Notice of Temporary & Permanent Adoption

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

August 23, 2019

I.   Adopted Rule Amendments

As authorized by Colorado Elections Law[1] and the State Administrative Procedure Act[2], the Colorado Secretary of State gives notice that the following amendments to the Election Rules[3] are adopted on a temporary and permanent basis.

The rules were considered at the July 31, 2019 rulemaking hearing in accordance with the State Administrative Procedure Act[4].

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
~~Strikethrough~~	Deletions
[Italic blue font text]	Annotations and publication notes

Amendments to 8 CCR 1505-1 follow:

Amendments to Rule 1 concerning definitions:

Amendments to Rule 1.1.26:

1.1.26 "Electronic Transmission" means:

(a)   ~~For the purpose of sending~~ SENDING an unvoted ballot by fax, email, or online delivery to:

(1)   A military or overseas elector under Article 8.3 of Title 1, C.R.S.

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[1] Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2018).
[2] Section 24-4-103(3)(a), C.R.S. (2018).
[3] 8 CCR 1505-1.
[4] Section 24-4-103(3)(a), C.R.S. (2018).

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(2)   An elector requesting a replacement for an emergency under section 1-7.5-115, C.R.S.

~~(3)   An affected elector requesting a ballot because of a disaster emergency.~~

(3)   AN ELECTOR WITH A DISABILITY WHO REQUESTS A BALLOT UNDER SECTION 1-5-706, C.R.S.

(b)   ~~For the purpose of returning a voted ballot to the county clerk fax or email.~~ RETURNING A VOTED BALLOT BY FAX, EMAIL, OR OTHER ELECTRONIC MEANS.

Amendments to Rule 1.1.41:

1.1.41 "Target area" means the square~~,~~ OR oval~~, incomplete line, or incomplete arrow~~ corresponding to the candidate's name or ballot response (examples: "Yes", "No", "For" or "Against") on a paper ballot.

Repeal of Rule 1.1.42:

~~1.1.42 "Teleprocessing lines" means secure, dedicated communication transmission facilities used for the purpose of accessing SCORE, and ensuring the security and integrity of voting information so that no deviation can go undetected.~~

[Not shown: renumbering Current Rules 1.1.43-1.1.51 as Rules 1.1.42-1.1.50]

Permanent adoption of amendments to Rule 2.10.1, temporarily adopted on 6/28/2019, concerning voter registration:

2.10   A county clerk may cancel a registration record based upon information from a local law enforcement agency only if:

2.10.1 The information states that the individual is currently serving a sentence ~~of incarceration or parole~~ OF DETENTION OR CONFINEMENT IN A CORRECTIONAL FACILITY, JAIL, OR OTHER LOCATION for a felony conviction; and

2.10.2 Minimum matching criteria outlined in Rule 2.7 are met.

Cross reference update in Current Rule 2.17.2(b)(1):

(1)   The Secretary of State will audit the county AUP records for each county selected for annual inspection of its voting system maintenance records under Rule ~~20.9.5~~ 20.10.5.

Amendments to Current Rule 2.19:

2.19   Registration of electors who are confined in a county jail or detention facility

2.19.1 Before each election, ~~beginning with the 2018 general election,~~ the county clerk must make efforts to coordinate with the sheriff or his or her designee at each county jail or detention center in the county to provide confined eligible individuals an opportunity to register to vote.

Amendments to Current Rule 4.1.3 concerning participation in coordinated elections:

4.1.3   The county clerk must include all coordinating districts in the SCORE districts and precincts module and election setup module before conducting a coordinated election. If

the county clerk is unable to include one or more districts in SCORE, the clerk must list the districts and explain the issue in the ~~mail ballot plan~~ ELECTION PLAN required under Rule 7.1.1.

New Rule 4.5.2(f) concerning determination of ballot issues and texts:

    (F)   THE SECRETARY OF STATE WILL PLACE ANY MEASURES REFERRED BY THE LEGISLATURE ON THE BALLOT IN THE ORDER THEY ARE RECEIVED. THE SECRETARY OF STATE WILL PLACE ANY MEASURES REFERRED BY THE PEOPLE UNDER ARTICLE V, SECTION 1 OF THE COLORADO CONSTITUTION ON THE BALLOT IN THE ORDER THEY ARE CERTIFIED TO THE BALLOT.

Amendments to Current Rules 4.8.4 and 4.8.5:

4.8.4   Printing primary election ballots

    (a)   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 must conduct the primary election for all major political parties unless the party chooses to nominate candidates in accordance with section 1-4-702, C.R.S.

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

[Formatting; spacing correction in Rule 4.8.4(a)(2):]

        (2)   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 10.1.1]

    (b)   If a minor political party, as defined in section 1-1-104(23), C.R.S., nominates more than one candidate for any office, the county clerk may conduct the primary election for that party only.

        (1)   The county clerk must include on the ballot only the offices for which there is more than one candidate designated.

        (2)   If there is only one minor party candidate designated for any office, the candidate will be certified to the general election ballot.

    (C)   THIS RULE DOES NOT APPLY TO PRESIDENTIAL PRIMARY ELECTIONS CONDUCTED UNDER SECTIONS 1-4-1201, C.R.S. ET SEQ.

    ~~[Sections 1-4-101, 1-4-104.5(3), and 1-4-1304, C.R.S.]~~

4.8.5   Use of unique numbers on ballots

    (a)   Except for ballots sent to military or overseas electors by electronic transmission under Rule 16.2, a county may not 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.

        (1)   A county that uses rotating numbers must print at least ten ballots of each ballot style for each number.

(2)   Nothing in this Rule prohibits a county from printing a unique number or barcode on a removable stub.

(b)   After an election official dissociates a voted ballot from its envelope and removes the stub, if any, 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.

(c)   ~~For ballots printed before the adoption of this Rule that are in a county's possession, the~~ THE county must redact unique numbers, ~~or barcodes containing unique numbers,~~ OR ANY OTHER INFORMATION THAT COULD IDENTIFY AN INDIVIDUAL VOTER 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.).

Amendments to Current Rule 5.3 concerning nonpartisan elections not coordinated by the County Clerk:

5.3   If a political subdivision coordinates with the county clerk, the designated election official is not required to submit a separate ~~mail ballot plan~~ ELECTION PLAN for the election.

Amendments to Current Rule 6.1.2 concerning appointment of election judges under section 1-6-104, C.R.S.:

6.1.2   The county clerk must reasonably attempt to exhaust the updated list provided by the major parties before supplementing with additional major party judges or minor party or unaffiliated judges. WHEN THE COUNTY CLERK IS FILLING ELECTION JUDGE VACANCIES UNDER SECTION 1-6-113 (1), C.R.S., THE CLERK MAY CHOOSE FROM ANY OF THE AVAILABLE LISTS.

Amendments to Current Rule 6.4:

6.4   Except for UOCAVA ballots and ballots received for counting after election day:

6.4.1   Absent written consent by each major party county chair, a county with more than 5,000 active electors ~~by~~ ON the 90th day before election day may not use regular staff as signature verification judges.

6.4.2   A county with fewer than ~~5,001~~ 5,000 active electors ~~by~~ ON the 90th day before election day may use regular county staff that are sworn in as election judges to conduct signature verification.

Amendments to Current Rule 7.1 concerning elections conducted by the County Clerk and Recorder:

7.1   ~~Mail ballot plans~~ ELECTION PLANS

7.1.1   The county clerk must submit ~~a mail ballot plan~~ AN ELECTION PLAN to the Secretary of State ~~by email~~ no later than ~~90~~ 120 days before every election. The county clerk must submit with the ~~mail ballot plan~~ ELECTION PLAN ALL INFORMATION REQUIRED BY SECTION 1-7.5-105 (1.3), C.R.S. ~~the voter instructions and secrecy sleeve, if applicable, that the clerk intends to use in the election.~~

7.1.2   ~~The county clerk must list in the mail ballot plan all materials it will include in its mail ballot packet.~~ TO REQUEST A WAIVER FROM THE REQUIREMENTS OF SECTION 1-5-102.9 (c)(III)(A), C.R.S., A COUNTY CLERK MUST COMPLETE AND SUBMIT THE APPROVED WAIVER FORM NO LATER THAN THE FILING OF THEIR ELECTION PLAN.

7.1.3   Approval of ~~mail ballot plans~~ ELECTION PLANS and submission of amendments

(a) If the Secretary of State requests modifications to a plan before approval, the county clerk must 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 county clerk may amend a timely submitted mail ballot ELECTION plan by submitting a written statement outlining the amendment. The amendment must state the specific section of the plan amended and the reason 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.

7.1.4 The county clerk must submit a security plan under Rule 20 in addition to the mail ballot plan submitted in accordance with this Rule.

Amendments to Current Rules 7.2.7 and 7.2.9 concerning ballots and ballot packets:

7.2.7 Where practicable, the county must print the elector's full name under or near the self-affirmation signature line on each ballot return envelope. If not practicable for some or all ballot return envelopes, the county must explain why in its mail ballot plan ELECTION PLAN.

