

Andrea Gyger

From: SoS Rulemaking
Subject: FW: inline comments on the 200 page rules proposal 80 pages covered so far
Attachments: Branscomb_comments_on_20130726_Elections_RulesDraft.rtf

-----Original Message-----

From: Harvie Branscomb [REDACTED]
Sent: Wednesday, August 07, 2013 11:30 PM
To: Hilary Rudy; Angela Lawson
Cc: Suzanne Staiert; Andrew Cole; [REDACTED]
Subject: inline comments on the 200 page rules proposal 80 pages covered so far

Gentlepeople

I have again attempted to comment on a huge document-a much longer document than I have ever attempted before. I was able to get through about 80 pages- up to and including recount provisions in Rule 14.

Please take consideration of my partial comments on these proposed rules. I will try to tackle the remaining pages in the next few days.

Note that I converted the pdf into word and some of the formatting and strikeout font did not copy correctly, so I have recommended a few unnecessary deletions of text already deleted in the original. Nevertheless this will be much easier to use than a separate document referring to the changes.

My comments are inline and in red bold text with deletions shown within brackets, notes in brackets and new text in CAPS.

Harvie Branscomb

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Harvie Branscomb
[REDACTED]
Carbondale, Colorado USA

Harvie Branscomb comments will be found inline in red bold like this 8/7/2013

1 Preliminary Draft of Proposed Rules
2
3 Office of the Colorado Secretary of State
4 Election Rules
5 8 CCR 1505-1
6
7 July 26, 2013
8

9 **Disclaimer:** 10 This is a proposed recodification of the Colorado Election Rules. Current 8 CCR 1505-1, is 11 stricken in its entirety and re-codified as follows. Some current rule language is retained either in 12 full or as amended.

13 This is a working draft of the recodification. Please note that there may be technical errors, such 14 as incorrect or missing citations. But we are involving you at this early stage because the 15 Secretary values your feedback.

16 Please send your feedback by August 7, 2013. **Please reference the specific page and line 17 number in your comments.** We will consider all comments submitted by this date for inclusion 18 in the official rulemaking draft.

19 Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>[Italic blue font text]</i>	Annotations

[Current 8 CCR 1505-1 is stricken in its entirety and re-codified as follows:] 22 23 **Rule 1. Definitions** 24
25 1.1 ~~As used in these Rules and the “Uniform Election Code of 1992” unless the context~~ 26 ~~otherwise requires,~~
~~the following terms shall have the meanings indicated:~~ 27 28 ~~“District office of state concern” means any of the~~
~~following offices: Member of the~~ 29 ~~State Board of Education, Member of the Board of Regents of the University of~~ 30
~~Colorado, and Member of the Board of Directors of the Regional Transportation District.~~ 31 ~~AS USED IN THESE~~
~~RULES, UNLESS STATED OTHERWISE:~~

32 1.1.1 “ACTIVE STATUS” OR “ACTIVE RECORD” MEANS THAT THERE ARE NO CONDITIONS 33 OR RESTRICTIONS
ON THE ELECTOR’S ELIGIBILITY OR REGISTRATION RECORD.

34 [Relocated from 2.20.1 a , with amendments]

1 1.1.2 “BALLOT MEASURE” MEANS A BALLOT ISSUE OR BALLOT QUESTION AS DEFINED IN 2 SECTIONS
1-1-104(2.3) AND (2.7), C.R.S.

3 [Relocated from 27.1.1., with amendments]

4 1.1.3 “BLANK BALLOT” MEANS A BALLOT ON WHICH THE VOTER HAS MADE NO MARKS IN 5 ANY VOTING
POSITION, HAS MARKED WITH AN UNREADABLE MARKER, OR HAS 6 CONSISTENTLY MARKED OUTSIDE OF THE
“READ” AREA OF THE SCANNER.

7 [Relocated from 27.1.2., with amendments]

8 1.1.4 “CANCELLED STATUS” OR “CANCELLED RECORD” MEANS THAT THE COUNTY CLERK 9 AND RECORDER
CANCELLED THE ELECTOR’S VOTER REGISTRATION RECORD 10 BECAUSE THE ELECTOR: 11 (A) IS NOT ELIGIBLE TO
VOTE; 12 (B) IS NOT REGISTERED TO VOTE; OR 13 (C) HAS WITHDRAWN HIS OR HER REGISTRATION. 14 *[Relocated
from 2.20.1 b., with amendments]*

15 1.1.5 “Canvass board” means a committee composed of the county clerk and recorder 16 and the registered
electors appointed by the major parties in accordance with 17 section 1-10-101, C.R.S.

18 [Relocated from 41.1.1]

19 1.1.6 “Canvass workers” means workers appointed or hired by the designated election 20 official **or canvass
board** to assist in the preparation and conduct of the canvass.

21 [Relocated from 41.1.2]

22 1.1.7 “CENTRAL COUNT” MEANS A BALLOT COUNTING PROCESS IN WHICH THE COUNTY 23 CLERK AND
RECORDER TABULATES CUMULATIVE VOTING TOTALS FOR MULTIPLE 24 PRECINCTS AND BALLOT STYLES AT A
SINGLE LOCATION.

**[note this describes what will be done both at VSPCs and to aggregate VSPC results
at another central location- and not necessarily the just the ballot scanning
operation. Note it also describes DRE results processing. I doubt that this is a
suitable definition. In practice the reason for a separate definition is to deal with the
scale of the operation of scanning, as far as I understand it. So perhaps this
definition should address the number of ballots being processed. For example in El
Paso county I believe that equipment designed for central counting is not being used
for that purpose- and the same is true in many small counties.]**

25 [Relocated from 11.1.1., with amendments]

26 1.1.8 “DAMAGED BALLOT” MEANS A BALLOT THAT IS TORN, BENT, OR OTHERWISE 27 MUTILATED OR
RENDERED UNREADABLE, SO THAT IT CANNOT BE PROCESSED BY 28 THE OPTICAL SCANNER BALLOT READER.

29 (A) DAMAGED BALLOTS INCLUDE ALL BALLOTS THAT CONTAIN A FOREIGN 30 SUBSTANCE THAT COULD
INTERFERE WITH THE OPTICAL SCAN MACHINE (I.E. 31 FOOD, DRINK, ETC.).

32 (B) DAMAGED BALLOTS MAY INCLUDE BALLOTS THAT ARE MARKED IN A 1 MEDIUM OTHER THAN THE MEDIUM INDICATED IN THE BALLOT 2 INSTRUCTIONS.

3 [Relocated from 27.1.3., with amendments]

1.1.9 “DATA ENTRY COUNTY” MEANS A COUNTY USING AN ELECTION MANAGEMENT SYSTEM THAT EXPORTS A FILE TO BE DIRECTLY UPLOADED TO THE ELECTION NIGHT 6 RESULTS SYSTEM.

7 1.1.10 “DESIGNATED ELECTION OFFICIAL,” AS USED IN RULE 11, INCLUDES THE 8 DESIGNATED ELECTION OFFICIAL’S SWORN, DEPUTIZED DESIGNEE. **[is this process of designation controlled by other rules?]**

1.1.11 “DUPLICATED BALLOT” MEANS A BALLOT FOR WHICH A TRUE COPY MUST BE MADE FOR THE BALLOT TO BE PROPERLY PROCESSED AND COUNTED BECAUSE OF DAMAGE, 11 IMPROPER MARKING OR ANY ISSUE THAT WOULD PREVENT A BALLOT TABULATING 12 MACHINE FROM ACCURATELY COUNTING THE BALLOT . **[violation of voter intent privacy would be another reason for a duplicated ballot.] “OR RISK A VIOLATION OF CONSTITUTIONALLY PROTECTED ANONYMITY OF THE BALLOT.”**

13 [Relocated from 27.1.4., with amendments]

14 1.1.12 “ELECTION COMPLAINT” MEANS A COMPLAINT FILED WITH THE SECRETARY OF STATE UNDER TITLE 1, C.R.S.

16 1.1.13 “ELECTION SETUP RECORDS” MEANS THE ELECTRONIC RECORDS, OFTEN IN THE 17 FORM OF A DATABASE OR A SET OF DATABASES, GENERATED BY ELECTION 18 **[TABULATION unnecessary- see following definition]** SOFTWARE TO CREATE AND DEFINE BALLOTS, TABULATION 19 INSTRUCTION, AND OTHER FUNCTIONS RELATED TO THE ELECTION.

[Relocated from 11.1.2., with amendments]

21 1.1.14 “ELECTION SOFTWARE” MEANS THE SOFTWARE FOR ELECTION EQUIPMENT OR 22 COMPUTERS THAT CONTROLS ELECTION SETUP VOTE RECORDING, VOTE 23 TABULATION, AND REPORTING.

24 [Relocated from 11.1.4., with amendments]

1.1.15 “ELECTRONIC BALLOT” MEANS A NON-PAPER BALLOT SUCH AS ON A TOUCH SCREEN 26 OR THROUGH AUDIO FEEDBACK. AFTER A VOTER CASTS AN ELECTRONIC BALLOT, 27 THE VOTER’S CHOICES MUST BE:

28 (A) MARKED AND PRINTED ON A PAPER BALLOT FOR SUBSEQUENT COUNTING BY 29 A PAPER BALLOT SCANNING DEVICE; OR

[This appears problematic- we do not even have a definition of “cast” in rules or statute although for the DRE, the vendors sometimes consider the act of pushing a button to suffice. For paper it is very unclear what “cast” means- particularly in the case of the mail-in returned ballot. It is important that we proceed to eliminate the “electronic” ballot and replace it with the paper- either conventional paper in case of voter or BMD marked ballots or VVPAT in case of DRE. To know how to change the definition it is crucial to see how it is used in the rules and I do not have time to do that now. Suffice it to say that the definition here is really lacking- “touch screen or through audio feedback”?]

(B) DIGITALLY RECORDED AND COUNTED BY THE TOUCH SCREEN DEVICE, 31 COMMONLY

REFERRED TO AS A DIRECT RECORDING ELECTRONIC (DRE) 32 DEVICE.

[This is the portion that we must move away from. Minimal use of DRE and “electronic ballots” will be problematic from a violation of privacy point of view. The correct transitional solution is to duplicate VVPAT onto conventional ballots that are then identical to voter marked ballots and optically scanned. Some counties are doing this now.]

33 [Relocated from 11.1.6., with amendments]

1 1.1.16 “ELECTRONIC TRANSMISSION” MEANS: 2 (A) FOR THE PURPOSE OF SENDING AN UNVOTED BALLOT TO THE ELECTOR [:]FAX, 3 EMAIL, AND ONLINE BALLOT DELIVERY. 4 (B) FOR THE PURPOSE OF RETURNING A VOTED BALLOT TO THE COUNTY CLERK 5 AND RECORDER [:] FAX AND EMAIL. 6 [Relocated from 25.2.1 and 42.2, with amendments]

7 1.1.17 “ELECTRONIC VOTING DEVICE” MEANS A DEVICE BY WHICH **[VOTER INTENT IS COLLECTED]** **[VOTES ARE RECORDED delete]** 8 ELECTRONICALLY, INCLUDING A TOUCH SCREEN SYSTEM. **[do not want to preclude BMD here]**

9 [Relocated from 11.1.7., with amendments]

10 1.1.18 “FIRMWARE” MEANS COMPUTER PROGRAMS, STORED ON READ-ONLY MEMORY 11 DEVICES OR OTHER ELECTRONIC CIRCUITRY IN VOTING DEVICES, THAT CONTROL 12 THE BASIC OPERATION AND FUNCTION OF THOSE DEVICES .

13 [Relocated from 11.1.8., with amendments]

14 1.1.19 “HELP AMERICA VOTE ACT COMPLAINT” OR “HAVA COMPLAINT” MEANS A 15 COMPLAINT FILED WITH THE SECRETARY OF STATE UNDER TITLE III OF THE HELP 16 AMERICA VOTE ACT (HAVA) AND ARTICLE 1.5 OF TITLE 1, C.R.S.

17 1.1.20 “IMMEDIATE VOTING AREA” MEANS THE AREA THAT IS WITHIN SIX FEET OF THE 18 VOTING EQUIPMENT, VOTING BOOTHS, AND THE BALLOT BOX **[WHILE A VOTER IS PRESENT FOR THE PURPOSE OF VOTING]**.

