those requirements not satisfied are to be tested or otherwise satisfied. If during test planning or testing one of the requirements in the voting systems standards or in this rule are determined to be not applicable to the system under test, the reason for the determination will be documented.
 - 45.6.2.1.4 The voting system provider shall submit for testing the specific system configuration that will be offered to jurisdictions including the components with which the voting system provider recommends the system be used.
 - 45.6.2.1.5 The voting system provider is not required to have a representative present during the functional testing, but shall provide a point of contact for technical support. After the delivery, unpacking and initial inspection of the equipment for shipping damage and missing components, a vendor representative shall only be allowed to operate or touch the equipment when approved by the Secretary of State. All such activity by a vendor representative shall be documented on video and in writing.
 - 45.6.2.1.6 The proprietary software shall be installed on the workstation/server and all applicable voting system components by the Secretary of State using the trusted build and the installation procedures provided by the voting system provider. After installation, hash values for the software and firmware shall be compared to any published hash values of the trusted build. Any mismatches in hash values will be investigated and resolved before proceeding with testing.
 - 45.6.2.1.7 All equipment shall be hardened using the voting system provider's procedures and specifications.
 - 45.6.2.1.8 Testing shall be performed with test election definitions and test ballots as required in the test plan.
 - 45.6.2.1.9 The results of all testing shall be recorded in the requirements matrix. The requirements matrix shall be the primary record describing which requirements were met and specifying which were not. It shall be supplemented as necessary to support the findings with test team notes and system reports. Supplemental information may include photographs and audio or video recordings.
 - 45.6.2.1.10 Functional testing shall be completed according to the phases identified in Rule 45.3.3.
- 45.6.2.2 Secretary of State requirements for testing

- 45.6.2.2.1 The Secretary of State shall conduct functional testing on the voting system based on this Rule 45 and additional testing procedures as determined by the Secretary of State.
- 45.6.2.2.2 The voting system shall receive a pass, fail or not applicable for each requirement with appropriate notation in the requirements matrix.
- 45.6.2.2.3 Records of the test procedures shall be maintained and recorded on file with the Secretary of State. The records shall identify the system and all components by voting system provider name, make, model, serial number, software version, firmware version, date tested, test number, test plan, requirements matrix, test team notes and other supplemental information, and results of test. The test environment conditions shall be described.
- 45.6.2.2.4 In the event that a deviation from the test plan is required, it shall be documented in a test team note. The note shall provide a description of the deviation, the reason for the deviation and effect of the deviation on testing and determining compliance with requirements.

45.6.2.3 General Testing Procedures and Instructions

- 45.6.2.3.1 Certification tests shall be used to determine compliance with applicable performance standards for the system and its components. The general procedure for these tests shall:
 - (a) Verify, by means of the applicant's standard operating procedure, that the device is in a normal condition and status;
 - (b) Establish the standard test environment or the special environment required to perform the test;
 - (c) Invoke all operating modes or conditions necessary to initiate or to establish the performance characteristic to be tested;
 - (d) Measure and record the value or the range of values of the performance characteristic to be tested; and
 - (e) Verify all required measurements have been obtained, and that the device is still in a normal condition and status.
- 45.6.2.3.2 All tests shall be generally conducted in regular election mode. Tests of test mode and diagnostic functions may be conducted in the appropriate test mode.

- 45.6.2.3.3 The voting system provider is required to produce ballots and assemble marked test decks and spare ballots as specified in the test plan.
- 45.6.2.3.4 The voting system provider shall provide a minimum of ten ballot marking pens/pencils/markers as defined by their system for marking ballots by the Secretary of State.
- 45.6.2.3.5 For mark-sense or optical scan devices, the Secretary of State will prepare 100 or more test ballots with marking devices of various color, weight and consistency to determine the range of marks that can be read and the range and consistency of reading marginal marks.
- 45.6.2.3.6 Ballots shall be cast and counted in all applicable counter types (or counter groups) as necessary based on the parts included in the voting system. These are, at a minimum, Poll Place (or Vote Center), Mail-in, Provisional and Early Voting. Ballots may be run through components more than one time depending on components and counter group being tested to achieve a minimum number of ballots cast as follows for each group:
- (a) Polling Place / OS = 1,000;
 - (b) Polling Place / DRE = 500;
 - (c) Vote Center and Early Voting/ OS = 2,500;
 - (d) Vote Center and Early Voting / DRE = 500;
 - (e) Mail-in = 1,500; and
 - (f) Provisional = 500.
- 45.6.2.3.7 Ballot design shall be sufficient to verify the scope of allowable ballot designs for the given system under Colorado election law.
- 45.6.2.3.8 Ballots shall be printed in applicable languages as required by state or federal law, or both.
- 45.6.2.3.9 Ballots shall include candidates to represent the maximum number of political parties in the State of Colorado, and shall accommodate all qualified political parties and political organizations.
- 45.6.2.3.10 The requirements matrix shall include the following requirements for election definitions and ballots to simulate and test “real world” situations in the State of Colorado. Election definitions and ballots shall include the following minimum contest criteria:
- (a) Parties for different races;