[No changes to Current Rule 7.2.8]

7.2.9 The mail ballot packet required under sections 1-4-101(2)(b) and 1-4-1203(4)(c), C.R.S. must contain only the ballots of each participating major political party UNLESS A MAJOR PARTY'S PRESIDENTIAL PRIMARY ELECTION HAS BEEN CANCELED UNDER SECTION 1-4-1203(5), C.R.S.

Cross-reference update in Current Rule 7.2.14:

7.2.14 The mail ballot return envelope for each unaffiliated voter in a primary election may provide a means for the county to determine, before opening the envelope, which party's primary election ballot the elector returned. If the mail ballot return envelope does not provide such a means, or the county cannot determine which party's ballot the elector returned before opening the envelope, the county must follow the process outlined in Rule 7.5.13 7.5.15. The county's determination under this Rule may not rely solely on a voter's self-reported selection (for example, a checkbox).

Amendments to Current Rules 7.4-7.7:

7.4 Beginning in the 2018 general election, the THE county clerk must make efforts to coordinate with the sheriff or his or her designee at each county jail or detention center to facilitate voting for all confined eligible electors.

7.4.1 The county clerk must describe the following in its mail ballot ELECTION plan:

(a) How the county clerk will provide each county jail or detention center voter information materials consistent with materials provided to non-confined eligible electors, including at a minimum a list of acceptable forms of identification under section 1-1-104(19.5), C.R.S., and the information required by sections 1-40-124.5 and 1-40-125, C.R.S.

(b) The process by which the county clerk and the sheriff or his or her designee will facilitate voter registration, and delivery and retrieval of mail ballots for confined eligible electors.

7.5   Receipt and processing of ballots

7.5.1   The county clerk must adequately light all ~~stand-alone drop-off~~ DROP BOX locations and use ~~either an election official or~~ a video security surveillance recording system as defined in Rule ~~1.1.45~~ 1.1.44 to monitor each location.

(a)   ~~Freestanding drop-off~~ DROP BOX locations must be monitored when they are open to receive ballots.

(b)   If the ~~drop-off~~ DROP BOX 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.

(c)   Signage at each ~~drop-off~~ DROP BOX location must inform voters that it is a violation of law for any person to collect more than ten ballots for mailing or delivery in any election, and that electioneering is prohibited within 100 feet of any drop- box.

(d)   The minimum number of ~~drop-off~~ DROP BOX locations must be open ~~during reasonable business hours as defined in Rule 7.9.1(a) and from 7:00 a.m.~~ 24 HOURS A DAY through 7:00 p.m. on election day.

(e)   Video security surveillance ~~is an election record under section 1-1-104(11), C.R.S. and~~ must be retained by the county clerk ~~in accordance with section 1-7-802, C.R.S.~~ THROUGH 60 DAYS FOLLOWING THE DEADLINE TO CERTIFY THE ELECTION, OR UNTIL THE CONCLUSION OF ANY ELECTION CONTEST, WHICHEVER IS LATER; EXCEPT THAT IF THE COUNTY CLERK KNOWS OR REASONABLY SHOULD KNOW THAT THERE IS A POTENTIAL VIOLATION OF LAW WHERE THE SURVEILLANCE COULD BE USED AS EVIDENCE, IT MUST BE RETAINED THROUGH THE APPLICABLE STATUTE OF LIMITATIONS OR THE CONCLUSION OF ANY JUDICIAL PROCEEDING RELATED TO THE ELECTION, WHICHEVER IS LATER.

7.5.2   Each day when ballots come in, an election official must count the ballot envelopes, batch them and record the number of ballots received.

7.5.3   A COUNTY CLERK WHO RECEIVES AN APPLICATION AND BALLOT FROM A VOTER WITH A DISABILITY COVERED UNDER SECTION 1-5-706, C.R.S. MUST MAINTAIN A LOG OF EACH BALLOT AND APPLICATION RECEIVED UNDER THIS SECTION. THE COUNTY CLERK MUST RETAIN THE LOG AS PART OF THE OFFICIAL ELECTION RECORD. THE LOG MUST INCLUDE: THE NAME OF THE VOTER; THE DATE THE BALLOT PACKET WAS RECEIVED; AND THE INITIALS OF THE ELECTION JUDGE OR EMPLOYEE WHO RECEIVED THE BALLOT.

~~7.5.3~~ 7.5.4   An election official must date-stamp and process the returned ballot envelopes in SCORE immediately upon receipt at the ballot processing location. Except for ballots submitted by military or overseas electors, any ballot received after the close of polls must be date-stamped but not counted.

~~7.5.4~~ 7.5.5   The county clerk must arrange for the collection of ballots by bipartisan teams, of election judges and/or staff, from ~~all drop-off locations~~ EACH DROP BOX LOCATION ONCE IT IS OPEN and receive ~~them~~ THE BALLOTS into SCORE:

(a)   ~~At~~ IF APPLICABLE, AT least once every 72 hours after NON-UOCAVA ballots are mailed until the date that voter service and polling centers must open;

(b)   ~~At~~ IF APPLICABLE, AT least once every 24 hours during the days that voter service and polling centers must be open; and

(c)   At least twice on election day, at approximately 1:00 p.m. and 7:00 p.m.

(d)   The county clerk may meet the requirements of this Rule by:

(1)   Collecting and transporting the ballots to the central counting location for receipt into SCORE; OR

(2)   Collecting and transporting the ballots to the nearest voter service and polling center for receipt into SCORE.~~; or~~

(3)   ~~Receiving the ballots into SCORE at the ballot drop-off location.~~

~~7.5.5~~ 7.5.6   The county clerk may request a waiver from the Secretary of State for remote ~~drop-off~~ DROP BOX locations in the county's ~~mail ballot~~ ELECTION plan or amended ~~mail ballot~~ ELECTION plan, exempting them from the ballot collection requirements in Rule ~~7.5.4~~ 7.5.5. If the Secretary of State grants the waiver:

(a)   The county clerk must arrange for the collection of ballots by bipartisan teams of election judges from all exempt ~~drop-off~~ DROP BOX locations ONCE THEY ARE OPEN as often as necessary, but at least:

(1)   Once each week after the initial mailing of non-UOCAVA ballots until the Friday before election day; and

(2)   On the Friday and Monday before election day and on election day at 7:00 p.m. MT.

(b)   The county clerk must post a notice on each exempt drop box of the dates and approximate times ballots will be collected.

(c)   If the Secretary of State determines that the county failed to collect ballots from a remote ~~drop-off~~ DROP BOX location as often as necessary, the Secretary of State may revoke or modify the waiver.

[Not shown: renumbering Current Rules 7.5.6-7.5.11 to Rules 7.5.7-7.5.12]

~~7.5.12~~ 7.5.13   ~~County clerks picking up ballots on behalf of another county from a U.S. Postal Service general mail facility on election night must log the number of ballots collected by county and provide the log to the Secretary of State's office within 48 hours.~~ The county clerk must date stamp each ballot envelope as received on or before 7:00 PM on election day and immediately forward it to the correct county. The correct county must treat the ballot as received as of the date and time of the date stamp.

7.5.14   COUNTY CLERKS WHO DELIVER OR RECEIVE BALLOTS FROM ELECTORS WHO ARE CONFINED IN A COUNTY JAIL OR DETENTION FACILITY MUST LOG THE NUMBER OF BALLOTS DELIVERED AND RECEIVED FROM EACH FACILITY AND PROVIDE THE LOG TO THE SECRETARY OF STATE'S OFFICE FOLLOWING THE ELECTION.

~~7.5.13~~ 7.5.15   Unaffiliated voters in a primary election. If an election judge is unable to determine, before opening the envelope, which party's ballot the elector returned as outlined in Rule 7.2.9, the county must separate the elector's ballot from the envelope in the following manner:

(a)   An election judge must remove the ballot from the mail ballot return envelope and pass it to a bipartisan team of judges without allowing the team of judges to determine the identity of the elector.

(b)   The bipartisan team of election judges must review the ballot and audibly report to the first election judge which political party's election the elector voted in.

(c)   The first election judge must record in SCORE which political party's election the elector voted in, or document the proper party information for later recording in SCORE.

7.5.14 7.5.16   If an unaffiliated elector returns more than one ballot in a primary election, a bipartisan team of election judges must review the ballots to determine the elector's intent in accordance with the Secretary of State's Voter Intent Guide.

(a)   If the bipartisan team determines the elector voted in only one party's primary election, the election judge with access to the envelope must record the party chosen in SCORE under Rule 7.5.13(c) 7.5.15(c) and the ballot must be counted. The county must retain any unvoted ballot as an election record.

(b)   If the bipartisan team determines the elector voted in more than one party's primary election, or returned only blank ballots, the county must reject the ballots, not count them, and retain them in the mail ballot return envelope as an election record.

7.6   Ballot returned in unofficial envelope

7.6.1   If the county timely receives a mail ballot from an eligible elector in an envelope that is missing or lacks the correct self-affirmation, the county must contact the elector BY MAIL AND BY ELECTRONIC MAIL, IF AVAILABLE, in writing within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record. If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot. A COUNTY THAT RECEIVES A BALLOT FROM A VOTER WITH A DISABILITY COVERED UNDER SECTION 1-5-706, C.R.S., IN AN UNOFFICIAL ENVELOPE MUST ACCEPT THE BALLOT FOR PROCESSING IF THE ENVELOPE ALSO CONTAINS A SIGNED APPLICATION FROM THE VOTER.