19 [Relocated from 8.6.1., with amendments]

20 1.1.21 “INACTIVE STATUS” MEANS A RESTRICTION A COUNTY CLERK AND RECORDER 21 PLACES ON AN ELECTOR’S RECORD IF THE UNITED STATES POSTAL SERVICE 22 RETURNS A MAIL BALLOT, VOTER INFORMATION CARD, OR CONFIRMATION CARD TO 23 THE COUNTY CLERK AND RECORDER AS UNDELIVERABLE.

24 [Relocated from 2.20.1 d., with amendments]

25 1.1.22 “LOGIC AND ACCURACY TEST” OR “LAT” MEANS A STEP-BY-STEP DOCUMENTED 26 REVIEW OF A VOTING DEVICE’S ABILITY, PRIOR TO USE IN ANY ELECTION, TO 27 ACCURATELY **[RE]**PRODUCE VOTER CHOICES FOR THE CANDIDATES AND BALLOT 28 MEASURES IN AN ELECTION. THE LOGIC AND ACCURACY TEST MUST FULFILL THE 29 REQUIREMENTS OF THE PUBLIC TEST DESCRIBED IN SECTION 1-7-509 (2), C.R.S.

30 [Relocated from 11.1.9., with amendments]

31 1.1.23 “MANUAL ENTRY COUNTY” MEANS A COUNTY THAT DOES NOT USE AN ELECTION 32 MANAGEMENT SYSTEM TO EXPORT DATA.

1 1.1.24 “MEDIA OBSERVER” MEANS AN OBSERVER WITH VALID AND CURRENT MEDIA 2 CREDENTIALS.

3 [Relocated from 8.1.3., with amendments]

1.1.25 “OFFICIAL OBSERVER” MEANS EITHER AN OBSERVER APPOINTED BY THE SECRETARY OF STATE OR AN OBSERVER APPOINTED BY THE FEDERAL GOVERNMENT 6 AND APPROVED BY THE SECRETARY OF STATE. OFFICIAL OBSERVERS MAY BE 7 PRESENT IN ALL PHASES OF THE ELECTION PROCESS, BUT ARE SUBJECT TO RULES 8 AND REGULATIONS AS PRESCRIBED BY THE SECRETARY OF STATE AND PERFORM 9 DUTIES AS MAY BE ASSIGNED BY THE SECRETARY OF STATE.

[Relocated from 8.1.1.]

11 1.1.26 “OVERVOTE” MEANS A **[SEPARATELY COUNTED INSTANCE IN WHICH A VOTER MARKS]** [RACE OR BALLOT MEASURE WHERE THE VOTER MARKED 12 **delete**]VOTES FOR MORE THAN THE MAXIMUM NUMBER OF CANDIDATES OR RESPONSES FOR 13 A BALLOT MEASURE ALLOWED. **[overvote is not a race or ballot measure]**

14 [Relocated from 27.1.6., with amendments]

1.1.27 “QUALIFIED POLITICAL ORGANIZATION” MEANS AN ORGANIZATION THAT HAS 16 PLACED A CANDIDATE FOR CONGRESSIONAL OR STATE OFFICE ON THE BALLOT IN A 17 CONGRESSIONAL VACANCY OR GENERAL ELECTION, WHOSE OFFICERS HAVE FILED 18 PROOF OF ORGANIZATION WITH THE SECRETARY OF STATE, AND THAT CONTINUES 19 TO MEET THE REQUIREMENTS OF RULES 3.3 AND 3.4. [*BAER V. MEYER*, 728 F.2D 47 (10TH CIR. 1984)]

21 [Relocated from 3.1, with amendments]

22 1.1.28 “RELATED TO THE SECOND DEGREE” MEANS SPOUSE, CIVIL UNION PARTNER, 23 PARENTS, CHILDREN, BROTHERS AND SISTERS, GRANDPARENTS, AND 24 GRANDCHILDREN RELATED BY BLOOD OR MARRIAGE.

[Relocated from 42.10, with amendments]

26 1.1.29 “SCORE” MEANS THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM AND THE 27 COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST DESCRIBED IN PART 3 OF 28 ARTICLE 2 OF TITLE 1.

1.1.30 “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 31 this rule.

32 [Relocated from 41.1.3]

33 1.1.31 “TARGET AREA” MEANS:

34 **[delete]** (A) THE SQUARE OR OVAL OPPOSITE THE CANDIDATE’S NAME OR BALLOT

1 RESPONSE ON A PAPER BALLOT; OR

2 (B)] THE **SQUARE**, OVAL, INCOMPLETE LINE, OR INCOMPLETE ARROW OPPOSITE THE 3 CANDIDATE’S NAME
OR BALLOT RESPONSE (EXAMPLES: “YES”, “NO”, 4 “FOR” OR “AGAINST”) ON A **[delete]** N OPTICAL
SCAN**]****PAPER** BALLOT.

5 [Relocated from 27.1.8, with amendments]

6 1.1.32 “UNDERVOTE” MEANS A **[RACE OR BALLOT MEASURE WHERE****delete]** **SEPARATELY COUNTED**
INSTANCE IN WHICH THE VOTER MARKED 7 VOTES FOR FEWER THAN THE MAXIMUM NUMBER OF
CANDIDATES OR RESPONSES 8 FOR A BALLOT MEASURE ALLOWED.

[note that we need to be able to cross check the totals of candidate choice, overvote and undervote against the number of ballots containing the contest. The best definition of undervote would accommodate this. So the definition should actually require the reporting of the number by which the voter marked choices fails to equal the maximum allowed number of responses.]

9 [Relocated from 27.1.7, with amendments]

10 1.1.33 “VOTING SYSTEM” AS DEFINED IN 1-1-104(50.8), C.R.S., DOES NOT INCLUDE VOTER 11 REGISTRATION
APPLICATIONS OR SYSTEMS, **[delete]** ELECTRONIC POLLBOOKS, BALLOT 12 DELIVERY AND RETRIEVAL SYSTEMS,
SIGNATURE VERIFICATION AND BALLOT 13 SORTING DEVICES, BALLOT ON DEMAND PRINTERS, **]** ELECTION NIGHT
REPORTING 14 AND OTHER ELECTION REPORTING SYSTEMS, **[delete]** AND OTHER COMPONENTS USED 15
THROUGHOUT THE ELECTION PROCESS THAT DO NOT CAPTURE AND TABULATE 16 VOTES. **]**

[this definition is likely intended to preclude citizen oversight over these functions and would be problematic if so. Of the above items, surely electronic pollbooks, signature verification, ballot sorting devices, ballot on demand printers are very much a part of the voting system just as ballot tabulators are. It is troubling to see them listed in this definition as not part of a voting system.]

17 1.1.34 “VVPAT” HAS THE SAME MEANING AS IN SECTION 1-1-104 (50.6), C.R.S.

18 [Relocated from 11.1.12., with amendments]

19 1.1.35 “WATCHER” MEANS AN ELIGIBLE ELECTOR, OTHER THAN A CANDIDATE ON THE 20 BALLOT, SELECTED
BY A POLITICAL PARTY CHAIRPERSON ON BEHALF OF THE 21 POLITICAL PARTY, BY A PARTY CANDIDATE AT A
PRIMARY OR RECALL ELECTION, BY 22 AN UNAFFILIATED CANDIDATE AT A GENERAL, CONGRESSIONAL VACANCY,
23 NONPARTISAN, OR RECALL ELECTION, OR BY A PERSON DESIGNATED BY EITHER THE 24 OPPONENTS OR
PROponents IN THE CASE OF A BALLOT ISSUE OR BALLOT QUESTION. 25 IF SELECTED BY A POLITICAL PARTY
CHAIRPERSON, A PARTY CANDIDATE, OR AN 26 UNAFFILIATED CANDIDATE, THE WATCHER MUST BE AFFILIATED
WITH THAT 27 POLITICAL PARTY OR UNAFFILIATED AS SHOWN ON THE REGISTRATION BOOKS OF 28 THE COUNTY
CLERK AND RECORDER. A DESIGNATED WATCHER NEED NOT BE A 29 RESIDENT OF THE COUNTY HE OR SHE IS
DESIGNATED IN AS LONG AS HE OR SHE IS AN 30 ELIGIBLE ELECTOR IN THE STATE OF COLORADO. [SECTION
1-1-104(51), C.R.S.]

31 [Relocated from 8.1.2, with amendments]

32 1.1.36 “WRITE-IN VOTE” MEANS A VOTE WHERE THE VOTER PHYSICALLY WRITES IN THE 33 NAME OF A LEGALLY QUALIFIED WRITE-IN CANDIDATE IN THE SPACE RESERVED ON 34 THE BALLOT FOR WRITE-IN VOTES AND PROPERLY MARKS THE TARGET AREA 35 ACCORDING TO VOTER INSTRUCTIONS.

[either this definition or the definition of overvote needs to account for the situation in which the correctly made write-in is for a regular printed candidate.]

36 1.1.37 “ZERO TAPE” MEANS A PRINTOUT OF THE INTERNAL DATA REGISTERS IN 37 ELECTRONIC VOTE-TABULATING EQUIPMENT **PRINTED PRIOR TO THE START OF VOTE COUNTING [delete** INDICATING A VALUE OF ZERO].

1 [Relocated from 11.1.14., with amendments]

2 Rule 2. ~~Rules Concerning Voter Registration~~

3 ~~2.20.2~~ 2.1 Effect of voter registration status ~~designation~~

4 a. 2.1.1 A COUNTY CLERK AND RECORDER MUST LIST THE NAME OF EVERY active status ~~or active-~~
record voters' ELECTOR names will appear on IN the poll-6 book POLLBOOK,
they will be sent a ballot in AND SEND HIM OR HER a mail 7 ballot election,
and they will be sent election NOTICES. ~~notice mailings.~~

8 b. 2.1.2 A COUNTY CLERK AND RECORDER MUST ENSURE THAT THE NAME OF EVERY 9 cancelled status
~~or cancelled record voters' records will remain~~ ELECTOR APPEARS in the statewide voter registration
database however, SCORE 11 BUT their names will not appear on the poll book POLLBOOK. They THE 12
COUNTY CLERK AND RECORDER will MAY not be sent SEND A MAIL ballot in 13 a mail ballot election,
and they will not be sent OR election ~~notice mailings~~ 14 NOTICES TO CANCELLED ELECTORS.

e. 2.1.3 Inactive ~~—failed to vote status voters~~ STATUS ELECTORS are eligible voters 16 their
ELECTORS WHOSE names will appear on the poll book and they will 17 be sent election notice mailings BUT
THE COUNTY CLERK AND RECORDER 18 MAY NOT SEND A MAIL BALLOT TO INACTIVE ELECTORS. Inactive
~~—failed to 19 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.—

21 d. Inactive – returned mail status or inactive – undeliverable status voters are 22 eligible voters and their names
will appear on the poll book. However, 23 they will not be sent ballots in a mail ballot election and they will not be
24 sent election notice mailings.—

e. Inactive – undeliverable ballot status voters are eligible voters and their 26 names will appear on
the poll book. However, they will not be sent a 27 ballot in a mail ballot election and they will not be sent election
notice 28 mailings.—

29 ~~2.8~~ 2.2 Submission of voter registration forms

2.2.1 A AN APPLICANT MAY SUBMIT A properly executed voter registration form may be 31 submitted
to the county clerk and recorder in person, by mail, by fax, by online 32 voter registration, or as a scanned AN
EMAIL attachment. to an email.—

33 ~~2.8.1~~ 2.2.2 All voter registrations APPLICATIONS submitted by mail, fax, or as a PDF 34 AN EMAIL attachment to
an email shall be treated as ARE mail registrations. [Section 1-2-501, C.R.S., Election Rule 30.3]

1 ~~2.8.2~~ 2.2.3 If any portion of a MAIL APPLICATION voter registration submitted by 2 “mail” is illegible, the county clerk and recorder ~~shall~~ MUST notify the applicant of 3 the additional information required in accordance with section 1-2-509, C.R.S.

4 ~~2.8.3~~ 2.2.4 For ~~the purpose of submitting voter registration~~ applications by fax, email or online voter registration, close of business ~~shall be~~ IS 11:59pm MT.

6 2.2.5 UNDER SECTION 1-5-509, C.R.S., THE EFFECTIVE DATE OF A VOTER REGISTRATION 7 APPLICATION RECEIVED BY THE SECRETARY OF STATE IS THE EARLIER OF THE DATE 8 THE APPLICATION IS RECEIVED OR THE DATE OF THE LEGIBLE POSTMARK.