- (b) Selection of a pair of candidates;
- (c) In a Primary Election, allow voters to vote for the candidates of the party for which they are eligible and for any and all non-partisan candidates and measures, while preventing them from voting on candidates of another party;
- (d) In a general election, allow a voter to vote for any candidate for any office, in the number of positions allowed for the office, and to vote for any measure on the ballot that the voter is allowed to vote in, regardless of party;
- (e) Allow for programming to accommodate Colorado recall questions as prescribed in Article 12 of Title 1, C.R.S.;
- (f) A minimum of 20 pairs of “yes” and “no” positions for voting on ballot issues; and
- (g) Ability to contain a ballot question or issue of at least 200 words.

45.6.2.3.11 Additional tests and procedures may be requested at the discretion of the Secretary of State.

45.6.2.3.12 A county clerk and recorder designated representative may observe the functional testing of a voting system. The representative may assist at the request of the Secretary of State. All such activity by a county representative shall be documented on video and in writing.

45.6.2.3.13 The public shall be allowed to view all functional testing conducted by the Secretary of State. However, legal limitations may require that certain testing, including but not limited to proprietary information and system security, be done outside the view of the public. If the functional testing is outsourced to a testing lab or contractor, public viewing shall be subject to limitations set forth by the testing lab or contractor.

45.6.2.3.14 If any malfunction or data error is detected, its occurrence and the duration of operating time preceding it shall be recorded for inclusion in the analysis and the test shall be interrupted. If corrective action is taken to restore the devices to a fully operational condition within eight hours, then the test may be resumed at the point of suspension.

45.6.3 The Secretary of State shall certify voting systems that substantially comply with the requirements in this Rule 45, Colorado Election Code, and any additional testing that is deemed necessary by the Secretary of State.

45.7 Temporary Use

- 45.7.1 If a voting system provider has a system that has not yet been approved for certification through the Secretary of State, the voting system provider or the designated election official may apply to the Secretary of State for temporary approval of the system to be used for up to one year.
- 45.7.2 Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the Secretary of State's office. At no time shall a jurisdiction enter into a contract to purchase a voting system that has been approved for temporary use.
- 45.7.3 The Secretary of State shall approve use of a temporarily approved voting system for each election that a jurisdiction requests permission to conduct with the voting system.
- 45.7.4 Temporary use does not supersede the certification requirements and/or process, and may be revoked at any time at the discretion of the Secretary of State.
- 45.8 Periodic Review
- 45.8.1 The Secretary of State shall periodically review the voting systems in use in Colorado to determine if the system(s):
- (a) Are defective, obsolete or unacceptable for use based on the requirements of this Rule 45; and
 - (b) Have been modified from certified and trusted build versions of hardware or software;
- 45.8.2 The Secretary of State shall review a minimum of two randomly selected jurisdictions and voting systems per calendar year at the choosing of the Secretary of State.
- 45.8.3 The Secretary of State shall conduct an annual visual inspection of all software incident records maintained by each voting system provider certified for use in the State of Colorado.
- 45.8.4 After such review, certification or temporary approval for use may be withdrawn. Three months notice shall be given prior to withdrawing certification of any voting system unless the Secretary of State shows good cause for a shorter notice period.
- 45.8.5 All forms, notes and documentation from a periodic review shall be kept on file with the Secretary of State.
- 45.9 Decertification
- 45.9.1 If, after any time the Secretary of State has certified a voting system, it is determined that the voting system fails to substantially meet the standards set forth in this Rule 45, the Secretary of State shall notify any jurisdictions in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.
- 45.9.2 Certification of a voting system may be revoked and/or suspended at the discretion of the Secretary of State based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:
- (a) The Election Assistance Commission (EAC);

- (b) Voting System Test Laboratory (VSTL);
- (c) The Federal Election Commission (FEC);
- (d) The National Software Reference Library (NSRL);
- (e) National Association of State Election Directors (NASED);
- (f) The National Association of Secretaries of State (NASS);
- (g) Information from any state elections department or Secretary of State;
- (h) Information from Colorado County Clerk and Records or their association;
- (i) Any other source the Secretary of State deems reliable.