7.7   Mail ballot cure procedures

7.7.1   If a mail or provisional ballot return envelope lacks a signature, OR A BALLOT FROM A VOTER WITH A DISABILITY COVERED UNDER SECTION 1-5-706, C.R.S. IS RETURNED WITHOUT AN APPLICATION, OR IS RETURNED WITH AN APPLICATION THAT IS NOT SIGNED, the county clerk must follow the procedures for discrepant signatures outlined in section 1-7.5-107.3(2)(a), C.R.S., except as provided in Rule 7.7.4.

7.7.2   The county clerk must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record.

7.7.3   If the county clerk uses any means in addition to mail OR ELECTRONIC MAIL to contact any elector regarding a missing or discrepant signature or missing ID, he or she must attempt to contact all similarly situated electors whose registration records have the same type of contact information.

[No changes to Rules 7.7.4 and 7.7.5]

Amendments to Current Rule 7.9:

7.9   Voter service and polling centers

7.9.1   The county clerk must designate and open the minimum number of voter service and polling centers. ~~The centers must be open during reasonable business hours for the minimum number of days outlined in section~~ AS REQUIRED IN SECTION 1-5-102.9, C.R.S., for a general election and SECTION 1-7.5-107(4.5), C.R.S., for all other elections.

   (a)   ~~Reasonable business hours means at least eight hours per day Monday through Friday, and at least four hours on Saturday.~~ FOR A GENERAL ELECTION, THE MINIMUM NUMBER OF VOTER SERVICE AND POLLING CENTERS MUST BE OPEN BEGINNING 15 DAYS BEFORE ELECTION DAY DURING THE FOLLOWING HOURS:

      (1)   IN A COUNTY DESCRIBED IN SECTION 1-5-102.9 (1)(A)(I) OR (1)(A)(II), C.R.S., VOTER SERVICE AND POLLING CENTERS MUST BE OPEN FROM 8 A.M, TO 5 P.M. MONDAY THROUGH FRIDAY, AND THE SECOND SATURDAY.

      (2)   IN ALL OTHER COUNTIES, VOTER SERVICE AND POLLING CENTERS MUST BE OPEN DURING NORMAL BUSINESS HOURS, WHICH MEANS AT LEAST EIGHT HOURS PER DAY MONDAY THROUGH FRIDAY, AND AT LEAST FOUR HOURS CONTINUOUSLY ON THE SECOND SATURDAY.

   (B)   FOR ANY PRIMARY OR NOVEMBER COORDINATED ELECTION, THE MINIMUM NUMBER OF VOTER SERVICE AND POLLING CENTERS MUST BE OPEN BEGINNING 8 DAYS BEFORE ELECTION DAY DURING NORMAL BUSINESS HOURS, WHICH MEANS AT LEAST EIGHT HOURS MONDAY THROUGH FRIDAY, AND AT LEAST FOUR HOURS CONTINUOUSLY ON SATURDAY.

   ~~(b)~~(C)   All voter service and polling centers must be open from 7:00 a.m. through 7:00 p.m. on election day.

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

   ~~(d)~~(E)   Signage at each voter service and polling center must indicate that it is a violation of law for any person to collect more than ten ballots for delivery in any election.

[No changes to Current Rules 7.9.2-7.9.6]

Repeal of Current Rule 7.9.7:

   ~~7.9.7   If an elector votes after the close of polls because a federal or state court issues an order extending the time established for closing the polls by state law, the elector must vote by provisional ballot. The county clerk must keep all provisional ballots cast under this Rule separate from provisional ballots not affected by the court order.~~

   ~~7.9.8~~ 7.9.7   An unaffiliated elector voting in person at a voter service and polling center in a primary election must state which party's election he or she chooses to vote in, and the election judge must indicate the voter's selection in WebSCORE and provide the voter with that party's ballot.

   ~~7.9.9~~ 7.9.8   On election day ~~during each general election~~, a county ~~with at least fifty thousand active electors~~ must measure and record the wait time at each of its voter service and polling centers, ~~at least once per hour, from the time a person enters the location or the line to the time that the person begins the check-in process.~~ IN ACCORDANCE WITH THE SECRETARY OF STATE'S WRITTEN WAIT TIME POLICY DOCUMENT.

7.9.10 7.9.9   Each county ~~required to measure under Rule 7.9.9~~ must report its results to the Secretary of State no later than 30 days after the election.

7.9.10   A COUNTY CLERK THAT RECEIVES NOTICE OF A PETITION FOR EXTENDING THE HOURS OF ANY VOTER SERVICE AND POLLING CENTER ON ELECTION DAY MUST IMMEDIATELY NOTIFY THE SECRETARY OF STATE OF THE ORDER. IF AN ORDER IS ENTERED BY ANY COURT THAT EXTENDS THE HOURS OF ANY VOTER SERVICE AND POLLING CENTER IN THE STATE, ALL COUNTIES MUST WAIT TO POST, PUBLISH, OR DISCLOSE ELECTION NIGHT RESULTS UNTIL THE TIME FOR THE EXTENSION HAS PASSED; EXCEPT THAT A COUNTY MAY UPLOAD ITS RESULTS TO THE SECRETARY OF STATE. THE SECRETARY OF STATE'S OFFICE WILL NOT PUBLISH RESULTS ON THE ELECTION NIGHT REPORTING SYSTEM UNTIL ALL POLLS HAVE CLOSED.

7.10   The county clerk must complete an accessibility survey for all ~~drop-off~~ DROP BOX and voter service and polling center locations annually before designating a location for use, and no later than ~~90~~ 120 days before an election, the county clerk must designate drop-off ~~locations,~~ DROP BOX, and voter service and polling ~~centers~~ CENTER LOCATIONS. IN A PRESIDENTIAL ELECTION YEAR, THE COUNTY CLERK'S ACCESSIBILITY SURVEY FOR THE PRESIDENTIAL PRIMARY ELECTION SERVES AS THE ANNUAL SURVEY FOR THAT VOTER SERVICE AND POLLING CENTER OR DROP BOX THROUGH THE FOLLOWING GENERAL ELECTION.

7.10.1   For the first survey of a location, the county clerk must complete the full ADA Checklist for voter service and polling centers. The county clerk must complete the Annual Voter Service and Polling Center Accessibility Survey form for each location designated for use in an election year after the initial survey is completed. ~~[Section 1-5-703, C.R.S.]~~

7.12   At each Voter Service and Polling Center, election judges and, if appropriate, election staff, must:

7.12.1   Provide all services outlined in 1-5-102.9, C.R.S.; AND

7.12.2   Use WebSCORE to register voters; update existing voter registrations; issue and replace mail ballots; and issue, spoil, and replace in-person ballots~~;~~. ~~and~~

~~7.12.3   Offer an in-person voter the opportunity to obtain a replacement mail ballot rather than a provisional ballot in the event the voter service and polling center loses connectivity to WebSCORE but retains connectivity to SCORE.~~

8.7.4   Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in Rule ~~1.1.29~~ 1.1.30 applies only to voting.

9.1.4   Age. FOR A PRIMARY ELECTION, ~~The~~ THE election judge must ask the elector, "ARE YOU AT LEAST 17 YEARS OF AGE AND ~~Will~~ WILL you be 18 years of age or older on OR BEFORE THE DATE OF THE NEXT GENERAL ELECTION ~~election day~~?" FOR ANY OTHER ELECTION, THE ELECTION JUDGE MUST ASK THE ELECTOR, "WILL YOU BE 18 YEARS OF AGE OR OLDER ON ELECTION DAY?"

9.2   ~~challenging~~ CHALLENGING a mail ballot voter

10.1.4   After the voter service and polling center closes on election night, election judges must return the completed Statement of Ballots form for each day the location was open along with all voted ballots to one of the election offices designated in the ~~mail ballot~~ ELECTION plan.

10.5.1   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 or letter of each ballot issue or question and votes received;

(c)   The total number of ballots cast;

(d)   The number of provisional ballots cast, including totals for:

(1)   Ballots accepted by each code; and

(2)   Ballots rejected by each code.

(e)   The number of mail ballots cast, including totals for:

(1)   Ballots accepted; and

(2)   Ballots rejected by each code.

(f)   The number of in-person ballots counted;

(g)   The number of emergency replacement ballots, including totals for:

(1)   Ballots accepted; and

(2)   Ballots rejected by each code.

(H)   THE NUMBER OF BALLOTS RETURNED BY VOTERS WITH A DISABILITY COVERED UNDER SECTION 1-5-706 C.R.S.

~~(h)~~(I)   The number of damaged and spoiled ballots.

~~(i)~~(J)   If applicable, the number of ballots cast in each party's primary election, including totals for:

(1)   Ballots accepted in each party's primary election by affiliated and unaffiliated voters; and

(2)   Ballots rejected by each code.

10.6.2 A county must submit the state portion of the abstract and the ENR upload required by Rule ~~11.9.5~~ 11.9.6 to the Secretary of State in the format approved by the Secretary of State. The state portion of the abstract must include:

(a) The summary of votes cast for each state race and each ballot question or issue; and

(b) The total number of ballots counted in the election.