2.2.6 IF A COUNTY CLERK AND RECORDER RECEIVES A PAPER VOTER REGISTRATION APPLICATION BETWEEN 21 AND 7 DAYS BEFORE ELECTION DAY, THE COUNTY CLERK 11 MUST SEND THE APPLICANT NOTIFICATION BY REGULAR MAIL, OR EMAIL IF 12 PROVIDED, WITHIN ONE BUSINESS DAY AFTER RECEIVING THE APPLICATION THAT 13 THE APPLICANT IS REGISTERED TO VOTE BUT WILL NOT RECEIVE A BALLOT BY MAIL. 14 THE NOTICE MUST STATE THAT, IF THE APPLICANT WISHES TO VOTE IN THE UPCOMING ELECTION, THE APPLICANT MUST EITHER REGISTER ONLINE VIA THE 16 ONLINE VOTER REGISTRATION SYSTEM OR IN PERSON AT THE COUNTY CLERK AND 17 RECORDER’S OFFICE OR AT A VOTER SERVICE AND POLLING CENTER, WHICHEVER IS 18 APPLICABLE.

2.2.6 FOR THE PURPOSES OF PRECINCT CAUCUS LISTS AND REGISTRATION LISTS FOR MUNICIPAL OR SPECIAL DISTRICT ELECTIONS, THE RESIDENCY REQUIREMENT IS BASED UPON THE DATE 21 PROVIDED BY THE ELECTOR ON HIS OR HER APPLICATION.

22 2.26.1 THE COUNTY CLERK AND RECORDER MUST ENTER THE DATE PROVIDED BY THE 23 ELECTOR IN THE REGISTRATION RECORD MAINTAINED IN THE STATEWIDE VOTER 24 REGISTRATION SYSTEM. [SECTIONS 1-3-101 AND 31-10-201, C.R.S.]

2.26.2 IF THE ELECTOR SUBMITS AN APPLICATION AND DOES NOT INCLUDE THE DATE HE OR 26 SHE MOVED, THE COUNTY CLERK MUST ENTER THE DATE THE APPLICATION IS 27 RECEIVED OR POSTMARKED, WHICHEVER IS EARLIER, AS THE DATE MOVED. BUT IF 28 THE ELECTOR SUBMITS THE APPLICATION DURING THE 22 DAYS BEFORE AN 29 ELECTION AND DOES NOT PROVIDE THE DATE HE OR SHE MOVED, THE COUNTY CLERK MUST ENTER THE DATE MOVED AS THE 22ND DAY BEFORE THE ELECTION 31 BASED UPON THE AFFIDAVIT.

32 *[Current Rule 2.8 is amended and moved to new Rule 2.2. Amendments are shown above. 33 Portions of current Rule 2.14 are included in new Rule 2.2.4.]*

34 2.3 IDENTIFICATION REQUIRED FROM AN APPLICANT FOR VOTER REGISTRATION

2.3.1 AN APPLICANT FOR VOTER REGISTRATION MUST COMPLETE THE IDENTIFICATION 36 NUMBER PORTION OF THE APPLICATION FOR VOTER REGISTRATION. BUT AN 37 APPLICANT REGISTERING TO VOTE IN PERSON IS NOT REQUIRED TO SHOW OR 38 PRESENT A COLORADO DRIVER’S LICENSE OR ID IF HE OR SHE PROVIDES A 39 VERIFIABLE DRIVER’S LICENSE OR SOCIAL SECURITY NUMBER.

1 (A) IF THE APPLICANT CANNOT PROVIDE A VERIFIABLE DRIVER'S LICENSE OR 2 SOCIAL SECURITY NUMBER THE APPLICANT MUST SHOW IDENTIFICATION 3 UNDER SECTION 1-1-104(19.5), C.R.S., WHEN REGISTERING TO VOTE, 4 PROVIDE IDENTIFICATION WHEN VOTING IN PERSON, OR PROVIDE A COPY OF 5 IDENTIFICATION WHEN RETURNING THE MAIL BALLOT.

6 2.3.2 AS USED IN SECTION 1-1-104(19.5), C.R.S., GOVERNMENT DOCUMENT MEANS ANY 7 DOCUMENT ISSUED BY A LOCAL, STATE OR FEDERAL GOVERNMENT, INCLUDING:

8 (A) A PAYCHECK FROM A GOVERNMENT INSTITUTION;

9 (B) A CERTIFICATE OF DEGREE OF INDIAN OR ALASKAN NATIVE BLOOD;

10 (C) A LETTER FROM THE DIRECTOR OR ADMINISTRATOR OF A GROUP 11 RESIDENTIAL FACILITY THAT INDICATES THAT THE ELECTOR IS A RESIDENT 12 OF THE FACILITY AND THAT HE OR SHE RESIDES AT THE STREET ADDRESS 13 LISTED IN THE POLLBOOK; OR

14 (D) A DIVISION OF YOUTH CORRECTIONS IDENTIFICATION CARD ISSUED BY 15 DEPARTMENT OF HUMAN SERVICES.

16 [SECTIONS 1-1-104(18.5), (19.5)(C), AND (19.5)(D), C.R.S.]

17 2.3.3 AS USED IN SECTION 1-1-104(19.5)(A)(VII), C.R.S., CURRENT MEANS THAT THE 18 DATE OF THE DOCUMENT IS WITHIN 60 DAYS OF THE DATE SUBMITTED FOR 19 IDENTIFICATION PURPOSES UNLESS THE DOCUMENT STATES A LONGER BILLING 20 CYCLE.

21 2.3.4 A SUSPENDED DRIVER'S LICENSE IS CONSIDERED CURRENT AND VALID. **[delete** A REVOKED 22 OR EXPIRED LICENSE IS NOT CONSIDERED CURRENT AND VALID AND IS NOT 23 ACCEPTABLE. **]**

[having attempted and failed to get a replacement drivers license on election day I think that this provision is problematic. An expired drivers license should be perfectly capable of identifying someone. The drivers license is not used to establish address or residency in any case as I understand it – therefore the expiration should have no negative consequences. Also I assume that an out of state drivers license is acceptable. If the license is intended to establish residency then the out of state drivers license would not be acceptable. It seems that to refuse to accept an expired license is simply to make identification harder.]

24 [Portions of current Rules 30.1.6(g), 30.1.7, 30.2.2, and 30.8 are included in new Rule 2.3.]

25 ~~2.7~~ 2.4 Treatment of applications where the required information was not provided

26 ~~2.7.1~~ 2.4.1 If an applicant fails to check the box ~~(es)~~-answering the question ~~(s)~~, “Are 27 you a citizen of the United States?” or “Will you be 18 years of age on or before 28 election day?”, the COUNTY CLERK AND RECORDER MUST ACCEPT AND PROCESS 29 THE ~~form shall be accepted for registration~~ APPLICATION AS COMPLETE so long as 30 it is otherwise complete and the affirmation at the bottom of the form is signed.

31 ~~2.7.2~~ 2.4.2 If an applicant ~~for voter registration~~ fails to complete the required 32 identification portion of the form in accordance with section 1-2-204(2)(f.5) and 33 (3)(c), C.R.S., ~~and rule 2.6.3~~, the COUNTY CLERK MUST TREAT THE application 34 ~~shall be treated as INCOMPLETE “incomplete”;~~ however, BUT if the applicant 35 submits a photocopy of ~~his/her~~ HIS OR HER driver's license or identification card, 36 ~~then~~ the county CLERK ~~may~~ MUST enter

the ID number from the card into the

1 applicant's record and ~~consider~~ PROCESS the application AS COMPLETE 2 "~~complete~~".

3 ~~2.7.3~~ 2.4.3 If an applicant for voter registration fails to provide a date of birth the 4 COUNTY CLERK MUST TREAT THE application ~~shall be treated as~~ INCOMPLETE "~~incomplete~~"; however, BUT if the applicant submits a photocopy of his/her HIS 6 OR HER driver's license or other approved form of ID ~~which~~ THAT includes the 7 date of birth, then the county CLERK ~~may~~ MUST enter that information into the 8 applicant's record and ~~consider~~ PROCESS the application AS COMPLETE 9 "~~complete~~".

[Current Rule 2.7 is amended and moved to new Rule 2.4. Amendments are shown above.]

11 ~~2.10~~ 2.5 Changes to an Elector's Voter Registration Record

12 ~~2.10.1~~ 2.5.1 If an elector submits a change to his or her voter registration record that 13 ~~does not contain all of~~ AND FAILS TO INCLUDE the information required by sections 14 1-2-216 or 1-2-219, C.R.S., the county clerk and recorder ~~may~~ MUST not make the requested change, unless the county clerk and recorder can confidently identify 16 the voter. ~~, otherwise the~~ THE county clerk and recorder ~~shall~~ MUST notify the 17 voter what additional information is required to process the request.

18 ~~2.10.2~~ 2.5.2 If an elector submits a change to his or her voter registration record and 19 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~~ 21 MUST be recorded as "Unaffiliated".

22 ~~2.10.3~~ 2.5.3 If an elector submits a change to his or her voter registration record and 23 leaves the affiliation section blank, THE COUNTY CLERK MUST MAKE no change 24 ~~will be made~~ to the voter's affiliation in the registration record.

2.5.4 WHEN THE COUNTY CLERK AND RECORDER PROVIDES A LIST OF ACTIVE ELECTORS 26 TO A MUNICIPAL OR SPECIAL DISTRICT FOR AN ELECTION NOT COORDINATED WITH 27 THE COUNTY, THE COUNTY CLERK AND RECORDER MUST REQUEST THE DESIGNATED 28 ELECTION OFFICIAL OF THE MUNICIPALITY OR SPECIAL DISTRICT PROVIDE THE VOTE 29 HISTORY INFORMATION FOLLOWING THE ELECTION. WITHIN TEN DAYS AFTER RECEIVING THE INFORMATION, THE COUNTY CLERK MUST ACTIVATE VOTER 31 RECORDS AND REMOVE ID REQUIRED FLAGS IN SCORE AS PROVIDED IN SECTION 132 2-605(4)(B), C.R.S.

33 [Current Rule 2.10 is amended and moved to new Rule 2.5. Amendments are shown above.]

34 ~~2.11~~ 2.6 Changes to an elector's voter registration status.

~~2.11.1~~ 2.6.1 An elector may update his or her inactive registration status to active 36 status by submitting:

37 (a) A signed written request, by mail, fax, or PDF attachment to an email; 1 (b) An online voter registration application; or

2 (c) An in-person request with identification.

3 [Section 1-2-605(4)(a), C.R.S.]

4 ~~2-11-2-2.6.2~~ If an elector is unable to sign, another person must witness the elector's 5 mark. An elector may use a signature stamp because of age, disability, or other 6 need. The stamp is treated as a signature and does not require a witness.

7 *[Current Rule 2.11 is amended and moved to new Rule 2.6. Amendments between the current 8 and new rule language are shown above.]*

9 ~~2-21~~ 2.7 Minimum matching criteria

10 ~~2-21-1-2.7.1~~ A record ~~may~~ THE COUNTY CLERK AND RECORDER MUST not be transferred, 11 consolidated, or cancelled—TRANSFER, CONSOLIDATE, OR CANCEL A VOTER 12 REGISTRATION RECORD unless the minimum matching criteria as set forth in 13 sections 1-2-603 and 1-2-604, C.R.S., are met. If the minimum matching criteria 14 are not met the county CLERK MUST ~~may~~ send a letter to the voter requesting 15 confirmation of the missing or non-matching information in order to transfer, 16 consolidate, or cancel the record.

17 ~~2-21-2-2.7.2~~ For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this Rule a- A 18 match of the name shall mean—MEANS a match of the full name, except that the 19 following shall be—ARE sufficient to establish a match:

20 (a) Common variations and nicknames in the first or middle name, i.e. 21 Michael and Mike;

22 (b) Explainable and documented change of name, including last name, i.e. 23 maiden name and married name; and

24 (c) Explainable and documented variations in suffix, except that the absence 25 of a suffix in one of the records shall not be considered a variation. 26 Examples of suffix variations that must be explained include junior in one 27 record and III in another.

28 ~~2-21-3-2.7.3~~ For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this Rule a- A 29 match of the prior address shall mean—MEANS a match of the residential street 30 address.

31 ~~2-21-4-2.7.4~~ The county clerk and recorder may use the DMV Motor Voter database to 32 verify prior name or residence address history for the purpose of meeting the 33 minimum matching criteria. The COUNTY CLERK MUST SCAN AND RETAIN THE 34 information gathered ~~must be scanned and retained~~ in the elector's record in order 35 to document how the criteria ~~was~~ WERE met.