45.9.3 If any voting system provider, provides for use or installs or causes to be installed an uncertified or decertified voting system or component, the Secretary of State may suspend use of the component or the voting system. [Section 1-5-618(6), C.R.S.]

45.9.4 Pursuant to section 1-5-621, C.R.S., the Secretary of State shall hold a public hearing to consider the decision to decertify a voting system.

45.10 Modifications and Re-examination

45.10.1 Any modification, change or other alteration to a certified voting system shall require certification or review of the modification under section 1-5-618, C.R.S., unless the voting system provider decides to present the modified system for certification under this Rule 45.

45.11 Acceptance Testing by Jurisdictions

45.11.1 Whenever an election jurisdiction acquires a new system or modification of an existing system certified by the Secretary of State, the election jurisdiction shall perform acceptance tests of the system before it may be used to cast or count votes at any election. The voting system shall be operating correctly, pass all tests as directed by the acquiring jurisdiction's project manager or contract negotiator and shall be identical to the voting system certified by the Secretary of State.

45.11.2 The voting system provider shall provide all manuals and training necessary for the proper operation of the system to the jurisdiction, or as indicated by their contract.

45.11.3 The election jurisdiction shall perform a series of functional and programming tests that shall test all functions of the voting system at their discretion.

45.11.4 The jurisdiction shall coordinate acceptance testing with the Secretary of State and complete a Jurisdiction Acceptance Test form provided by the Secretary of State.

45.12 Purchases and Contracts

45.12.1 Any voting system that has been certified under the procedures of this Rule 45 are eligible for purchase, lease, or rent for use by jurisdictions within the State of Colorado providing the contract contains the following items:

- (a) The voting system is certified for use within the state;

- (b) Contract contains training and maintenance costs for jurisdiction; and
- (c) Contract identifies components contained in the certified voting system and appears complete with all accessories necessary for successfully conducting an election within the laws and rules of the State of Colorado.

45.12.2 The Secretary of State shall maintain on file a list of all components used and purchased for use. The list shall include, at a minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices and name of the voting systems that was purchased.

45.13 Financial Statements of Voting System Providers

45.13.1 All voting system providers applying for certification in the State of Colorado, or doing business in the State of Colorado, shall provide quarterly financial statements and an annual auditor's report to the Secretary of State. All financial statements and reports shall be due:

- (a) Prior to the completion of functional testing for any voting system being submitted for certification;
- (b) At the conclusion of each accounting quarter for providers with equipment certified for use in the State of Colorado; and
- (c) Upon issuance of a final auditor's report after the completion of each annual audit.

45.13.2 Financial statements submitted to the Secretary of State shall include a Statement of Cash Flow, Statement of Retained Earnings, Balance Sheet, and Income Statement.

Rule 46. Rules Concerning Vacancies in Nomination – Repealed

Rule 47. Rules Concerning Fleeing Voters

- 47.1 A fleeing voter is any voter who leaves the voting area without completing the voting process through the final step of casting his or her ballot.
- 47.2 If a voter leaves the voting area without completing the voting process, two judges of different affiliation shall to the extent possible, cover the voter's choices, and cast the ballot as the voter left it.

Rule 48. Challenges to Voting

48.1 Pursuant to section 1-9-203 (7), C.R.S., a person challenged on the grounds of residency shall be offered a regular ballot by the election judge when the person challenged satisfactorily answers the challenge questions specified in section 1-9-203 (3) (a)-(e), C.R.S. The following demonstrate when a person challenged satisfactorily answered the challenge questions and action to be taken by the election judge based on the elector's response:

- A. Have you resided in this state and precinct for the thirty days immediately preceding this election?

Satisfactory response: Yes, he/she has resided in this state and precinct for the entire thirty-day period immediately preceding this election. (In other words, his/her primary home or place of abode was in this state and precinct during the entire thirty-day period in accordance with sections 1-1-104 (43) and 1-2-102, C.R.S.)

Proceed to challenge question B.

Unsatisfactory response: No, for some portion of the thirty-day period immediately preceding this election he/she has not resided in this state and precinct.

Offer the elector a provisional ballot.