11.2 Voting System Inventory

11.2.1 The designated election official must maintain an inventory record for each ~~electronic vote-tabulating device used in an election~~ COMPONENT OF THE VOTING SYSTEM. The record must include the manufacturer, make, model, serial number, ~~hardware/firmware/software version or release number, hash value documentation where applicable,~~ AND date of acquisition~~, description of any services, repairs, maintenance, upkeep, and version upgrades, and the dates the services were performed~~.

11.2.2 ~~If the~~ THE inventory ~~is~~ MUST BE in AN electronic format~~, it must be~~ AND exportable to a comma separated VALUE (CSV), ~~excel~~ EXCEL spreadsheet (XLS or XLSX), or quote or tab separated (TXT) file before delivery to the Secretary of State.

11.2.3 The designated election official must file a complete voting system inventory, noting which equipment will be used for the election with the Secretary of State no later than ten days before the election.

11.3.2 Logic and Accuracy Test

(a) The county clerk must conduct the public Logic and Accuracy Test no later than the ~~18th~~ 21st day before election day.

(b) The county must ensure that the Logic and Accuracy Test is open to the extent allowable in accordance with section 1-7-509(2)(b), C.R.S. The county clerk may limit the number of representatives from each group because of space limitations.

(c) Preparing for the Logic and Accuracy Test

(1) The county must prepare a test deck of ballots that includes every ballot style and, where applicable, precinct. The county test deck must include a sufficient number of ballots to mark every vote position for every contest including write-in candidates, allow for situations where a contest permits an elector to vote for two or more positions, and include overvotes and undervotes for each contest. The county test deck must include at least one write-in vote for each qualified write-in candidate so that all qualified write-in candidate names will appear in the LAT result uploaded to ENR as required by Rule 11.9.3. THE COUNTY TEST DECK MUST INCLUDE BALLOTS PRINTED FROM A BALLOT-ON-DEMAND PRINTER IF A BALLOT-ON-DEMAND PRINTER WILL BE USED IN THE UPCOMING ELECTION, AND MUST INCLUDE COMMERCIALLY PRINTED BALLOTS.

Amendments to Current Rule 11.4:

11.4   ~~The county~~ A COUNTY THAT ELECTRONICALLY TABULATES ELECTION RESULTS must submit election setup records to the Secretary of State so that they are received no later than 5:00 p.m. on the seventh day before election day.

    11.4.1   ~~Jurisdictions that contract with either another county or voting system vendor may choose to have the other county or vendor deliver the election setup records.~~

    ~~11.4.2~~ 11.4.1   Election setup records must be in an electronic media format that is native to the jurisdiction's specific ballot creation and tabulation system. Acceptable media formats include CD-ROM, DVD-ROM, or flash media.

    11.4.2   THE COUNTY MUST CREATE A HASH VALUE USING AN SHA-256 ALGORITHM OF THE SETUP RECORDS FILE AND TRANSMIT THE HASH VALUE TO THE SECRETARY OF STATE BY E-MAIL TO VOTING.SYSTEMS@SOS.STATE.CO.US

    11.4.3   The designated election official must include a point of contact and method of contact (phone, ~~fax,~~ email, etc.).

    11.4.4   Within ~~24 hours~~ ONE BUSINESS DAY of receipt of the election setup records, the Secretary of State's office will contact the jurisdiction to confirm receipt.

    11.4.5   The Secretary of State's office will store the election setup records in a secured, ~~fire proof,~~ limited-access location.

    11.4.6   All parties must treat as confidential all escrowed materials and any other related information that comes into their possession, control, or custody.

Amendment (numbering correction) to Current Rule 11.8.4(h):

    ~~(h)~~(G)   The voting system provider's software and hardware license agreements expressly permit the Secretary of State, or political subdivisions that license the hardware and software applications necessary to program elections and voting devices, to perform those services without charge for other political subdivisions that are licensed to use the voting system.

Amendments to Current Rule 11.9.1(d) concerning election night reporting:

    (d)   Precinct names: If a county reports results by precinct, its results file ~~may~~ MUST only include the ten-digit precinct number from SCORE, FOLLOWED BY A DASH AND ANY SPLIT PRECINCT INDICATION (E.G., 1234567890-1).

Amendments to Current Rules 11.9.2-11.9.4. New Rule 11.9.5 and subsequent Rule renumbering:

    11.9.2   No later than ~~21~~ 35 days before the election, a county must provide the following information to the Secretary of State:

        (a)   A data entry county must email a sample or "zero" file. Except in the case of withdrawn or deceased candidates, a data entry county may not change or alter the election database or export file after submitting its zero file.

        (b)   A manual entry county must send a list of all ballot content.

11.9.3   No later than ~~14~~ 21 days before the election, a data entry county must upload the LAT results file to ENR. At a minimum, the LAT results file must contain the results of the complete county test deck required under Rule 11.3.2(c)(1).

11.9.4   Election night uploads. ~~Manual entry counties must produce preliminary election results and upload them to the ENR system once counting is completed.~~ All ~~other~~ counties OTHER THAN MANUAL ENTRY COUNTIES must export or produce preliminary election results and upload them to the ENR system. ~~a minimum of three times on election night~~:

(A)   WHILE TABULATING, COUNTIES MUST UPLOAD TO THE ENR SYSTEM AT A MINIMUM:

~~(a)~~(1)   After the close of polls but no later than 8:00 p.m.; AND

~~(b)~~(2)   ~~At or around~~ NO LATER THAN 9:00 p.m.

~~(c)~~(B)   ~~The county must indicate that election night reporting is complete in the ENR system after the county uploads the last results on election night.~~ IF THE COUNTY BELIEVES IT WILL BE UNABLE TO MEET THE SCHEDULE OUTLINED IN THIS RULE, IT MUST CONTACT THE VOTING SYSTEMS TEAM BEFORE THE DEADLINE.

(C)   THE SECRETARY OF STATE MAY, AT HIS OR HER DISCRETION, WAIVE OR MODIFY THIS RULE.

11.9.5   A COUNTY MUST PRODUCE PRELIMINARY ELECTION RESULTS AND UPLOAD THEM TO THE ENR SYSTEM AFTER COUNTING IS COMPLETED ON ELECTION NIGHT, INDICATE IN THE ENR SYSTEM THAT ELECTION NIGHT COUNTING IS COMPLETED, AND NOTIFY THE VOTING SYSTEMS TEAM BY EMAIL THAT ELECTION NIGHT COUNTING IS COMPLETED.

~~11.9.5~~11.9.6   Canvass upload. The county must export or produce official election results, and check the appropriate box in the ENR system to indicate that the canvass upload is complete, not later than close of business of the first business day after the statutory deadline for completing the canvass.

Amendments to Rule 14.4.1 concerning voter registration drives:

14.4.1   ~~The Secretary of State will approve a standard Colorado Voter Registration Drive Application Form. The~~ A VRD ~~may also~~ MUST use the SECRETARY OF STATE'S APPROVED VOTER REGISTRATION DRIVE APPLICATION FORM OR THE National Mail Voter Registration Form WHEN COLLECTING REGISTRATION APPLICATIONS.

New Rule 15.1.1 (d) concerning petitions for President of the United States and New Rules 15.1.4(d)(14) and (e)(5) concerning verification of petitions; specifically, verifying individual entries:

15.1.1   Petition template for state petitions

[No changes to (a)-(c)

(D)   AN UNAFFILIATED CANDIDATE FOR THE OFFICE OF PRESIDENT OF THE UNITED STATES WHO IS SUBMITTING A PETITION FOR NOMINATION UNDER SECTION 1-4-802, C.R.S. MUST INCLUDE ON THE PETITION THE NAMES OF REGISTERED ELECTORS THE CANDIDATE IS NOMINATING AS THEIR PRESIDENTIAL ELECTORS.

15.1.4   Verifying individual entries

[No changes to (a)-(c)]

(d)   Secretary of State or DEO staff will reject the entry if:

[No changes to (1)-(13)]

(14)   FOR A CANDIDATE PETITION, THE ADDRESS ON THE ENTRY DOES NOT MATCH THE CURRENT RESIDENTIAL OR MAILING ADDRESS FOR THE ELECTOR IN SCORE.

(e)   Secretary of State or DEO staff will accept the entry if:

[No changes to (1)-(4)]

(5)   FOR A CANDIDATE PETITION, THE ADDRESS PROVIDED DID NOT MATCH THE CURRENT RESIDENCE ADDRESS INFORMATION IN SCORE, BUT DID MATCH THE CURRENT MAILING ADDRESS INFORMATION IN SCORE.

Amendments to Rule 15.2:

15.2   Petition entity license, registration, filing, and circulation

15.2.1 A petition entity that intends to pay petition circulators must obtain a petition entity license, pay a fee, and register with the Secretary of State before circulating petitions. The license application must include:

(a)   The petition entity's name, address, telephone number, and email address;

(b)   The designated agent's name; and

(c)   An affirmation that the designated agent has read and understands ARTICLE 4 AND Article 40 of Title 1, C.R.S., and has completed the Secretary of State's circulator training program.

15.2.2 Before compensating a circulator, the designated agent must register with the Secretary of State by submitting a signed form that includes a list of the proposed initiatives AND/OR THE CANDIDATE OR CANDIDATE COMMITTEE'S NAME THE petition entity will circulate.