1 [Current Rule 2.21 is amended and moved to new Rule 2.7. Amendments are shown above.]

2 ~~2.9~~ 2.8 Registration of Homeless Voters ELECTORS WHO HAVE NO FIXED PERMANENT 3 HOME

~~2.9.1~~ 2.8.1 For the purpose of voter registration residence a ~~homeless voter may~~ AN ELECTOR WHO HAS NO FIXED PERMANENT HOME MUST identify a specific location 6 within a precinct that the ~~voter~~ APPLICANT considers his OR HER home base.

7 (A) A HOME BASE IS A LOCATION THE APPLICANT ~~to which the voter returns~~ TO 8 regularly and ~~manifests an intent~~ INTENDS to remain, and a place ~~from~~ 9 which WHERE he or she can receive messages and be contacted.

(B) A home base may include a homeless shelter, a homeless provider, a park, 11 a campground, a vacant lot, a business address, or any other physical 12 location.

13 (C) FOR AN ELECTOR WHOSE HOME IS IN FORECLOSURE, THE ELECTOR MAY 14 REGISTER TO VOTE OR REMAIN REGISTERED TO VOTE, AT THE FORECLOSED ADDRESS UNTIL THE ELECTOR ESTABLISHES A NEW PERMANENT RESIDENCE.

16 ~~2.9.2~~ 2.8.2 If the home base does not include a mailing address, THE APPLICANT ~~then~~ 17 ~~the homeless voter must~~ provide a mailing address ~~pursuant to~~ IN ACCORDANCE 18 WITH section 1-2-204(2)(f), C.R.S.

19 ~~2.9.3~~ 2.8.3 A post office box or general delivery at a post office ~~shall not be deemed~~ IS NOT a home base.

21 [Current Rule 2.9 is amended and moved to new Rule 2.8. Amendments are shown above.]

22 2.9 A COUNTY CLERK AND RECORDER MAY CANCEL A REGISTRATION RECORD BASED UPON 23 INFORMATION FROM A LOCAL LAW ENFORCEMENT ~~[delete ONLY]~~ AGENCY **ONLY** IF:

24 2.9.1 THE INFORMATION STATES THAT THE INDIVIDUAL IS CURRENTLY SERVING A SENTENCE OF INCARCERATION OR PAROLE FOR A FELONY CONVICTION; AND

26 2.9.2 MINIMUM MATCHING CRITERIA OUTLINED IN RULE 2.6 ARE MET.

27 ~~2.10~~ 2.10 An elector who has received notice that his or her application for registration may 28 not be processed or whose registration was cancelled because his or her name was 29 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 31 Department of Public Health and Environment, and who believes that the match was 32 erroneous, may request that his or her application be processed or registration be 33 reinstated if he or she:

34 ~~a.~~ 2.10.1 Appears in person at the office of the county clerk and recorder and presents identification; or

1 ~~b.~~ 2.10.2 Returns to the office of the county clerk and recorder a signed, notarized, ~~2~~ and dated SUBMITS A statement TO THE COUNTY CLERK affirming that ~~he or she~~ ³ THE APPLICANT believes the match was in error. THE APPLICANT MUST INCLUDE ⁴ HIS OR HER ~~This statement must contain the elector's~~ printed name, residential address, and date of birth ON THE SIGNED, DATED, AND NOTARIZED STATEMENT.

6 [Current Rule 2.16 is amended and moved to new Rule 2.10. Amendments are shown above.]

7 ~~2.17~~ 2.11 20-DAY APPLICANTS UNDER SECTION 1-2-509(3), C.R.S.

8 2.11.1 When a county clerk and recorder deems an applicant “not registered” upon ⁹ receipt of an undeliverable new voter notification in accordance with section 1-2509(3), C.R.S., the ~~applicant shall be mailed~~ COUNTY CLERK MUST MAIL a ¹¹ confirmation card ~~by forwardable mail~~. The confirmation card MUST MEET THE ¹² REQUIREMENTS OF SECTION 1-1-104(2.8), C.R.S. ~~shall have a postage prepaid~~ ¹³ ~~returnable portion that is preaddressed to the sending county clerk and recorder.~~

~~2.17.1~~ 2.11.2 If the ~~county clerk and recorder receives a~~ APPLICANT RETURNS THE signed confirmation card within 90 days from an applicant who was deemed “not ¹⁶ registered” in accordance with section ~~1-2-509(3), C.R.S., the applicant shall be~~ ¹⁷ ~~deemed registered as of the~~ THE COUNTY CLERK MUST REGISTER THE APPLICANT ¹⁸ USING 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~~ ²¹ of registration and presents identification in person at the office of the county ~~22~~ clerk and recorder, the applicant shall be deemed registered as of the date of the ~~23~~ original application.

2.11.3 DURING THE ²² DAYS BEFORE AN ELECTION, THE COUNTY CLERK AND RECORDER MUST DEFER PROCESSING UNDELIVERABLE NEW VOTER NOTIFICATIONS. AFTER THE ²⁶ ELECTION IS CLOSED, THE CLERK MUST DEEM AN APPLICANT “NOT REGISTERED” ²⁷ UNDER SECTION 1-2-509(3), C.R.S., ONLY IF THE APPLICANT DID NOT VOTE IN THE ²⁸ ELECTION.

29 [Current Rule 2.17 is amended and moved to new Rule 2.11. Amendments are shown above.]

~~2.4~~ 2.12 Confidentiality of Agency in Voter Registration. VOTER REGISTRATION ³¹ CONFIDENTIALITY

32 2.12.1 INFORMATION ABOUT THE NAME AND LOCATION OF AN AGENCY FOR AN ³³ APPLICATION COMPLETED AT A VOTER REGISTRATION AGENCY OR DRIVER’S ³⁴ LICENSE OFFICE IS CONFIDENTIAL. [42 USC §§ 1973GG-3(C)(2)(D)(III)]

[Portions of current Rule 2.4 are included in new Rule 2.12.1.]

36 2.12.2 AN ELECTOR MAY REQUEST HIS OR HER VOTER REGISTRATION ADDRESS BE ³⁷ CONFIDENTIAL UNDER SECTION 24-72-204(3.5), C.R.S., IN PERSON.

1 (A) THE ELECTOR MUST USE THE APPLICATION PROVIDED BY THE SECRETARY 2 OF STATE AND INCLUDE HIS OR HER NAME, ADDRESS, AND BIRTH DATE ON 3 THE APPLICATION.

4 (B) THE COUNTY CLERK AND RECORDER MUST NOT CHARGE AN ADDITIONAL PROCESSING FEE IF THE ELECTOR CHANGES HIS OR HER ADDRESS.

6 [Portions of current Rule 2.5 are included in new Rule 2.12.2.]

7 2.12.3 REGISTRATION OF ADDRESS CONFIDENTIALITY PROGRAM (ACP) ELECTORS

8 (A) WHEN AN ACP PARTICIPANT REGISTERS TO VOTE BY MAIL, THE ELECTOR 9 MUST PROVIDE A COPY OF HIS/HER ACP AUTHORIZATION CARD.

(B) THE COUNTY CLERK AND RECORDER MUST:

11 (I) USE THE ACTUAL RESIDENCE ADDRESS OF THE ACP ELECTOR FOR 12 PRECINCT DESIGNATION.

13 (II) USE THE SUBSTITUTE ADDRESS, AS DEFINED IN SECTION 24-3014 2103(14), C.R.S., FOR ALL CORRESPONDENCE AND MAILINGS PLACED
IN THE UNITED STATES MAIL.

16 (III) KEEP THE PARTICIPANT'S ADDRESS, COUNTY, AND VOTING PRECINCT 17 AND SPLIT NUMBER CONFIDENTIAL FROM THE PUBLIC.

18 (C) A STATE OR LOCAL GOVERNMENT AGENCY MAY REQUEST ACCESS TO AN 19 ACP PARTICIPANT'S VOTER REGISTRATION RECORD USING THE PROCESS IN
SECTION 24-30-2110, C.R.S.

21 (D) EXCEPT AS SPECIFICALLY PROVIDED BY PART 21 OF ARTICLE 30 OF TITLE 22 24, C.R.S., A PROGRAM PARTICIPANT'S ACTUAL ADDRESS AND TELEPHONE 23 NUMBER IS NOT A PUBLIC RECORD UNDER PART 2 OF ARTICLE 72 OF TITLE 24 24, C.R.S.

[Portions of current Rule 2.12 are included in new Rule 2.12.3.]

26 ~~2.18~~ 2.13 List Maintenance Pursuant to UNDER section 8 of the National Voter Registration 27 Act of 1993

28 ~~2.18.1~~ 2.13.1 When THE UNITED STATES POSTAL SERVICE RETURNS a voter information 29 card or confirmation card is returned TO THE COUNTY CLERK as undeliverable, or PROVIDES THE CLERK WITH a postcard notice of mail forwarding is provided by the 31 United States Postal Service to the county clerk and recorder, the county clerk and 32 recorder shall MUST mark the voter's record "Inactive – returned mail" and shall 33 mail a confirmation card. Where a confirmation card sent under this rule is 34 returned as undeliverable, the county is not required to mail another card.

~~1 2.18.2-2.13.2 National Change of Address (NCOA). Counties may utilize the NCOA to 2 send mailings to electors who may have moved to request that the electors update 3 their voter registration records. However, no county may update the registration 4 address of any registration record or change the status of an elector to “inactive” based solely upon the information provided by NCOA.~~

6 ~~2.18.3-2.13.2~~ In accordance with section 1-2-605(7), C.R.S., no later than 90 days 7 following a General Election, the county clerk and recorder in each county shall 8 MUST cancel ~~only~~ the registrations of electors who have met the following 9 requirements:

a. (A) Whose records have been marked “Inactive – returned mail”, “~~inactive~~-11 INACTIVE – undeliverable”, or “Inactive – undeliverable ballot”, OR 12 INACTIVE – NCOA”;

13 ~~b.~~ (B) Who have been mailed a confirmation card; and

14 ~~e.~~ (C) Who have since failed to vote in two consecutive General elections.

2.13.5 AN ELECTOR WHOSE REGISTRATION RECORD WAS CANCELLED DURING THE 16 PREVIOUS SIX YEARS UNDER SECTION 1-2-605(7), C.R.S., AND RULE 2.12.2, MAY 17 REQUEST REINSTATEMENT OF THE RECORD. THE ELECTOR MUST PROVIDE PROOF 18 THAT HE OR SHE HAS CONTINUOUSLY RESIDED AT THE ADDRESS SHOWN ON THE 19 REGISTRATION RECORD SINCE THE RECORD WAS CANCELLED.

[proof of continuous residence consists of what? This appears to be a gray area that could lead to very inconsistent treatment of voters]

~~2.22 2.13.4 Effective January 1, 2012, no~~ NO county may consolidate or cancel 21 duplicate records in accordance with section 1-2-604, C.R.S., within the period 22 beginning 90 days prior to a Primary or General Election.

23 [Current Rule 2.22 is amended and moved to new Rule 2.13. Amendments are shown above.]

24 2.14 VOTER REGISTRATION AT A VOTER SERVICE AND POLLING CENTER

2.14.1 A PERSON REGISTERING VOTERS OR UPDATING VOTER REGISTRATION INFORMATION 26 IN A VOTER SERVICE AND POLLING CENTER MUST:

27 (A) BE A PERMANENT OR TEMPORARY EMPLOYEE OF THE COUNTY CLERK AND 28 RECORDER’S OFFICE;

29 (B) SUCCESSFULLY PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN RULE 6.4. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION 31 OFFENSE OR AN OFFENSE WITH AN ELEMENT OF FRAUD IS PROHIBITED FROM 32 HANDLING VOTER REGISTRATION APPLICATIONS OR CONDUCTING VOTER 33 REGISTRATION AND LIST MAINTENANCE ACTIVITIES; AND

34 (C) SUCCESSFULLY COMPLETE A TRAINING COURSE PROVIDED BY THE SECRETARY OF STATE.

1 2.14.2 THE PERSON REGISTERING VOTERS OR UPDATING VOTER REGISTRATION 2 INFORMATION IN A VOTER SERVICE AND POLLING CENTER MUST VERBALLY 3 CONFIRM EACH ELECTOR’S NAME AND RESIDENTIAL ADDRESS.