- B. Have you been absent from this state during the thirty days immediately preceding this election, and during that time have you maintained a home or domicile elsewhere?

Satisfactory response #1: No, he/she has not been absent from this state at any time during the thirty-day period immediately preceding this election.

Offer the elector a regular ballot.

Satisfactory response #2: Yes, he/she has been absent from this state during the thirty-day period immediately preceding this election, but has not maintained a home or domicile elsewhere.

Offer the elector a regular ballot.

Response requiring follow-up questions: Yes, he/she has been absent from this state during the thirty-day period immediately preceding this election, and has maintained a home or domicile elsewhere.

Proceed to challenge question C.

- C. If so, when you left, was it for a temporary purpose with the intent of returning, or did you intend to remain away?

Satisfactory response: Yes, when he/she left, it was for a temporary purpose with the intent of returning.

Proceed to challenge question D.

Unsatisfactory response: No, when he/she left, he/she did not intend to return.

Offer the elector a provisional ballot.

D. Did you, while absent, look upon and regard this state as your home?

Satisfactory response: Yes, while absent, he/she looked upon and regarded this state as his/her home.

Proceed to challenge question E.

Unsatisfactory response: No, while absent, he/she did not look upon and regard this state as his/her home.

Offer the elector a provisional ballot.

E. Did you, while absent, vote in any other state or any territory of the United States?

Satisfactory response: No, while absent, he/she did not vote in any other state or any territory of the United States.

Offer the elector a regular ballot.

Unsatisfactory response: Yes, while absent, he/she did vote in another state or territory of the United States.

Offer the elector a provisional ballot.

48.2 If the person challenged answers unsatisfactorily or refuses to answer the challenge questions, the elector shall be offered a provisional ballot.

Rule 49. Centralized Statewide Registration System

49.1 Username and Password Administration

49.1.1 The state user administrator shall assign county administrator privileges to the individual designated in each county by the county clerk and recorder.

49.1.1.1 The county clerk and recorder shall submit the request for county administrator privilege to the state user administrator in writing. The request shall specifically state the full name of the county employee that is being assigned as a county administrator.

49.1.2 Each county may have administrator privileges assigned to no more than one (1) individual, except that any county clerk and recorder may apply to the Secretary of State for an additional county administrator.

49.1.2.1 Such application shall be submitted by the county clerk and recorder in writing to the state user administrator and shall state the name of the county employee for which county administrator privilege is being sought. The application shall also state the specific reasons the county clerk and recorder is requesting the additional administrator.

49.1.2.2 The state user administrator shall notify the county clerk and recorder in writing whether the request is approved within five (5) business days from receipt of the application.

49.1.3 The county administrator is responsible for security administration and shall assign all access privileges, as well as usernames and passwords for county employees and temporary election workers.

49.1.3.1 For county employees, the county administrator shall assign a unique username in accordance with the naming conventions provided by the Secretary of State.

49.1.3.2 Passwords shall be assigned by the county administrator upon initial authorization and shall be changed by users and maintained confidentially.

49.1.4 If a county employee or temporary election worker is no longer employed by the county, the county administrator shall inactivate the username within a reasonable timeframe, not to exceed one (1) business week.

49.2 Custodianship of Voter Registration Information

49.2.1 The Secretary of State shall be the official custodian of the information contained in the centralized statewide registration system and the computerized statewide voter registration list created and maintained pursuant to section 1-2-301, C.R.S.

49.2.2 The county clerk and recorder for each county shall be the official custodian of the voter registration information only for electors within that county.

49.3 Voter Information Reports and Services

49.3.1 The Secretary of State shall charge fees for voter information reports and related services in accordance with section 24-21-104(3), C.R.S.

49.3.2 The county clerk and recorder of each county may charge fees for county voter information reports and related services, such as the printing of labels provided by the centralized statewide registration system. However, in accordance with federal requirements governing the use of federal funds, fees shall not exceed county direct and indirect costs for providing such reports and services.

49.4 SCORE Advisory Board

49.4.1 The Secretary of State shall establish an advisory board (the Board) to provide guidance to the operation and maintenance of the Statewide Colorado Registration and Elections System, known as "SCORE". Since SCORE is the election management system used by county clerk and recorders to carry out their legal responsibilities for the conduct of elections in their counties, a formal user group is necessary to ensure county representation in decisions affecting the usability and functionality of the system.

49.4.2 Duties of the Board. The Board shall provide guidance regarding the operation and maintenance of the SCORE system, including but not limited to user training, help desk requirements, service level agreements, vendor evaluation, and the identification, development, and prioritization of future enhancements to functionality of the system.