15.2.3 If a petition entity fails to register a proposed initiative OR CANDIDATE PETITION over any two-year period, the license expires. The Secretary of State will notify a petition entity that its license has expired within 30 days after the date of expiration.

15.2.4 A petition entity may renew an expired license without a fee by submitting a new license application.

Amendments to Rule 15.7:

15.7   Signature verification on state candidate AND RECALL petitions

15.7.1 The Secretary of State will compare the signature on each petition entry with the elector's signature in SCORE in accordance with the Secretary of State's Signature Verification Guide. The Secretary of State may use an automated signature verification device.

(a)   If the signatures match and the entry is otherwise valid, the Secretary of State must accept the entry.

(b)   If upon initial review the signatures do not match, The Secretary of State must conduct further review of the entry. A team of two staff members who are not

affiliated with the same political party must review the signatures, conduct additional research in SCORE if necessary, and, unless both staff members agree that the signatures do not match, accept the entry if it is otherwise valid.

Amendments to Current Rule 17.1.2 concerning provisional voting in the voter service and polling center:

17.1.2 If a voter service and polling center loses connectivity to SCORE, ~~the judges must issue provisional ballots until the county restores connectivity unless the election officials are able to contact the elections office to issue vote credit in SCORE immediately~~ AN ELECTION JUDGE MUST ATTEMPT TO VERIFY THE ELECTOR'S ELIGIBILITY. ELIGIBILITY MAY BE DETERMINED BY REVIEWING OR RECEIVING INFORMATION PRODUCED FROM THE STATEWIDE VOTER REGISTRATION SYSTEM EITHER IN REAL-TIME OR WITHIN THE PRECEDING 24 HOURS; EXCEPT IF THE TIME FOR VOTING IS EXTENDED BEYOND 7 P.M. ON ELECTION DAY BY A COURT ORDER, IN WHICH CASE ELIGIBILITY MAY BE DETERMINED BY REVIEWING OR RECEIVING INFORMATION PRODUCED FROM THE STATEWIDE VOTER REGISTRATION SYSTEM EITHER IN REAL-TIME OR NO EARLIER THAN THE DAY PRIOR. IF THE ELECTOR'S ELIGIBILITY CAN BE DETERMINED, THE JUDGE MUST ISSUE THE ELECTOR A MAIL BALLOT OR REPLACEMENT MAIL BALLOT. IF AN ELECTOR'S ELIGIBILITY CANNOT BE DETERMINED, THE ELECTION JUDGE MUST ISSUE THE VOTER A PROVISIONAL BALLOT.

Amendments to Current Rule 17.2.9 concerning verification of provisional ballots specifically acceptance codes:

ALC   Elector voted a provisional ballot because the voter service and polling center lost connectivity AND THE VOTER'S ELIGIBILITY COULD NOT BE OTHERWISE DETERMINED. Elector's eligibility is confirmed.

Permanent adoption of amendments to Rule 17.2.10, temporarily adopted on 6/28/2019, concerning verification of provisional ballots specifically rejections codes:

RFE   (Rejection ~~felon~~ not eligible to vote DUE TO FELONY INCARCERATION) Individual was convicted of a felony and is ~~either~~ serving a sentence of confinement or detention ~~or is on parole~~.

Amendments to Current Rule 20 concerning county security procedures:

20.1   The county must submit its ~~annual~~ security plan on the form prescribed by the Secretary of State in accordance with section 1-5-616(5), C.R.S., NOT LESS THAN 60 DAYS BEFORE AN ELECTION. A county must also submit a comprehensive procedure for ballot delivery in an emergency under section 1-7.5-115(1), C.R.S.

20.2   THE COUNTY MAY NOT INSTALL ANY SOFTWARE ON ANY COMPONENT OF THE VOTING SYSTEM UNLESS DIRECTED TO, OR APPROVED BY, THE SECRETARY OF STATE.

~~20.2~~ 20.3   General requirements concerning ~~chain-of-custody~~ SECURITY DOCUMENTATION

~~20.2.1~~ 20.3.1   The county must maintain on file all documentation of seals, chain-of-custody, ACCESS LOGS, TRUSTED BUILD, and other documents related to the transfer of equipment between parties. These documents are subject to inspection by the Secretary of State. ALL WRITTEN ENTRIES MUST BE COMPLETED IN PERMANENT INK.

~~20.2.2~~ 20.3.2   The county must maintain and document uninterrupted chain-of-custody for each voting device from the installation of trusted build to the present, throughout the county's ownership or leasing of the device. For ballot scanners approved for use under section 1-5-613(2), C.R.S. but for which no trusted build exists, the county must maintain and

document uninterrupted chain-of-custody for each voting device from the successful completion of acceptance testing conducted according to Rule ~~20.9.4~~ 20.10.4.

~~20.2.3~~ 20.3.3   Only election officials or canvass board members sworn under oath are allowed to handle ballots, which include VVPAT records.

~~20.2.4~~ ~~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 precludes 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.~~

~~20.2.5~~ 20.3.4   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.

~~20.2.6~~ 20.3.5   The county must submit sample copies of all referenced forms, schedules, logs, and checklists with the security plan.

~~20.3~~ 20.4   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.

~~20.3.1~~ 20.4.1   DREs, BMDs, and Judge's Booth Controllers (JBCs)

      (a)   The county must place a seal over a removable card or cartridge that is inserted into the unit, or over the slot or door covering the card or cartridge.

      (b)   The county must place a seal over any data port when the port is not being used, except slots for activation cards.

      (c)   If the county cannot verify the firmware or software hash value (MD5 or SHA-1), the county must seal the DRE or BMD 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.

      (d)   In each voter service and polling center, the county must provide a minimum of one accessible DRE or BMD that complies with section 1-5-704, C.R.S.

~~20.3.2~~ 20.4.2   Before attaching a VVPAT to a specific voting device, the county must seal the unit after verifying that no votes were cast. At least two election officials must verify that seals are intact before the start of voting, and at the close of voting. VVPAT records must either remain in the VVPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule ~~20.12~~ 20.13.

~~20.3.3~~ 20.4.3   Ballot scanners

      (a)   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.

      (b)   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.

      (c)   Before the start of voting and after the close of voting, two election officials must visually confirm that all seals are intact and that the seal numbers match those logged in the chain-of-custody log.

~~20.3.4~~ 20.4.4   Memory cards and activation cards

> (a)   The county must assign and securely affix a permanent unique identifier to each removable card or activation card. The county may use the manufacturer assigned serial number for this purpose.

> (b)   The county must handle memory cards and activation cards in a secure manner at all times. The county must transfer and store any card or activation card 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 numbers match those listed in the log.

> (c)   The county must maintain a written or electronic log to record memory card or activation card seals and track seals for each voting unit.

> (d)   The county must maintain a complete inventory of memory cards and activation cards, including which VSPC they are assigned to during an election. Before and after a VSPC opens and closes each day, the supervisor judge must verify that all cards issued to the VSPC are present. If at any time the supervisor judge cannot account for all activation cards issued to the VSPC, the supervisor judge or a member of the county election staff must immediately submit an incident report to the Secretary of State under Rule ~~11.6~~ 11.7.

~~20.4~~ 20.5   ~~Individuals with access to keys, door codes, and vault combinations~~ ACCESS TO SECURE AREAS

Reorganizing Current Rules 20.4.1 and 20.4.2 (renumbered as Rules 20.5.2 and 20.5.1 as shown below) including amendments:

> ~~20.4.2~~ 20.5.1   The county must change all keypad door codes or locks and vault combinations TO SECURE AREAS AS OUTLINED IN RULE 20.9.3, at least once per calendar year prior to the first election of the year.

> ~~20.4.1~~ 20.5.2   ~~For employees with access to areas addressed in Rule 20.4.3, the county must state in the security plan the name of each employee, their title, and the date the criminal background check was performed. [Section 24-72-305.6, C.R.S.]~~ THE COUNTY MUST STATE IN ITS SECURITY PLAN THE NAME, TITLE, AND DATE OF MOST RECENT BACKGROUND CHECK FOR EACH EMPLOYEE WITH ACCESS TO AREAS IDENTIFIED IN RULE 20.5.3.

> ~~20.4.3~~ 20.5.3   COUNTY ~~Employee~~ EMPLOYEE access. The county may grant employees access to the codes or locks and combinations described in this Rule in accordance with the following limitations:

> > (a)   Access to the code, lock, or combination to ballot storage areas, counting room, location of adjudication, or tabulation workstations is restricted to employees who have successfully passed a criminal background check. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from having access to the above areas.

> > (b)   Except for emergency personnel, no other individuals may be present in these locations unless supervised by one or more employees with authorized access.

> > (c)   In extreme circumstances, the county may request and the Secretary of State may grant exemption from the requirements outlined in this Rule.