4 2.15 VOTER REGISTRATION RECORDS AND DATA

~~2.13~~ 2.15.1 ~~Preservation of Voter Registration Records.~~ Notwithstanding the retention 6 timelines specified in section 1-2-227, C.R.S., THE COUNTY CLERK AND RECORDER 7 MAY DESTROY paper voter registration records ~~may be destroyed~~ as soon as they 8 have been digitally recorded in the statewide voter registration database known as 9 “SCORE”. ~~Such records shall be retained~~ THE STATEWIDE VOTER REGISTRATION SYSTEM MUST RETAIN DIGITAL IMAGES OF VOTER REGISTRATION APPLICATIONS in 11 perpetuity ~~in digital format by the voter registration database~~ in accordance with 12 Title 1, C.R.S. and this rule.

13 [Current Rule 2.13 is amended and moved to new Rule 2.15.1. Amendments are shown above.]

14 ~~2.2~~ 2.15.2 ~~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. UNDER 16 SECTION 24-21-104(3), C.R.S., THE SECRETARY OF STATE MUST CHARGE A FEE FOR 17 VOTER INFORMATION REPORTS AND RELATED SERVICES. A REQUEST FOR ELECTIONS 18 DATA MUST BE SUBMITTED USING THE ELECTIONS DATA REQUEST FORM. THE 19 SECRETARY OF STATE WILL PROVIDE THE REQUESTED DATA AFTER PAYMENT OF THE FEE AS OUTLINED IN THE FEE SCHEDULE ON THE SECRETARY’S WEBSITE.

21 [*Current Rule 2.2 is amended and moved to new Rule 2.15.2. Amendments are shown above.* 22 *Portions of current Rule 49.3.1 are included in Rule 12.15.2*]

23 ~~49.3.2~~ 2.15.3 The county clerk and recorder of each county may charge fees for county 24 voter information reports and related services, such as the printing of labels provided by the centralized statewide registration system. ~~However,~~ BUT in 26 accordance with federal requirements governing the use of federal funds, fees 27 ~~shall~~ MUST not exceed county direct and indirect costs for providing such reports 28 and services.

29 [Current Rule 49.3.2 is amended and moved to new Rule 2.15.3. Amendments are shown above.]

~~49.2~~ 2.15.4 Custodianship of Voter Registration Information

31 ~~49.2.1~~ (A) The Secretary of State ~~shall be~~ IS the official custodian of the 32 information contained in the centralized statewide registration system and 33 the computerized statewide voter registration list created and maintained 34 ~~pursuant to~~ UNDER section 1-2-301, C.R.S.

~~49.2.2~~ (B) The county clerk and recorder for each county ~~shall be~~ IS the 36 official custodian of the voter registration information only for electors 37 within that county.

1 [Current Rule 49.2 is amended and moved to new Rule 2.15.4. Amendments are shown above.]

2 ~~49.1~~ 2.16 SCORE username and password administration

3 ~~49.1.1~~ 2.16.1 The state user administrator ~~shall assign~~ ASSIGNS county administrator 4 privileges to the individual designated in each county by the county clerk and recorder. ~~49.1.1.1~~ The county clerk and recorder ~~shall~~ MUST submit ~~the~~ A request 6 for county administrator privilege to the state user administrator in writing. The 7 request ~~shall~~ MUST specifically state the full name of the county employee that is 8 being assigned as a county administrator.

~~49.1.2~~ 2.16.2 Each county may have IS LIMITED TO ONE COUNTY administrator. ~~privileges assigned to no more than one (1) individual, except that any~~ BUT A 11 county clerk and recorder may apply to the Secretary of State for an additional 12 county administrator.

13 ~~49.1.2.1~~ (A) ~~Such~~ THE application ~~shall~~ MUST be submitted by the county clerk 14 and recorder in writing to the state user administrator and ~~shall~~ MUST state the name of the county employee for which county administrator privilege 16 is being sought. The application ~~shall~~ MUST also state the specific reasons 17 the county clerk and recorder is requesting the additional administrator.

18 ~~49.1.2.2~~ (B) The state user administrator ~~shall~~ WILL notify the county clerk and 19 recorder in writing whether the request is approved within five ~~(5)~~ business days ~~from receipt of~~ AFTER RECEIVING the application.

21 ~~49.1.3~~ 2.16.3 The county administrator is responsible for security administration and 22 ~~shall~~ MUST assign all access privileges, as well as usernames and passwords for 23 county employees and temporary election workers.

24 ~~49.1.3.1~~ (A) For county employees, the county administrator ~~shall~~ MUST assign a unique username in accordance with the naming conventions provided 26 by the Secretary of State.

27 ~~49.1.3.2~~ (B) Passwords ~~shall~~ MUST be assigned by the county administrator 28 upon initial authorization and ~~shall~~ MUST be changed by users and 29 maintained confidentially.

~~49.1.4~~ 2.16.4 If a county employee or temporary election worker is no longer employed 31 by the county, the county administrator ~~shall~~ MUST inactivate the username within 32 a reasonable timeframe, not to exceed one ~~(1)~~ business week.

33 [Current Rule 49.1 is amended and moved to new Rule 2.16. Amendments are shown above.]

34 Rule 3. Rules Concerning Qualified Political Organizations

~~3.2-3.1~~ The ~~required proof of organization, which may be filed at any time after organization,~~ 36 ~~shall include, but shall not be limited to:~~ A QUALIFIED POLITICAL ORGANIZATION, AS

1 DEFINED IN RULE 1.1.1, MUST FILE PROOF OF ORGANIZATION WITH THE SECRETARY OF 2 STATE. THE PROOF MUST INCLUDE, BUT IS NOT LIMITED TO:

3 ~~a. 3.1.1 By laws of the Colorado political organization which shall~~ THE ORGANIZATION'S 4 BYLAWS, WHICH MUST include the method for selecting officers, ~~selecting~~ delegates to county, state, and national conventions, and ~~selecting~~ candidates 6 planning to petition onto the state's general election ballot; AND ~~using the name of 7 the Colorado political organization;~~

8 ~~b. 3.1.2 The names, addresses, and telephone numbers of the elected~~ 9 ORGANIZATION'S Colorado chairperson, vice chairperson, and secretary, together with the names, addresses, and telephone numbers of all other members elected or 11 appointed to other offices or committees authorized by the ~~by laws~~ BYLAWS.

12 ~~3.3.2 A qualified political organizations shall~~ ORGANIZATION MUST meet AT LEAST once a year.

13 ~~3.3.1 3.2.1 DURING the meeting in the odd-numbered year, THE ORGANIZATION MUST~~ 14 ELECT ~~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~~ 16 on file with the Secretary of State REQUIRED BY THE ORGANIZATION'S BYLAWS.

17 (a) ~~For new political organizations~~ IF THE POLITICAL ORGANIZATION IS A NEW 18 ORGANIZATION, THE ORGANIZATION MUST HOLD this meeting ~~must take~~ 19 place ~~prior to~~ BEFORE placing a candidate on the ballot. ~~Therefore, this~~

~~meeting may occur~~ IN THIS INSTANCE, THE ORGANIZATION MAY HOLD THIS 21 MEETING in an even-numbered year AND MAY SELECT CANDIDATES AS 22 DESCRIBED IN RULE 3.3.3.

23 ~~3.3.2 3.2.2 The ORGANIZATION'S chairperson and the secretary shall~~ MUST file WITH 24 THE SECRETARY OF STATE a full and complete list, under oath, of the persons elected or appointed ~~pursuant to Rule 3.2~~ UNDER THIS RULE 3.2, together with any 26 amendments to the ~~by laws~~ BYLAWS adopted at the meeting.

27 ~~3.3.3 3.2.3 DURING the meeting in the even-numbered year, THE ORGANIZATION MUST~~ 28 SELECT ~~shall be held for the purpose of selecting~~ candidates who ~~wish to use the~~ 29 name of the ~~political organization on petitions for~~ WILL ATTEMPT TO PETITION ON TO THE BALLOT FOR THE next general election.

31 (a) ~~A political organization which has not yet been qualified may select its~~ 32 candidate ~~at the same meeting where the officers of the organization are~~ 33 named.

34 3.3 TO REMAIN IN GOOD STANDING, a qualified political organization ~~shall~~ MUST place a candidate ~~or candidates~~ on the general election ballot every two years. A WRITE-IN 36 CANDIDATE ALONE IS NOT SUFFICIENT TO MEET THIS REQUIREMENT.

37 ~~3.4.1 3.3.1 ORGANIZATION candidates wishing to represent a qualified political~~ 38 ~~organization on the general election ballot shall be placed in nomination by~~ 1 nominating petition pursuant to MUST BE NOMINATED IN ACCORDANCE WITH 2 section 1-4-802, C.R.S.

3 ~~3.4.23.3.2~~ Each petition shall ~~MUST~~ contain the name of one candidate and shall ~~have~~ ~~4~~ attached an affidavit signed under oath by the chairperson and secretary of the 5 qualified political organization. The affidavit form shall ~~MUST~~ be approved by the 6 Secretary of State. ~~and will include the date of the meetings required in Rule 3.3.~~

7 ~~3.4.3.3.3~~ ~~For a candidate~~ To qualify for the ballot, ~~the~~ A candidate must have been 8 affiliated with the qualified political organization for one year or, if the ~~political~~ 9 organization has not ~~previously~~ been qualified FOR ONE YEAR, the candidate must 10 have been registered as unaffiliated for one year.

11 ~~3.4.4~~ Having the name of a candidate from the qualified political organization appear 12 on the ballot by the use of the write-in candidacy process shall not be considered 13 as, nor meeting the requirements of, placing a qualified candidate on the general 14 election ballot.

15 ~~3.5.3.4~~ A political organization shall be qualified as soon as it ~~THE SECRETARY OF STATE WILL~~ 16 QUALIFY A POLITICAL ORGANIZATION IF THE ORGANIZATION:

17 ~~(a)~~ 3.4.1 Files proof of organization with the Secretary of State;

18 ~~(b)~~ 3.4.2 Meets to ~~name~~ AND NAMES a candidate to the general election ballot; and

19 ~~(c)~~ 3.4.3 Certifies a candidate to the general election ballot.

20 ~~3.6.3.5~~ Once a ~~political organization becomes a qualified political organization~~, eligible electors 21 shall be able to ~~MAY register as affiliated~~ AFFILIATE with the political organization.

22 ~~3.6.1~~ When an individual appears at any office or location for the purpose of voter 23 registration, the questions asked and the information recorded shall be amended 24 to reflect "political organization" affiliation.

25 ~~3.6.2~~ The opportunity to declare or change a political affiliation shall be provided 26 exactly as the law provides for political parties in sections 1 2 204(2)(j) and. 127 2 219, C.R.S.

28 ~~3.6.3~~ At any time a declaration or change in affiliation is requested, the same 29 procedure shall be used for declaring a political party or political organization 30 affiliation.

31 ~~3.6.4~~ In recording the information on the voter registration page, or affidavit, the 32 affiliation with a political organization shall be listed by the name entry of the 33 organization.

34 ~~3.6.5~~ In converting information on the voter registration page to lists, submissions for 35 data entry, the Secretary of State's master voter registration list, etc., standard 1 abbreviations shall be used and will be furnished to the county clerk and 2 recorders by the Secretary of State.

3 3.7-3.6 THE SECRETARY OF STATE WILL REVOKE THE QUALIFIED STATUS OF A political 4 organizations ORGANIZATION IF THE ORGANIZATION DOES NOT FULLY COMPLY WITH RULES

3.3 AND 3.4. shall lose their status as qualified political organizations by failing to do any 6 one of the following:-

7 (a) Meet in odd numbered years and file their list of officers with the Secretary of State, 8 unless excused under Rule 3.3.1(a);-

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

11 (c) Place a candidate on a general election ballot through a nominating petition, meeting 12 the requirements of Rule 3.4.-

13 3.8-3.7 IF THE SECRETARY OF STATE REVOKES THE QUALIFIED STATUS OF A POLITICAL ORGANIZATION, 14 THE SECRETARY 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 16 notification RECEIPT, the county clerk and recorders shall MUST mark on every affected 17 voter registration record RECORDS AS "unaffiliated", WHERE APPLICABLE.