49.4.3 Board Membership.

49.4.3.1 The Board membership shall include eight Colorado county clerk and recorders or employees of county clerk and recorders' offices whose duties include election administration. The eight members shall be nominated by agreement of a majority of the county clerk and recorders or by agreement of the chosen representatives of the county clerk and recorders. The nominated members shall be accepted by the Secretary of State unless the nominations clearly fail to meet the criteria established in paragraph a of this rule 49.4.3.1.

a. To the extent feasible, membership shall be balanced politically and geographically, and with balance among counties with varying populations. To further ensure balanced representation, county clerk and recorders should consider other relevant factors including, but not limited to, voting systems vendor, preference of paper or electronic voting, and use of vote centers or polling places.

b. The Secretary of State may appoint up to two additional members as may be necessary to preserve a representational balance in accordance with the criteria established in paragraph a of this rule 49.4.3.1.

49.4.3.2 The Secretary of State may appoint up to two additional members of the Board as may be necessary to represent the public interest.

49.4.3.3 The Secretary of State, or his or her designee, shall be an ex officio member and shall chair the Board.

49.4.3.4 The Secretary of State's office shall provide staff support to the Board.

49.4.4 Meetings and Voting.

49.4.4.1 The Board shall meet no fewer than four times annually. Meetings shall be open to the public except when closed by the affirmative vote of at least two-thirds of the members present to discuss confidential matters such as personnel or system security.

49.4.4.2 The Board must have a quorum present for a vote to be taken. Members may attend and vote by telephone when personal attendance is not practicable.

49.4.4.3 Board members and the chair shall each have one vote on any matter. The Secretary of State may veto any decision of the Board by written objection giving the reasons therefor.

49.4.4.4 From time to time, the Board may request participation or information to be provided by county clerk and recorders or their elections staff, political parties, vendors, technical experts, or other members of the public, as may be appropriate.

49.4.5 Advisory Board Charter.

49.4.5.1 The Board shall develop a charter document detailing roles and responsibilities of the Board and shall perform its duties consistent with the charter and this Rule.

49.4.5.2 The charter document may include procedures governing terms of office for Board members, reasons and procedures for removal from office, and procedures for filling vacancies.

Rule 50. Rules Concerning the Elections Best Practices and Vision Commission

50.1 Purpose

50.1.1 The Secretary of State recognizes that nonpartisan and open discussion regarding the administration and conduct of elections in Colorado is necessary to ensure that every eligible citizen has the opportunity to participate in fair, accessible, and impartial elections, and has the assurance that his or her vote will count.

50.1.2 The Secretary of State shall establish a Best Practices and Vision Commission (the Commission) to provide guidance to the Secretary of State on issues concerning the vision of elections and voting in Colorado and best practices in the administration of elections.

50.1.3 The Commission shall make recommendations to the Secretary of State regarding the development and adoption of best practices, administrative rules and legislative changes.

50.1.4 The commission shall consider all aspects of voting and elections in Colorado relevant to the development of an elections and voting vision and best practices including, but not limited to:

a. Vision

1. Voting technology

i. Investigation and analysis of new technologies and methodologies including consideration of:

A. Development and functionality;

B. Security, accuracy, and efficiency; and

C. Accessibility and usability.

2. The conduct and administration of elections

i. Alternative methods of conducting elections, including investigation and consideration of new technologies and methodologies;

ii. Evaluation and research of methods for measuring performance, quality, and success of elections;

iii. Sharing information, data and research; and

iv. Auditing and recount procedures.

3. Discussion of benefits to centralization versus local control regarding voter registration, vote systems, and administration of elections.

b. Best practices

1. The conduct and administration of elections

- i. Election preparation including, but not limited to:
 - A. Election official training and certification;
 - B. Election judge assignment and training; and
 - C. Polling place setup and accessibility.
 - ii. Use of shared information, data and research.
 - 2. Simplicity, uniformity, and standardization
 - i. Development of election forms, notices and education materials;
 - ii. Ballot design and printing; and
 - iii. Post election activities, including canvass, audit and recount.
- c. Costs and funding of voter registration and elections
 - 1. Investigation and discussion of measures to decrease or streamline the costs associated with the administration of elections;
 - 2. The consideration of the appropriate allocation of costs between the state and counties; and
 - 3. Exploration of alternative sources of funding for elections in Colorado.
- d. Consideration of non-substantive legislative clarifications or corrections to address obsolete, conflicting, incomplete, or incorrect statutory provisions.
- e. Any other elections or voting related issue that the Secretary of State or the Commission deems appropriate.