20.5.4 NON-COUNTY EMPLOYEE ACCESS

    (A)   ALL VENDORS WHO CONDUCT WORK ON ANY COMPONENT OF A COUNTY'S VOTING SYSTEM MUST CONDUCT A CRIMINAL BACKGROUND CHECK ON EACH EMPLOYEE PRIOR TO THE EMPLOYEE'S WORK WITH THE VOTING SYSTEM. THE VENDOR MUST AFFIRM THAT THE CHECK WAS CONDUCTED IN WRITING TO THE SECRETARY OF STATE PRIOR TO THE EMPLOYEE CONDUCTING ANY WORK. ANY PERSON CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE WITH AN ELEMENT OF FRAUD IS PROHIBITED FROM WORKING ON ANY COMPONENT OF A COUNTY'S VOTING SYSTEM.

    (B)   ALL SECRETARY OF STATE STAFF WHO CONDUCT WORK ON ANY COMPONENT OF A COUNTY'S VOTING SYSTEM MUST UNDERGO A CRIMINAL BACKGROUND CHECK PRIOR TO THE STAFF'S WORK WITH THE VOTING SYSTEM. ANY PERSON CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE WITH AN ELEMENT OF FRAUD IS PROHIBITED FROM WORKING ON ANY COMPONENT OF A COUNTY'S VOTING SYSTEM.

~~20.4.5~~ 20.5.5   Access to where election management software is used is limited to authorized election officials and watchers only. Messengers or runners delivering ballots between the preparation room and computer room must wear distinguishing identification.

~~20.5~~ 20.6   Internal Controls for the Voting System

~~20.5.1   The county must enable, create, and use passwords.~~

~~20.5.2~~ 20.6.1   In addition to the access controls discussed in Rule ~~20.4~~ 20.5, the county must change all passwords and limit access to the following areas:

    (a)   The county must 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.~~ ANY PASSWORDS ASSOCIATED WITH A VOTING SYSTEM ACCORDING TO THE CONDITIONS OF USE.

    ~~(b)   The county must 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, and voting devices themselves as it applies to the specific system.~~

[Not shown: Current Rules 20.5.2 (c)-(h) are renumbered as Rules 20.6.1(b)-(g)]

~~20.5.3~~ 20.6.2   Removable storage devices

    (a)   The county must reformat all removable storage devices immediately before inserting them into any component of the voting system, except as provided in Rule ~~20.5.3~~ 20.6.2 (b) ~~(d)~~ (E), or in the conditions of use.

[No changes to (b) and (c)]

    (d)   The county may insert a removable storage device without first reformatting it if the removable storage device contains only election database or project files remotely programmed by the voting system provider in accordance with Rule ~~20.7~~ 20.8.

    (E)   THE COUNTY MAY INSERT A REMOVABLE STORAGE DEVICE WITHOUT FIRST REFORMATTING IT IF THE REMOVABLE STORAGE DEVICE CONTAINS ONLY ELECTION DATABASE BACKUP FILES CREATED BY THE COUNTY AND:

(1) THE COUNTY SUBMITS AN ATTACHMENT WITH THEIR SECURITY PLAN STATING SECURITY PROCEDURES FOR THE REMOVABLE STORAGE DEVICE THAT ADDRESSES STORAGE OF THE DEVICE WHEN NOT IN USE; AND

(2) THE PLAN IN THE ATTACHMENT IS APPROVED BY THE SECRETARY OF STATE.

20.6 20.7 The county must keep all components of the voting system, ballots, servers, workstations, DREs, ballot scanners, BMDs, VVPAT records, and video data records in a temperature-controlled storage environment that maintains a minimum temperature of 50 degrees Fahrenheit and a maximum temperature of 90 degrees Fahrenheit. The storage environment must be dry with storage at least four inches above the floor. The county must provide the Secretary of State with a description of the specific environment used for each type of component.

20.7 20.8 Remote election programming services.

20.7.1 20.8.1 A county may not install or import into its voting system an election database or project programmed or created by the voting system provider using voting system components other than those owned or leased by the county and situated in the county's secure elections facility, unless the voting system provider first affirms on a form provided by the Secretary of State that:

(a) At all times during the election database or project programming, the voting system provider used only hardware and software certified for use in Colorado, as configured and verified during trusted build by the Secretary of State;

(b) At all times after installation of trusted build, the voting system provider operated all hardware utilized to program the election on a closed network, and did not connect the hardware to the internet or any internet-connected device;

(c) At all times during the election programming process, the voting system provider complied with the security protocols for removable storage devices in Rule 20.5.3 20.6.2(a) – (c); and

(d) The voting system provider physically delivered to the county removable storage media containing the finished election database or project, and did not transmit using any method connected or exposed to the internet.

20.8 20.9 Security cameras or other surveillance

20.8.1 20.9.1 The county must maintain a log of each person who enters the areas specified in Rule 20.8.3 20.9.3, including the person's name, signature, and date and time of entry. If access to the specified areas 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, the log must meet the requirements of this Rule.

20.8.2 20.9.2 Unless otherwise instructed, the county must make video security surveillance recordings of the areas specified in Rule 20.8.3 20.9.3 beginning at least 60 days before election day and continuing through at least 30 days after election day. If a recount or contest occurs, the recording must continue through the conclusion of all related activity. The recording system must ensure that records are not written over when the system is full. The recording system must 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 must provide a process that ensures that the media is replaced often enough to prevent periods when recording is not available.

20.8.3 20.9.3   The following are the specific minimum requirements:

[No changes to (a)-(c)]

[Not shown: renumbering Current Rule 20.9 as Rule 20.10]

20.10 20.11   Transportation of equipment, memory cards, ballot boxes, and ballots

20.10.1 20.11.1 The county must submit detailed plans to the Secretary of State before an election regarding the transportation of equipment and ballots both to remote voting sites and back to the central elections office or storage facility. If there is any evidence of possible tampering with a seal, or if the seal numbers do not match those listed in the chain-of-custody log, the county clerk must be immediately notified and must follow the procedures specific to the incident as described in Rule 20.14 20.15. While the method of transportation of equipment may vary, the following standards apply:

[No changes to (a)-(c)]

[Not shown: renumbering Current Rules 20.10.2-20.10.4 as Rules 20.11.2-20.11.4]

[Not shown: renumbering Current Rules 20.11-20.16 as Rules 20.12-20.17]

Cross-reference update in Rule 20.15.1(b)(3) (formerly Rule 20.14.1(b)(3)):

(3)   The county must reinstall the election programming into the device, conduct a hardware diagnostics test as prescribed in Rule 11, and conduct an acceptance test according to Rule 20.8.4 20.10.4, except that the device must be in full election mode, if applicable, and instead of casting or printing five ballots, the county must cast or print at least 25 ballots on the device. The county must maintain on file all documentation of testing and chain-of-custody for each specific device.

Cross-reference update:

20.16.1 20.17.1 A county that chooses to lease, loan, or rent any certified election equipment to a municipality, special district, or other local jurisdiction for use in their elections must maintain or reestablish an acceptable chain-of-custody and appropriate documentation in accordance with Rule 20.2 20.3.

Cross-reference update in Rule 20.17.3(a)(3) (formerly Rule 20.16.3(a)(3)):

(3)   Place one or more secure and numbered seals on the voting equipment in accordance with Rule 20.3 20.4. If during the course of the jurisdiction's election, the designated election official requires removal of a memory card or flash media as a function of the election process, the county clerk must witness and document the removal and proper resealing of the memory card or flash media; and

[Not shown: renumbering Current Rules 20.17-20.20 as Rules 20.18-20.21]

Amendments to Current Rule 21 concerning voting system standards for certification:

21.1   Introduction

21.1.1   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 requires the testing of an

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~~entire modified system if the Secretary of State determines in accordance with section 1-5-618, C.R.S., that a modification to any certified voting system requires testing for security and accuracy. Only the modification and any affected features or capabilities must be tested to ensure compliance with this Rule.~~ THE STANDARDS FOR CERTIFYING A VOTING SYSTEM IN THIS RULE APPLY TO APPLICATIONS FOR NEW CERTIFICATIONS. VOTING SYSTEM PROVIDERS MAY SUBMIT AN APPLICATION TO MODIFY A SYSTEM PREVIOUSLY CERTIFIED BY THE SECRETARY OF STATE IN ACCORDANCE WITH SECTION 1-5-618, C.R.S.

(A)   THE SECRETARY OF STATE WILL ONLY APPROVE AN APPLICATION FOR MODIFICATION IF TESTING DETERMINES THAT THE CHANGES PROPOSED DO NOT ADVERSELY AFFECT ANY ONE OR MORE OF THE FOLLOWING:

(1)   PERFORMANCE OF VOTING SYSTEM FUNCTIONS;

(2)   VOTING SYSTEM SECURITY AND PRIVACY;

(3)   OVERALL FLOW OF SYSTEM CONTROL; OR

(4)   THE MANNER IN WHICH BALLOTS ARE DEFINED AND INTERPRETED, AND VOTING DATA IS PROCESSED.

(B)   THE SECRETARY OF STATE MAY APPROVE A TEST PLAN FOR A MODIFIED VOTING SYSTEM LIMITED TO THE CORRECTION OF DEFECTS; THE INCORPORATION OF IMPROVEMENTS; THE ENHANCEMENT OF PORTABILITY AND FLEXIBILITY; AND THE INTEGRATION OR COMPATIBILITY OF DATA EXPORTED FROM THE VOTING SYSTEM WITH OTHER ELECTIONS SYSTEMS.