18 3.9-3.8 EXCEPT FOR THE PRECINCT CAUCUS LIST FURNISHED TO MAJOR POLITICAL PARTIES, A 19 QUALIFIED POLITICAL ORGANIZATION MAY OBTAIN print-outs, lists, AND tapes, etc. of voter registration records shall be furnished to qualified political organizations at the same rate 21 or cost as charged to political parties. The only exception to this provision shall be the 22 list furnished to the major political parties prior to the statutory precinct caucus day.-

23 3.10-3.9 On all summary reports of voter registration by political party, the A VOTER 24 REGISTRATION SUMMARY report shall list those registered with MUST INCLUDE major political parties, minor political parties, qualified political organizations, or as AND 26 unaffiliated CATEGORIES.

27 3.11 Electors, whose voter registration record shows affiliation with a qualified political 28 organization and who appear to vote at a primary election, shall complete a Declaration 29 of Party Affiliation, thus losing affiliation with the qualified political organization.-

Rule 4. COORDINATED ELECTIONS

31 6.1 4.1 Participation in coordinated elections.

32 6.1.1 4.1.1 For elections where the electors do not need to be registered electors, 33 political subdivisions may conduct their own elections and must coordinate with 34 the coordinated election official any ballot issue notice required by Article X, Section 20 of the Colorado Constitution.

36 6.1.2 4.1.2 The affected A COORDINATING political subdivision shall MUST enter into

1 AN intergovernmental ~~agreements~~ AGREEMENT WITH THE COUNTY CLERK AND 2 RECORDER
~~which THAT delineate~~ DELINEATES which tasks ~~shall be~~ ARE the 3 responsibility of the designated
election official of the political subdivision and 4 which ~~shall be~~ ARE the responsibility of the
~~coordinated election official~~ COUNTY CLERK AND RECORDER.

6 ~~6.2~~ 4.2 Procedures for Coordinated Elections Involving Jurisdictions Shared by Multiple 7 Counties

8 ~~6.2.1~~ 4.2.1 For each jurisdiction that is shared by multiple counties, a controlling 9 county ~~shall~~ MUST be
designated for the purpose of assigning and coordinating the ballot letter/number for the shared races, issues, and
questions in 11 coordinated elections.

12 ~~6.2.2~~ 4.2.2 The controlling county ~~shall be~~ IS the county where the administrative 13 office of the political
subdivision is maintained at the time that the controlling 14 county is designated.

(a) If the administrative office is not maintained within the boundaries of the 16 political
subdivision, the controlling county ~~shall~~ MUST be the county where 17 the largest number of active registered
electors within the jurisdiction reside 18 at the time that the controlling county is designated.

19 (b) Once designated, the controlling county will not change unless approved by the Secretary of State upon request of
any of the affected counties.

21 ~~6.2.3 Repealed.~~

22 ~~6.2.4~~ 4.2.3 The controlling county ~~shall~~ MUST coordinate with each county that shares 23 the jurisdiction
to assign the ballot number/letter in accordance with Rule 6.5 no 24 later than the date of ballot
certification. All counties within the shared jurisdiction ~~shall~~ MUST ensure that the shared races, issues, and
questions are 26 printed on the ballot as certified by the Secretary of State or designated election 27 official,
and in the order assigned by the controlling county

28 ~~6.2.5~~ 4.2.4 If any controlling county fails to fulfill its responsibilities in accordance 29 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 31 controlling county. The Secretary of State ~~shall~~
~~have the authority to~~ MAY act on 32 behalf of the controlling county or to temporarily designate
another county to 33 act as the controlling county ~~in order to IMPLEMENT assure implementation of~~
34 this Rule.

~~6.3~~ 4.3 Form of election for November coordinated elections.

36 ~~6.3.1~~ 4.3.1 The county clerk and recorder is the election official for coordinated 37 elections ~~which are~~ held in
November of each year AND IS RESPONSIBLE FOR 38 MAILING THE ARTICLE X, SECTION 20 BALLOT ISSUE NOTICE.

1 ~~(a) The county clerk and recorder shall be responsible for mailing the Article X, 2 Section 20 Ballot Issue notice.~~

3 ~~(b) The county clerk and recorder shall not be required to conduct more than 4 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 6 may not elect to hold separate mail ballot elections but must participate in the 7 form of election chosen by the county clerk and recorder.~~

8 ~~21.1~~ 4.3.2 Placing measures on the ballot for coordinated odd-year elections.

~~21.1.1~~ (A) For A statewide elections-ELECTION, the Secretary of State MUST DETERMINE ~~shall be responsible for determining~~ whether the-A proposed 11 initiative is eligible to appear on an odd-year election ballot and WHETHER IT 12 concerns state matters arising under Section 20 of Article X of the State 13 Constitution.

14 ~~21.1.2~~ (B) For ~~election concerning county or other political subdivision~~ ALL OTHER ELECTIONS, if the election is held as a coordinated election each-THE 16 political subdivision CONDUCTING THE ELECTION MUST ~~shall~~-determine 17 whether the proposed initiative or referred measure is a local government 18 matter arising under Section 20 of Article X of the State Constitution.

19 *[Current Rule 21.1 is amended and moved to new Rule 4.3.2. Amendments between the current and new rule language are shown above.]*

21 ~~6.4~~ 4.4 Form of coordinated elections held other than in November.

~~22 6.4.1~~ 4.4.1 For all other elections where political subdivisions hold an election on the 23 same day, the electors or boundaries overlap and ballot issues as defined in 24 ~~Section~~-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~~-26 THE overlapping jurisdictions must name a coordinated election official who is 27 responsible for assuring that the Article X, Section 20 notice is given.

28 ~~6.4.2~~ 4.4.2 The political subdivisions may contract with the appropriate county clerk 29 and recorder to be the coordinated election official.

~~6.5~~ 4.5 Determination of ballot issues and texts.

31 ~~6.5.1~~ 4.5.1 Each political subdivision ~~shall~~-MUST prepare the list of candidates and the 32 ballot title and text for ballot issues and ballot questions, as required by law.

33 (a) The coordinated election official ~~shall~~-MUST assure that-PRINT the ballot title 34 is on each ballot as required by law.

(b) Political subdivisions may only require the coordinated election official to 1 print the entire text of a ballot issue or ballot question on the ballot if ~~they~~-2 ~~pay~~-THE POLITICAL SUBDIVISION pays for any additional cost associated with 3 printing and if sufficient space is on the voting equipment to print the entire 4 text given the other issues, questions, and candidates on the ballot. The 5 coordinated election official ~~shall~~-MUST tell the political subdivision how 6 much space is available for text for each position on the ballot. If the 7 required ballot title and text is too long for the voting equipment, the 8 coordinated election official may choose to conduct the election with a 9 different form of ballot.

10 (c) For counties where ballot election material must be printed in languages 11 other than English, the political subdivisions are responsible for assuring 12 proper translation of all election materials related to that political 13 subdivision and must pay their pro-rata share of increased printing costs 14 unless otherwise provided by the intergovernmental agreement.

15 (d) For counties where election material is not required to be printed in 16 languages other than English, the political subdivisions are not required to 17 provide translation of all election materials nor pay a pro-rata share of the 18 printing costs unless they so agree.

19 ~~6.5.2~~ 4.5.2 Each political subdivision ~~shall~~-MUST determine the order of the ballot 20 issues for their political subdivision in accordance with the requirements of 21 Colorado Constitution Article X, Section 20 and Title 1.

22 (a) Referred measures ~~shall~~-MUST be designated by a letter or by a number and a 23 letter; initiatives shall be designated by a number.

24 (b) For each grouping of ballot issues and ballot questions by a political 25 subdivision, all referred measures ~~shall~~-MUST precede all initiatives.

26 (c) For each grouping of ballot issues and ballot questions, the order ~~shall be~~-IS 27 as follows:

28 ~~1-~~(I) Referred measures to increase taxes;

29 ~~2-~~(II) Referred measures to retain excess revenues;

30 ~~3-~~(III) Referred measures to increase debt;

31 ~~4-~~(IV) Other referred measures;

32 ~~5-~~(V) Initiatives to increase taxes;

33 ~~6-~~(VI) Initiatives to retain excess revenues;

34 ~~7-~~(VII) Initiatives to increase debt; 1 ~~8-~~(VIII) Other citizen petitions.

2 (d) For statewide measures, initiatives ~~shall~~MUST be numbered in the order in 3 which the statements of sufficiency are issued. The numbers one through 4 five ~~shall~~MUST be reserved for initiatives to increase taxes; the numbers six 5 through ten ~~shall~~MUST be reserved for initiatives to retain excess revenues; 6 the numbers eleven through fifteen ~~shall~~MUST be reserved for initiatives to 7 increase debt; all other citizen petitions ~~shall~~MUST be numbered 8 consecutively beginning with sixteen.

9 (e) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or 10 referred, every proposed change to the Colorado Constitution ~~shall~~MUST be 11 called an “amendment” and every proposed change to the Colorado Revised 12 Statutes ~~shall~~MUST be called a “proposition”

13 (f) Ballot issues from the various political subdivisions ~~shall~~MUST be ordered 14 on the ballot as provided in section 1-5-407(5), C.R.S:

15 4--(I) Each category of referred and initiated state amendments and 16 propositions ~~shall~~MUST be numbered and listed on the ballot in the 17 following series:

18

19 If a referred or initiated measure contains both a proposed 20 constitutional and statutory change, the measure ~~shall~~MUST be 21 ordered on the ballot as a constitutional amendment.

22 2--(II) Each category of ~~local ballot issues and~~ initiated local ballot issues and ~~shall~~23 MUST be numbered in the following series: ~~questions~~ the

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions

24

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>[Italic blue font text]</i>	Annotations
A-Z	State Referred Constitutional Amendments
01-99	State Initiated Constitutional Amendments
AA-ZZ	State Referred Statutory Propositions
101-199	State Initiated Statutory Propositions

1 ~~3~~-(III) Each category of local referred ballot issues and questions ~~shall~~-2 MUST be designated by a letter or a number and a letter in the 3 following series:

4

Font effect		Meaning
Sentence case		Retained/modified current rule language
SMALL CAPS		New language
Strikethrough		Deletions
<i>[Italic blue font text]</i>		Annotations
A-Z	State Referred Constitutional Amendments	
01-99	State Initiated Constitutional Amendments	
AA-ZZ	State Referred Statutory Propositions	
101-199	State Initiated Statutory Propositions	

5 ~~4~~-(IV) Ballot questions and numbered or lettered in the which the measures are the ballot by the designated official after the protest period or if a protest was filed after 8 has been completed. issues are order in 6 certified to election 7 has ended, the protest

9 ~~5~~-(V) For other than state issues, if a county has multiple cities ~~and~~/ or 10 multiple discrete school districts and other political subdivisions, the 11 designated election official may either further subdivide the series and 12 assign each political subdivision a specific series of numbers, or when 13 the ballot is certified the designated election official may assign the final 14 numbers-OR letters, making sure that all measures for each political 15 subdivision are grouped together.

16 ~~6~~-(VI) For other than state issues and questions, if the same ballot issue or 17 question will be on the ballot in more than one county, the county clerks 18 ~~shall~~-MUST confer with one another and ~~shall~~-MUST give the same ballot 19 number or letter to the ballot issue or questions.

20 ~~7~~-(VII) Each ballot question or issue ~~shall~~-MUST contain the name of the 21 political subdivision at the beginning of the ballot questions or issue. If 22 the designated election official chooses, the name of the political 23 subdivision may appear before the grouping of questions, such as State 24 Ballot Questions, Arapahoe County Ballot Questions, City of Aurora 25 Ballot Questions, etc

26 4.6 CANDIDATE AUDIO RECORDINGS

27 ~~10.4~~ 4.6.1 Candidates whose names are listed on a ballot A CANDIDATE FOR 28 STATEWIDE OFFICE, THE GENERAL ASSEMBLY, CONGRESSIONAL OFFICE, REGENT, 29 OR DISTRICT ATTORNEY must provide an audio recording of the pronunciation of 30 their- HIS OR HER name to the Secretary of State. ~~prior to the election for offices~~ 31 ~~that are voted on by the electors of the entire state, or of a congressional district,~~ 32 ~~or for the offices of members of the general assembly or district attorney or a~~

1 ~~district office of state concern.~~ THE CANDIDATE MUST RECORD HIS OR HER NAME
2 EXACTLY AS IT APPEARS ON THE CANDIDATE ACCEPTANCE FORM, STATEMENT OF
3 INTENT, OR DECLARATION OF INTENT TO RUN FOR RETENTION IN A JUDICIAL
4 OFFICE, AS APPLICABLE, AND THE CANDIDATE MUST PROVIDE THE RECORDING TO
THE SECRETARY OF STATE NO LATER THAN THE DEADLINE TO FILE THE
6 CANDIDATE ACCEPTANCE FORM, STATEMENT OF INTENT, OR DECLARATION OF
7 INTENT TO RUN FOR RETENTION IN A JUDICIAL OFFICE, AS APPLICABLE.