50.2 Membership of the Commission

50.2.1 Appointment and terms of service. The Secretary of State shall appoint at least 11 members to the Commission annually as follows:

- a. Each member shall serve a one year term of service that will begin on June 1 and end on June 1 of the following year.
- b. If there is a vacancy during the term, the Secretary of State shall appoint an individual to fill the vacancy. The member filling the vacancy shall serve the remainder of the one year term.
- c. The Secretary of State may re-appoint any member following the conclusion of a term of service. Members of the Commission shall serve at the pleasure of the Secretary of State.

50.2.2 The membership shall include representation from the general public including, but not limited to:

- a. Non-profit organizations and groups who work to preserve constitutional rights and civil liberties;

- b. Academicians, scientists, technicians, and other individuals possessing the expertise, knowledge and experience to address issues concerning voting systems and elections administration;
- c. Current or former state or congressional legislators and other individuals with elections law and legislative expertise, knowledge and experience;
- d. County clerk and recorders or employees of county clerk and recorders' offices whose duties include elections administration,
- e. Other designated election officials or employees of designated election officials' offices whose duties include elections administration,
- f. Political parties; and
- g. Voting advocacy groups.

50.2.3 The Secretary of State, or his or her designee, shall be a member and shall chair the Commission.

50.2.4 The Secretary of State's office will provide staff support to the Commission to complete such tasks as may be directed by the Secretary of State.

50.3 Meetings

50.3.1 The Commission shall meet no fewer than six times annually.

50.3.2 The meetings will be held at the office of the Secretary of State or such regional locations throughout the state as the Commission deems appropriate.

50.3.3 Meetings shall be open to the public, audio recorded, and where feasible, will be broadcast over the internet via the official website of the Secretary of State; however, legislative or rulemaking formality need not be imposed.

50.3.4 Commission members may submit a request to attend a meeting(s) by telephone or web-based online meeting service when personal attendance is not feasible due to hardship.

50.3.5 Notices, records of meetings, written comments and documents submitted to the commission will be published on the official website of the Secretary of State. However, documents that are otherwise publicly available need not be posted. Any submission containing inflammatory or otherwise inappropriate content will not be posted, including any material that is defamatory, irrelevant, duplicative, or obscene.

50.3.6 The Secretary of State may reimburse Commission members for reasonable expenses that are submitted and approved in advance and are consistent with the state travel policy.

50.3.7 The Commission may request participation or information to be provided by county clerks and recorders or their elections staff, political parties, vendors, technical experts, or other members of the public, as may be appropriate.

Rule 51. Use of approved and recommended election forms

- 51.1 Where the Secretary of State has issued an approved election form, notice, application, or correspondence provided for by the “Uniform Election Code of 1992”, all designated election officials and registration offices shall use the approved form.
- 51.1.1 A designated election official or registration office that wishes to modify the content of any form approved or recommended by the Secretary of State shall submit a written request via email to the Secretary of State’s office stating the requested modification and the reasons it is needed.
- (a) The Secretary of State shall have five business days in which to approve or deny the modification request. Failure of the Secretary of State to issue a decision within five business days shall not constitute an approval of the request. If the modification request is denied, the Secretary of State will provide an explanation stating the basis for denying the request.
- (b) A non-substantive customization, such as placing the form on county letterhead or language translation, shall not require approval.
- 51.2 The Secretary of State shall approve standard voter registration and ballot application forms recommended for use by political parties and organizations that provide such forms to the public. The Secretary of State will ensure that the current approved forms for registration and ballot request are publicly available on its website.
- 51.2.1 Political parties and organizations may also use the National Mail Voter Registration form. Because the forms approved by the Secretary of State contain all of the information specific to Colorado law, the applicants and the organization are afforded greater protection when the standard forms approved by the Secretary of State are used.
- 51.2.2 All political parties and organizations that conduct a mass mailing of either registration or ballot request forms to the public shall identify the party or organization conducting the mailing by printing the organization name and contact information on the form.
- 51.2.3 Any political party or organization may contact the Secretary of State prior to sending a mailing to request a review of the form and information to be mailed.
- 51.3 In accordance with section 1-1-107(2)(d), C.R.S., the Secretary of State may seek injunctive action or other penalties as a remedy to violations of this Rule.