21.1.2   Sufficient components must 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.

21.1.3   The certification of a voting system is not a requirement that a county purchase or lease all of the components of the voting system. Counties may choose to configure and use a subset of the certified voting system and may use the services of a vendor or third party to provide ballot definition and election programming of memory cards. Counties are not required to use a paper ballot tabulation device if they choose to manually tabulate the election results.

21.2   Certification Process Overview and Timeline

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

21.2.2   For a voting system to be certified, the voting system provider must successfully complete all phases of the certification process. The certification process includes: submission of a complete application, a documentation review, a public demonstration of the system, and functional testing.

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

(a)   Phase I – The voting system provider must submit an application ~~and~~ WITH all documentation required in Rule 21.3 AND A COMPLETED REQUIREMENTS MATRIX PROVIDED BY THE VOTING SYSTEMS TEAM. The Secretary of State will review the

application and inform the voting system provider whether or not the application is complete. If the application is incomplete, the Secretary of State will identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete. When the application is complete, the Secretary of State will make arrangements with the voting system provider for a public demonstration.

(b)   Phase II – The Secretary of State will review the submitted documentation, COLORADO REQUIREMENTS MATRIX, VSTL reports from previous testing, and evaluations provided by other states. IF THE SUBMITTED DOCUMENTATION OR REQUIREMENTS MATRIX IS INCOMPLETE, THE SECRETARY OF STATE WILL IDENTIFY THE DEFICIENCIES AND THE VOTING SYSTEM PROVIDER WILL HAVE 30 DAYS TO REMEDY THE DEFICIENCIES AND MAKE THEM COMPLETE.

(c)   Phase III – The Secretary of State ~~will prepare~~ MUST APPROVE a certification test plan. If a VSTL is contracted to test the voting system, the VSTL will work with the ~~Secretary of State~~ VOTING SYSTEM PROVIDER to prepare a certification test plan. The certification test plan will be presented to the ~~voting system provider~~ SECRETARY OF STATE for review ~~before execution of the test plan~~ AND APPROVAL.

(d)   Phase IV– Upon receipt of the ~~voting system provider's~~ SECRETARY OF STATE'S ~~agreement to~~ APPROVAL OF the certification test plan, the ~~Secretary of State or the~~ VSTL will execute the test plan.

(e)   Phase V – The Secretary of State will review the test results and determine whether the voting system substantially meets the requirements for certification. Within 30 days of a decision, the Secretary of State will post the certification test report for the voting system on its website.

21.2.4   The Secretary of State will certify voting systems that substantially comply with the requirements in this Rule 21, ~~Colorado Election Code,~~ and any additional testing the Secretary of State finds necessary.

21.3   Application Procedure

21.3.1   Any voting system provider may apply to the Secretary of State for certification at any time.

21.3.2   A voting system provider that desires to submit a voting system for certification must complete the Secretary of State's "Application for Certification of Voting System" that is available on the Secretary of State's website.

21.3.3   ~~The Secretary of State, in accordance with section 24-21-104(1)(a), C.R.S., will 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 will provide an estimate of costs for certification testing before the certification process begins. In order to begin testing, the voting system provider must provide a written approval of the cost estimate. The voting system provider must pay all costs before the Secretary of state will issue a final determination.~~

~~21.3.4~~ 21.3.3   Along with the application, the voting system provider must submit all documentation ~~required in this Rule 21~~ REQUIRED IN THE APPLICATION FOR CERTIFICATION in A SEARCHABLE electronic format. THE SECRETARY OF STATE MAY DELAY THE CERTIFICATION PROCESS IF THE DOCUMENTATION IS INSUFFICIENT OR INCOMPLETE UNTIL REMEDIED BY THE VOTING SYSTEM PROVIDER.

21.3.4 THE VOTING SYSTEM PROVIDER MUST SUBMIT THE COMPLETED COLORADO REQUIREMENTS MATRIX TO THE SECRETARY OF STATE IN A TIMELY MANNER AFTER SUBMISSION OF THE APPLICATION FOR CERTIFICATION.

    (A)   THE VOTING SYSTEM PROVIDER MUST SPECIFY WHERE EACH REQUIREMENT IS MET IN THE DOCUMENTATION, INCLUDING SECTION OR PAGE NUMBER.

    (B)   THE VOTING SYSTEM PROVIDER MUST SPECIFY WHICH REQUIREMENTS WILL BE FULFILLED BY TESTING INSTEAD OF DOCUMENTATION.

    (C)   ALL REQUIREMENTS IN THE COLORADO REQUIREMENTS MATRIX MUST BE ADDRESSED.

21.3.5 The vendor must identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, Part 2, Article 72 of Title 24, C.R.S., together with a citation to the specific grounds for exemption before beginning Phase III of the certification process.

21.3.6 The voting system provider must coordinate with the Secretary of State for the establishment of the trusted build. The voting system provider must 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. At a minimum, the trusted build must include a compilation of files placed on write-once or removable media, and an established hash file distributed from a VSTL or the National Software Reference Library to compare federally certified versions. The trusted build disks should all be labeled with identification of the voting system provider's name and release version.

21.3.7 All materials submitted to the Secretary of State must remain in the custody of the Secretary of State as follows:

    (a)   For certified systems, until the certification is permanently revoked, or until no components of the certified system are used in the State of Colorado; and

    (b)   For systems that are not certified, a period of 25 months.

21.4   Voting System Standards

[No changes to Current Rules 21.4.1-21.4.10]

21.4.11 Documentation Requirements

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

        (1)   The Secretary of State has access to any documentation, data, TEST CASE 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

[No additional changes to Current Rule 21.4]

Amendments to Current Rule 21.5.1(c) concerning voting system provider demonstration:

    (c)   AT THE TIME OF APPLICATION, ~~The~~ THE voting system provider ~~will have~~ MUST ARRANGE A TIME WITH THE SECRETARY OF STATE TO access ~~to~~ the demonstration

room ~~for one day prior to the start of the demonstration~~ to ~~provide time for~~ setup ~~of~~ the voting system.

New Rule 22.4 concerning the use of approved and recommended election forms:

22.4   IF AN ELECTOR'S ELIGIBILITY TO VOTE AT A PRECINCT CAUCUS CANNOT BE VERIFIED UPON EXAMINATION OF THE LIST OF REGISTERED ELECTORS, THE ELECTOR MUST COMPLETE THE SECRETARY OF STATE'S APPROVED FORM ATTESTING TO THE ELECTOR'S ELIGIBILITY.

Amendments to Current Rule 26.4.2 concerning ranked voting method:

26.4.2   In a coordinated election, the county clerk must include the instructions in the county's ~~mail ballot~~ ELECTION plan.

II.   Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.
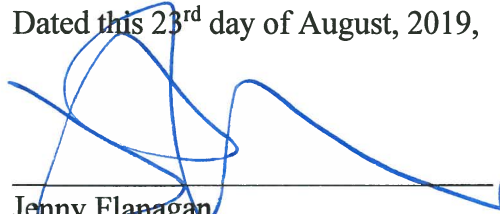
III.   Statement of Justification and Reasons for Adoption of Temporary Rules

A statement of the Secretary of State's findings to justify the immediate adoption of these new and amended rules on a temporary basis follows this notice and is incorporated by reference.[5]

IV.   Effective Date of Adopted Rules

These new and amended rules are immediately effective on a temporary basis. The rules will become permanently effective twenty days after publication in the Colorado Register.[6]

Dated this 23rd day of August, 2019,

Jenny Flanagan
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State

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[5] Section 24-4-103(6), C.R.S. (2018).
[6] Section 24-4-103(5), C.R.S. (2018).

STATE OF COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290

Jena Griswold
Secretary of State

Jenny Flanagan
Deputy Secretary of State

Statement of Basis, Purpose, and Specific Statutory Authority

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

August 23, 2019

I.   Basis and Purpose

This statement explains proposed amendments to the Colorado Secretary of State Election Rules. The Secretary is considering other amendments to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,[1] improve elections administration in Colorado, and increase the transparency and security of the election process.

Specific proposed changes include:

- Amendments to Rule 1.1.26 to provide uniform terminology in rule and to ensure proper administration and implementation of SB 19-202.

- Amendments to Rule 1.1.41 to remove outdated references in rule.

- Repeal of Rule 1.1.42 to remove a defined term that is not used elsewhere in the rule.

- Renumbering of Rules 1.1.43 to Rules 1.1.51.

- Permanent adoption of amendments to Rule 2.10, temporarily adopted on June 28, 2019, to implement and ensure proper administration of HB 19-1266.

- Amendments to Rule 2.17.2 to update a cross-reference.

- Amendments to Rule 2.19 to remove an outdated reference in rule.

- Amendments to Rule 4.1.3 to provide uniform terminology in rule.

- New Rule 4.5.2(f) to establish uniformity in the administration of current law.

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

- Amendments to Rule 4.8.4, including New Rule 4.8.4(c), to implement and ensure proper administration of Proposition 107 (2016).

- Amendments to Rule 4.8.5 to remove an outdated reference in rule and to establish uniformity in the administration of current law.

- Amendments to Rule 5.3 to provide uniform terminology in rule.

- Amendments to Rule 6.1.2 to implement and ensure proper administration of HB 19-1278.