8 [Rules 10.4.1 through 10.4.4 are repealed and consolidated into Rule 4.6.1]

~~10.5~~ 4.6.2 A CANDIDATE FOR A county, municipal, school district, ~~and~~ or special district candidates whose names
are listed on a ballot for IN an election 11 coordinated by the county clerk and recorder must provide an audio
recording 12 ~~of the pronunciation of their~~ HIS OR HER name to the county clerk and recorder. 13 ~~prior to the election~~
~~for offices that are voted on by the electors of the county,~~ 14 ~~municipality, school district, or special district.~~ THE
CANDIDATE MUST RECORD HIS OR HER NAME EXACTLY AS IT APPEARS ON THE STATEMENT OF INTENT, AND 16
MUST PROVIDE THE RECORDING TO THE COUNTY CLERK AND RECORDER NO LATER 17 THAN THE DEADLINE TO FILE
THE STATEMENT OF INTENT.

18 [Rules 10.5.1 through 10.5.2 are repealed and consolidated into Rule 4.6.2]

19 4.7 CONGRESSIONAL TERM LIMITS DECLARATION

~~24.1~~ 4.7.1 The Secretary of State ~~shall~~ MUST make THE CONGRESSIONAL TERM LIMITS 21
DECLARATION available to every candidate for United States House of 22 Representatives or the United States
Senate, ~~the Congressional Term Limits~~ 23 ~~Declaration~~ provided in Article XVIII, Section 12a of the Colorado 24
Constitution. The Secretary of State will offer the Congressional Term Limits Declaration to ~~every such~~ THESE
~~candidate~~ CANDIDATES when the candidate files 26 ~~his or her~~ A candidate affidavit with the Secretary of State.
Any failure of the 27 Secretary of State to offer the Congressional Term Limits Declaration to a 28 candidate
~~shall~~ WILL have no effect on ~~such~~ THE candidate's candidacy.

29 ~~24.2~~ 4.7.2 THE SECRETARY OF STATE MUST ACCEPT Part A of the Term Limits Declaration
~~shall be accepted by the Secretary of State~~ if Part B of the Term Limits 31 Declaration ~~has~~
~~not been~~ WAS NOT duly executed and submitted. Art. XVIII, 32 sec. 12a (7)

33 ~~24.3~~ 4.7.3 In the case of a candidate who has qualified as a candidate for a term that 34 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 36 service to [3
terms] [2 terms]" after the candidate's name, even if the candidate 37 has executed and submitted Parts A and B of
Term Limits Declaration One.

38 [*Current Rule 24 is amended and moved to new Rule 4.7. Amendments are shown 39 above.*]

1 4.8 BALLOT FORMAT AND PRINTING

~~2 4.1 4.8.1 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. THE COUNTY CLERK AND RECORDER MUST PRINT THE CANDIDATE NAMES AND THE TEXT OF 6 BALLOT ISSUES AND BALLOT QUESTIONS IN UPPER AND LOWER CASE, EXCEPT 7 THAT THE CLERK AND RECORDER MUST PRINT THE TEXT OF BALLOT ISSUES 8 SUBJECT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION IN ALL 9 UPPERCASE TEXT.~~

[this would be a great place to add a rule to require “NOT VOTING” to be a choice given to voters for all contests. This would make undervote detection and review possible and would reduce concern about post election marking or “improvement” of ballot marks by others than the voter]

~~10.3 4.8.2 If there is no candidate on the ballot for any particular AN office, the ballot 11 shall read~~ MUST STATE, “No candidate for this office.”

12 *[Current Rules 10.1 and 10.3 are amended and moved to new Rules 4.8.1 and 4.8.2. 13 Amendments are shown above.]*

14 ~~10.6~~ 4.8.3 Printing primary election ballots.

~~10.6.1~~ (A) If a major political party, as defined in section 1-1-104(22.5), 16 C.R.S., nominates more than one candidate for any office, the county clerk 17 and recorder must conduct the primary election for all major political 18 parties.

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

21 ~~(b)~~ (II) If there are no candidates for any particular office, the county clerk 22 must print on the ballot “There are no candidates for this office”.

23 [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.3]

24 ~~10.6.2~~ (B) If a minor political party, as defined in section 1-1-104(23), C.R.S., ~~has~~ NOMINATES more than one candidate for any office, the county clerk 26 and recorder may conduct the primary election for that party only.

27 ~~(a)~~ (I) The county clerk must include on the ballot only the offices for 28 which there is more than one candidate designated.

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

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

32 *[Current Rule 10.6 is amended and moved to new Rule 4.8.3. Amendments are shown 33 above.]*

~~10.8~~ 4.8.4 Use of unique numbers on ballots.

1 ~~10.8.1~~ (A) Except for ballots sent to military or overseas electors by electronic 2 transmission under Rule 16.2, ~~no~~ A county may NOT print a ballot for use 3 in a state or federal election that has a unique number, or a barcode 4 containing a unique number, that is specific to a single ballot.

(a) (I) A county that uses rotating numbers must print at least ten ballots 6 of each ballot style for each number.

7 ~~(b)~~-(II) Nothing in this rule prohibits a county from printing a unique 8 number or barcode on the removable stub.

~~10.8.2~~ (B) After AN election ~~judges have dissociated~~-JUDGE DISSOCIATES a voted ballot from its envelope and REMOVES the stub, ~~is removed~~, the 11 county may write or print unique numbers on the voted ballot for auditing 12 and accounting purposes, including duplication of damaged ballots and 13 risk limiting audits.

[this is as it should be, thanks.]

14 ~~10.8.3~~ (C) For ballots printed before the adoption of this rule that are in a county's possession, the county must redact unique numbers, or barcodes 16 containing unique numbers, before providing ballots in response to a 17 request for inspection under the Colorado Open Records Act (Section 2418 72-205.5(4)(b)(II), C.R.S.).

19 *[Current Rule 10.8 is amended and moved to new Rule 4.8.4. Amendments are shown above.]*

21 ~~10.2~~ 4.8.5 If a ballot has been printed in error, the designated election official shall 22 **[something missing here?]** consult, as soon as the error is discovered, with the Secretary of State and 23 ~~follow the direction of the Secretary of State on the appropriate method of~~ 24 ~~correction~~.-IF THE DESIGNATED ELECTION OFFICIAL DISCOVERS A BALLOT **DESIGN OR PRINTING** ERROR, HE OR SHE MUST IMMEDIATELY SEEK AND FOLLOW THE SECRETARY OF STATE'S 26 ADVICE ON HOW TO CORRECT THE ERROR.

27 *[Current Rule 10.2 is amended and moved to new Rule 4.8.5. Amendments are shown 28 above.]*

29 ~~6.6~~ 4.9 Colorado Constitution Article X, Section 20 notice requirements.

~~6.6.1~~ 4.9.1 The state and local governments, excluding enterprises, have sole 31 responsibility for drafting and distribution of the notice required by Article X, 32 Section 20. ~~Any or all of the~~ THESE responsibilities may be delegated to the 33 coordinated election official in the intergovernmental agreement.

~~6.6.2~~ 4.9.2 The notice ~~shall~~-MUST be mailed to "All Registered Voters" at the mailing addresses of active registered electors in the county, as indicated ~~on the voting~~ 36 ~~record~~-IN SCORE.

37 (a) Nothing ~~shall preclude~~-PRECLUDES the coordinated or designated election 1 official from sending notice of various elections to persons who are not 2 eligible electors if the notice sent is part of the coordinated notice and if the 3 sending arises from the official's efforts to mail the notice at "least cost".

~~PRECLUDES~~ PRECLUDES the coordinated or designated election official from sending notice to each household in the county or political 6 subdivision whether or not registered electors reside at that household as 7 long as notice is sent which ~~ASSURES~~ ENSURES that all active registered 8 electors are included on the mailing list.

~~PRECLUDES~~ PRECLUDES the coordinated or designated election official from sending notice to each registered elector in a particular political 11 subdivision.

12 (a) (D) The coordinated or designated election official may include the 13 following statement with the ballot issue notice: “This notice is mailed to 14 each address with one or more active, registered electors. You may not be eligible to vote on all issues presented in this notice.”

16 *[Current Rule 6.5.3(a) is amended and moved to new Rule 4.9.2(d). Amendments 17 are shown above.]*

~~6.6.3~~ 4.9.3 The coordinated election official must include information in the package 19 sent with the notice that tells electors whether the election is a mail ballot election, a OR polling place election, a vote center election or a combination of 21 election forms.

22 (a) ~~If the election is a polling place election or a vote center election, the~~ THE 23 notice of the location of the ~~polling place or vote center~~ VOTER SERVICE AND 24 POLLING CENTERS OR POLLING LOCATIONS may be included in the consolidated mailing.

26 (b) ~~If a separate mail ballot election is being held by a political subdivision in~~ 27 the county at the same time as a polling place election or a vote center 28 election, the notice shall include that information. ~~Section 1-5-205, C.R.S.~~

29 (b) The coordinated or designated election official may include the following statement on the ballot issue notice: “The following is a summary of 31 comments filed in favor of, or opposed to, the ballot issue.”

32 *[Current Rule 6.5.3(b) is amended and moved to new Rule 4.9.3(b). Amendments 33 are shown above.]*

~~6.6.4~~ 4.9.4 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 36 notice.

37 ~~6.6.5~~ 4.9.5 The political subdivisions must provide all completed Article X, Section 1 20 notices in camera ready format or as otherwise specified.

2 6.6.6 4.9.6 The coordinated election official ~~shall~~ IS not ~~be~~ responsible for failure to 3 meet the Article X, Section 20 constraints if the POLITICAL SUBDIVISION FAILS 4 TO SUBMIT THE notice and summaries are not submitted by the political subdivision within the deadline and in the form required by the coordinated 6 election official.

7 (a) The summaries of comments for and against ballot issues ~~shall~~ MUST not 8 include language of a generally recognized profane, indecent, immoral, 9 offensive, scandalous or libelous character. No names of persons or private groups shall be included in any summary.

11 (b) For purposes of counting words and to verify the five hundred constitutional 12 limit for each “pro” and each “con” summary, a hyphenated word, unless it 13 is divided by a continuation hyphen at the end of a line, counts as two or 14 more words. A number counts as one word, regardless of dollar signs, commas or periods within the number.

16 6.7 4.9.7 ~~Written~~ NO PERSON MAY WITHDRAW WRITTEN comments concerning ballot 17 issues submitted to the designated election official for the political subdivision 18 ~~shall not be withdrawn after the end of the business day on the last Friday~~ 19 immediately preceding the forty-fifth day before the election.

[Current Rules 6, 10, and 21 are amended and moved to new Rule 4. Amendments are 21 shown above.]

22 Rule 5. ~~Rules Concerning Non Partisan~~ NONPARTISAN Elections not Coordinated by the 23 County Clerk

24 ~~12.3.1~~ 5.1 ~~Call and notice.~~ ELECTION NOTICE

(a) 5.1.1 THE DESIGNATED ELECTION OFFICIAL MUST SEND ~~Notice~~ NOTICE of the 26 election ~~is to be sent~~ to the clerk and recorder of the county in which the election 27 ~~is to~~ WILL be held. The notice ~~is to~~ MUST include the date by which the list of 28 registered electors ~~is to~~ MUST be submitted to the political subdivision.

29 (b) 5.1.2 For multi-county political subdivisions, the notice sent to each clerk and recorder ~~shall~~ MUST also include the names of all other counties in which the 31 election will be held.

32 *[Current Rule 12.3.1 is amended and moved to new Rule 5.1. Amendments are shown 33 above.]*

34 5.2 MAIL BALLOT ELECTIONS

5.2.1 IF A POLITICAL SUBDIVISION COORDINATES WITH THE COUNTY CLERK AND 36 RECORDER, THE DESIGNATED ELECTION OFFICIAL IS NOT REQUIRED TO SUBMIT A 1 SEPARATE MAIL BALLOT PLAN FOR THE ELECTION.

2 [Portions of current Rule 12.1.2 are included in new Rule 5.2.1.]