- Amendments to Rule 6.4 to establish uniformity in the administration of current law.

- Amendments to Rule 7.1 to provide uniform terminology in rule and to implement and ensure proper administration of HB 19-1278.

- Amendments to Rule 7.2.7 to provide uniform terminology in rule.

- Amendments to Rule 7.2.9 to implement and ensure proper administration of Proposition 107 (2016).

- Amendments to Rule 7.2.14 to update a cross-reference.

- Amendments to Rule 7.4 to remove an outdated reference in rule.

- Amendments to Rule 7.5.1 to provide uniform terminology in rule, to implement and ensure proper administration of HB 19-1278, and to establish uniformity in the administration of current law.

- New Rule 7.5.3 to implement and ensure proper administration of SB 19-202.

- Amendments to Rule 7.5.4 and 7.5.5 (renumbered as Rules 7.5.5 and 7.5.6) to provide uniform terminology in rule and to implement and ensure proper administration of HB 19-1278.

- Amendments to Rule 7.5.12 (renumbered as Rule 7.5.13) to establish uniformity in the administration of current law.

- New Rule 7.5.14 to establish uniformity in the administration of current law.

- Amendments to Rule 7.5.14 (renumbered as Rule 7.5.16) to update a cross-reference.

- Amendments to Rule 7.6.1 to implement and ensure proper administration of HB 19-1278 and SB 19-202.

- Amendments to Rule 7.7.1 to implement and ensure proper administration of SB 19-202.

- Amendments to Rule 7.7.3 to implement and ensure proper administration of HB 19-1278.

- Amendments to Rule 7.9.1 to implement and ensure proper administration of HB 19-1278.

- Repeal of current Rule 7.9.7 to implement and ensure proper administration of HB 19-1278. Renumbering subsequent rules.

- Amendments to Rule 7.9.9 and 7.9.10 (renumbered as Rules 7.9.8 and 7.9.9) to implement and ensure proper administration of HB 19-1278

- New Rule 7.9.10 to implement and ensure proper administration of HB 19-1278 and to establish uniformity in the administration of current law.

- Amendments to Rule 7.10 to establish uniformity in the administration of current law.

- Repeal of current Rule 7.12.3 to implement and ensure proper administration of HB 19-1278.

- Amendment to Rule 8.7.4 to update a cross-reference.

- Amendments to Rule 9.1.4 to implement and ensure proper administration of HB 19-1278

- Amendments to Rule 9.2 to fix grammar.

- Amendment to Rule 10.1.4 to provide uniform terminology in rule.

- Amendments to Rule 10.5.1 to implement and ensure proper administration of SB 19-202.

- Amendments to Rule 10.6.2 to update a cross reference.

- Amendments to Rule 11.2 to provide guidance on the maintenance of voting system records.

- Amendments to Rule 11.3.2. further prescribing the manner of performing logic and accuracy testing

- Amendments to Rule 11.4, including repeal of Current Rule 11.4.1 and addition of New Rule 11.4.2, to establish uniformity in the current administration of election law.

- Amendments to Rule 11.9 to establish uniformity in the current administration of election law.

- Amendments to Rule 15.1.1 to establish uniformity in the current administration of election law.

- Amendments to Rules 15.1.4, 15.2, and 15.7 to implement and ensure proper administration of HB 19-1278.

- Amendments to Rules 17.1.2 and 17.2.9 to implement and ensure proper administration of HB 19-1278.

- Permanent adoption of amendments to Rule 17.2.10, temporarily adopted on June 28, 2019, to implement and ensure proper administration of HB 19-1266.

- Amendments to Rule 20 to establish security requirements for electromechanical voting systems. Renumbering rules as necessary.

- Amendments to Rules 21.1, 21.2, 21.3, and 21.4 to establish uniform administration of current law.

- New Rule 22.4 to prescribe the form attesting to an elector's eligibility at a precinct caucus, as required by HB 19-1278.

- Amendments to Rule 26.4.2 to provide uniform terminology in rule.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

On June 17, 2019, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/ruleComments.html. Additional comments received during the formal rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/hearings/2019/ElectionsRulesHearing20190731.html. All comments are incorporated into the official rulemaking record.

II.   Rulemaking Authority

The statutory and constitutional authority is as follows:

- Section 1-1-107(2)(a), C.R.S., (2018), which authorizes the Secretary of State "[t]o promulgate, publish and distribute…such rules as the secretary finds necessary for the proper administration and enforcement of the election laws."

- Section 1-1-109(3), C.R.S., (2018), which authorizes the Secretary of State to promulgate rules "as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms."

- Section 1-1.5-104(1)(e), C.R.S., (2018), which gives the Secretary of State the power to "[p]romulgate rules…as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA."

- Section 1-3-101 (b), C.R.S., (2019), which requires the Secretary of State to, "promulgate rules prescribing the form and content of [affidavit attesting to elector's eligibility at precinct caucus]." (HB 19-1278)

- Section 1-5-601.5, C.R.S., (2018), which allows the Secretary of State to "require by rule that voting systems and voting equipment satisfy voting systems standards promulgated after January 1, 2008, by the federal election assistance commission as long as such standards meet or exceed those promulgated in 2002."

- Section 1-5-608.5(3)(b), C.R.S., (2018), which permits the Secretary of State to "promulgate conditions of use in connection with the use by political subdivisions of electronic and electromechanical voting systems as may be appropriate to mitigate deficiencies identified in the certification process."

- Section 1-5-613(1), C.R.S., (2018), which requires the Secretary of State to "adopt uniform rules…for the purchase and sale of voting equipment in the state."

- Section 1-5-616, C.R.S., (2018), which requires the Secretary of State to adopt rules "that establish minimum standards for electronic and electromechanical voting systems."

- Section 1-5-623(4), C.R.S., (2018), which requires the Secretary of State to promulgate rules "as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify permissible conditions of use governing electronic voting devices or systems or related components."

- Section 1-7-509(6), C.R.S., (2018), which requires the Secretary of State to promulgate rules "prescribing the manner of performing the logic and accuracy testing required by this section."

- Section 1-7-510(6), C.R.S., (2018), which requires the Secretary of State to promulgate rules to implement the section regarding election setup records.

- Section 1-7-512(2), C.R.S., (2018), which requires the Secretary of State to promulgate rules "establishing procedures for voting systems providers to comply with this section."

- Section 1-7-513(2), C.R.S., (2018), which requires the Secretary of State to promulgate rules "prescribing the manner of maintenance of records required by this section" regarding voting equipment.

- Section 1-7-1004, C.R.S., (2018), requiring the Secretary of State to adopt rules consistent with section 1-7-1003, C.R.S., "on the conduct of elections using ranked voting methods. The rules shall prescribe the methods and procedures for tabulating, auditing, and reporting results in an election using a ranked voting method."

- Section 1-7.5-105, C.R.S., (2019), allowing the Secretary of State to adopt rules concerning the "submission and approval of election plans." (HB 19-1278)

- Section 1-7.5-106(2), C.R.S., (2018), which allows the Secretary of State to adopt rules governing procedures and forms necessary to implement" article 7.5 of Title 1.

Statement of Justification and Reasons for Adoption of Temporary Rules

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

August 23, 2019

Amended Rules: 1.1.26, 1.1.41, 2.10.1, 2.17.2(b)(1), 2.19,4.1.3, 4.8.4, 4.8.5, 5.3, 6.1.2, 6.4, 7.1,7.2.7, 7.2.9, 7.2.14, 7.4 – 7.7, 7.9, 7.10, 7.12, 8.7.4, 9.1.4, 9.2, 10.1.4, 10.5.1, 10.6.2, 11.2, 11.3.2, 11.4, 11.9.1(d), 11.9.2 – 11.9.4, 14.4.1, 15.2, 15.7, 17.1.2, 17.2.9, 17.2.10, 20, and renumbering amendments as required

Repealed Rules: 1.1.42, 7.1.4, 7.9.7, 7.12.3, 20.2.4, 20.5.1(b), 21.3.3

New Rules:4.5.2(f), 4.8.4(c), 7.1.2, 7.5.3, 7.5.14, 7.9.10, 11.9.5, 15.1.1(d), 15.1.4(d)(14), 15.1.4(e)(5), 20.2, 20.5.4, 20.6.2(e), 21.1.1, 21.3.4, 22.4

In accordance with Colorado election law,[1] the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws.

Adoption of these rules on a temporary basis is necessary to implement legislation recently passed by the General Assembly, including: HB19-1266, HB19-1278, and SB19-202. This legislation must be implemented prior to the administration of the state-wide coordinated election on November 5, 2019, making temporary adoption necessary. This temporary adoption also overrides temporary amendments to rules 2.10.1 and 17.2.10 previously adopted to comply with the requirements of HB19-1266. The enclosed temporary rule adoption correlates with permanent rules adopted by the Secretary of State today, August 23, 2019, and is necessary to provide clear guidance to interested parties, including, but not limited to: county clerks and the general public.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that temporary adoption of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.[2]

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[1] Sections 1-1-107 (1) (c), 1-1-107(2) (a), 1-7.4-104, C.R.S. (2018).
[2] Section 24-4-103(3) (6), C.R.S. (2018).