~~3 12.4.1-5.2.2 Coordinated and non-partisan elections. (a) Written plan. The~~ IF A LOCAL 4 GOVERNING BOARD DETERMINES AN ELECTION WILL BE CONDUCTED BY MAIL BALLOT, THE designated election official must submit a mail ballot plan to the Secretary of State 6 no later than 55 days before ~~any nonpartisan-~~THE election, ~~and 90 days before any-7 election that is coordinated with or conducted by the county clerk and recorder.~~ The 8 designated election official must use the approved mail ballot plan template. ~~that-9 includes the following:-~~

(A) THE DESIGNATED ELECTION OFFICIAL MUST INCLUDE AN ACTUAL SAMPLE OF 11 THE SECRECY SLEEVE OR SECRECY ENVELOPE THAT THE DESIGNATED 12 ELECTION OFFICIAL PLANS TO USE IN THE ELECTION.

13 (B) A HOME RULE MUNICIPALITY MUST CHECK THE APPROPRIATE BOX ON THE 14 PLAN INDICATING WHETHER THERE ARE LOCALLY ADOPTED ELECTION

PROCEDURES DIFFERENT FROM THOSE SET FORTH IN TITLE 1, C.R.S. THE 16 SECRETARY OF STATE WILL NOT REVIEW THE MAIL BALLOT PLAN OF ANY 17 HOME RULE MUNICIPALITY THAT FAILS TO INCLUDE THIS INFORMATION.

18 [*Current Rule 12.4.1(a) is amended and moved to new Rule 5.2.2. Amendments between 19 the current and new rule language are shown above.*]

5.2.3 BALLOTS AND BALLOT PACKETS

21 (A) IN ANY ELECTION WHERE A MULTIPLE PAGE PRINTED BALLOT IS USED, A 22 VOTER MUST **[delete** VOTE AND] RETURN ALL PAGES OF THE BALLOT AT THE SAME 23 TIME. ANY VOTER WHO HAS RETURNED AT LEAST ONE PAGE OF A MULTIPLE 24 PAGE PRINTED BALLOT WILL BE CONSIDERED TO HAVE VOTED.

[this presents issues with a mail ballot election – second pages of one ballot can be returned in the envelope of a different voter. This rule will require identification of the ballot pages enclosed in the envelope to be sure that one of the pages is not the second page of a different voter's ballot. I do support this check of the stubs, as it also prevents voters from voting in the wrong primary or using a ballot style that is not the correct one. Obviously we cant require the voter to vote all pages at the same time. We could require them to cast all the pages at the same time if we knew what casting meant.]

~~12.5.2-~~(B) For non-partisan elections where multiple ballots will be included 26 in the same packet or will be sent in separate packets, the ballots and 27 return envelopes ~~shall-~~MUST include distinctive markings or colors to 28 identify political subdivisions when the colors or distinctive markings will 29 aid in the distribution and tabulation of the ballots.

~~12.5.3~~ (C) The designated election official for each political subdivision for 31 whom one or more county clerk and recorders are conducting the election 32 ~~shall assure that-~~MUST PROVIDE a complete list of eligible electors in their 33 political subdivision ~~is sent~~ to each appropriate county clerk and recorder, 34 unless otherwise provided in the intergovernmental agreement. The political subdivision ~~shall-~~MUST list each elector only once to ~~assure-~~36 ENSURE that each elector receives one and only one ballot unless otherwise 37 authorized.

1 *[Current Rules 12.5.2 and 12.5.3 are amended and moved to new Rule 5.2.3. 2 Amendments between the current and new rule language are shown above.]*

3 ~~13.1~~ (D) All election materials prepared by the designated election official, 4 including the Article X, Section 20 notice, may be included in the mail-in 5 ballot packet.

6 [Current Rule 13.1 is moved to new Rule 5.2.3.]

~~12.7.5.2.4~~ Receipt of Ballots

7 ~~12.7.1~~-(A) ~~One or more~~ THE DESIGNATED ELECTION OFFICIAL MUST APPOINT 8 SUFFICIENT ELECTION judges **OF MULTIPLE PARTY AFFILIATIONS** ~~shall be appointed~~ for the site to which ballots 9 are to be mailed to receive the **ENVELOPES [delete ballots]** as mailed.

10 ~~12.7.2~~-(B) Each day when **[delete ballots]BALLOT ENVELOPES** come in, **[delete a] TWO** judge**S** **OF OPPOSING PARTY AFFILIATION** ~~shall~~ MUST count the 11 **[delete ballots,]ENVELOPES,** batch them and record the number of **[delete ballots,]ENVELOPES** received.

12 ~~12.7.3~~-(C) ~~The ballots shall be date stamped when received.~~ AN ELECTION 13 JUDGE MUST DATE-STAMP THE **[delete ballots,]ENVELOPES** UPON RECEIPT. If any **[delete ballot,]ENVELOPE** is 14 received after the time set for the closing of the elections, the **[delete ballot,]ENVELOPE** ~~shall~~ 15 MUST be date-stamped but ~~the ballot shall~~ **ANY BALLOT CONTAINED WITHIN SHALL** not be counted.

16 ~~12.7.4~~-(D) ~~Records shall also be kept of~~ ELECTION JUDGES MUST RECORD the 17 number of ballot packets returned as undeliverable **DAILY.**

18 ~~12.7.5~~-(E) ~~Ballot packets shall then be placed~~ THE DESIGNATED ELECTION 19 OFFICIAL MUST SEAL AND STORE **ENVELOPES AND** BALLOTS in a safe, secure place until the 20 counting of the ballots.

21 *[Current Rule 12.7 is amended and moved to new Rule 5.2.4. Amendments between the 22 current and new rule language are shown above.]*

23 5.2.4 RECALL ELECTIONS. THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A WRITTEN 24 PLAN TO THE SECRETARY OF STATE WITHIN FIVE DAYS AFTER THE DESIGNATED 25 ELECTION OFFICIAL SETS THE DATE OF THE ELECTION. THE SECRETARY OF STATE 26 WILL APPROVE OR DISAPPROVE THE PLAN WITHIN FIVE DAYS FROM THE DATE IT IS 27 RECEIVED. [SECTION 1-12-111.5, C.R.S.]

28 [Portions of current Rule 12.4(b) are included in new Rule 5.2.4]

29 ~~5.1-5.3~~ ~~For elections conducted on days~~ IF A DESIGNATED ELECTION OFFICIAL CONDUCTS AN 30 ELECTION ON A DAY other than described in section 1-7-116(1), C.R.S., ~~nothing shall~~ 31 **[delete** preclude the designated election official from mailing] THE DESIGNATED ELECTION 32 OFFICIAL MAY MAIL the notice required by Article X, Section 20 of the Colorado 33 Constitution to ~~persons~~ PEOPLE who are not eligible electors if ~~such~~ THE mailing is done 34 at the “least cost” possible.

[this is another place where gray area will cause non eligible electors to be treated differently because of the “may”]

~~1 5.2-5.4 If there are no appropriate polling place locations-~~THE DESIGNATED ELECTION OFFICIAL ² FOR THE POLITICAL SUBDIVISION IS UNABLE TO ESTABLISH A VOTER SERVICE AND POLLING ³ CENTER within the political subdivision, ~~conducting the election, a polling place may be~~ ⁴ designated-~~THE DESIGNATED ELECTION OFFICIAL MAY DESIGNATE A VOTER SERVICE AND POLLING CENTER outside of the political subdivision in a-~~IF THE location ~~that~~ is convenient ⁶ for the eligible electors. ~~of such political subdivision.~~

[some kind of definition of “convenient” would be convenient here –a mileage limit for example?]

~~7 5.3-5.5 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 ⁹ ~~[delete~~ submitting the ballot issue or ballot question followed by a number in the case of ¹ initiatives or by a letter ~~in the case of referred measures.~~ FOR BALLOT ISSUES AND BALLOT ¹¹ QUESTIONS IN AN ELECTION NOT COORDINATED WITH THE COUNTY CLERK AND RECORDER, ¹² THE DESIGNATED ELECTION OFFICIAL MUST USE THE TITLE AND LETTERING STYLE FOR ¹³ STATEWIDE BALLOT ISSUES AND BALLOT QUESTIONS SPECIFIED IN SECTION 1-5-407 (5.3) ¹⁴ AND (5.4), C.R.S.

~~5.4-5.6 Elections authorized under~~ BY Part 1, Article 45 of Title 37, C.R.S., ~~(Water Conservancy-16 Act),~~ ~~shall~~ MUST be conducted in accordance with Articles 1 through 13 of Title 1, 17 C.R.S., where applicable, unless otherwise ordered by the district court having ¹⁸ jurisdiction over the water conservancy district, pursuant to section 37-45-103 (3), C.R.S. ¹⁹ (“Court”).

~~5.4.1-5.6.1 The form and verification of any petition requesting an election conducted~~ ²¹ by a water conservancy district pursuant to sections 37-45-114 (2) and 37-45-222 136(3.5), C.R.S., (“Petition”), ~~shall~~ MUST conform with ~~the requirements of~~ ²³ sections 1-40-113 and 1-40-116, C.R.S., ~~and the sections cited therein,~~ and Rule 24 ~~17-15 of these rules;~~ except that PETITIONERS NEED NOT SEEK PETITION FORMAT APPROVAL FROM ~~no prior approval of the form of such election petition needs to~~ ²⁶ be provided by the Secretary of State. ~~the petition shall be filed with the Court~~ ²⁷ and the verification process shall be directed by ~~the water conservancy district~~ ²⁸ named in the petition rather than the Secretary of State, and the “warning” ²⁹ language appearing on the petition shall be applicable to the election requested to be conducted. PETITIONERS MUST FILE THE PETITION WITH THE COURT AND ³¹ WATER CONSERVANCY DISTRICT MUST VERIFY THE SIGNATURES ON THE PETITION.

~~32 5.4.2-5.6.2 The procedures for issuing the statement of sufficiency or insufficiency of~~ ³³ the petition ~~shall~~ MUST conform to ~~the requirements of~~ WITH section 1-40-117, ³⁴ C.R.S., and Rule ~~18-15 of these rules;~~ except that ~~such~~ THE statement ~~shall~~ MUST be issued by the water conservancy district named in the petition, unless ³⁶ otherwise ordered by the Court.

~~37 5.4.3-5.6.4 The procedures for cure of a petition deemed insufficient~~ ~~shall~~ MUST ³⁸ conform to ~~the requirements of~~ WITH section 1-40-117, C.R.S., and Rule ~~19-15~~ ³⁹ of these rules; except any addendum to the petition ~~shall~~ MUST be filed with both the Court and the water conservancy district named in the petition, unless ⁴¹ otherwise ordered by the Court.

1 ~~5.4.4-5.6.5~~ The procedures for protesting the determination that a petition is 2 insufficient ~~shall~~-MUST conform to ~~the requirements of~~-WITH section 1-40-118, 3 C.R.S., and Rule ~~20-15~~ hereof, unless otherwise ordered by the Court.

~~5.4.5-5.6.5~~ THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT any election pursuant to-UNDER section 37-45-114(2), C.R.S., ~~shall be conducted no more than one 6 hundred (100) days nor less than sixty (60)~~-AFTER THE SIXTIETH BUT BEFORE THE 7 ONE HUNDREDTH DAY AFTER ~~days from~~ the date of the Court order, regardless of 8 the actual expiration date of the term of the office, unless the Court order 9 establishes an alternate date or the water conservancy district has notified the Court that ~~such~~-THE election is to be conducted as a coordinated election 11 ~~pursuant to~~-MUST BE COORDINATED AND CONDUCTED IN ACCORDANCE WITH 12 section 1-7-116, C.R.S.

13 ~~5.4.6-5.6.6~~ The form and procedures for filing candidate nomination forms and call 14 for CANDIDATE 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~~ 16 ~~in conformance with the form and procedures required for special districts~~-MUST 17 BE CONDUCTED under Article 1, Title 32, C.R.S., unless otherwise ordered by 18 the Court.

19 ~~5.5-5.6~~ Non-Partisan Elections: Polling Place Procedures.

~~5.5.1-5.6.1~~ For polling place elections ~~being~~ conducted in accordance with Article 1, 21 Title 32, C.R.S., upon execution of the self-affirming oath or affirmation 22 ~~pursuant to~~-UNDER section 32-1-806(2), C.R.S., ~~the~~-A eligible elector ~~desiring to~~ 23 ~~vote shall~~-MUST show his or her identification as defined in section 1-124 104(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~~ 26 ~~provided his or her identification, such eligible elector may be allowed to vote,~~ 27 if such vote is not challenged. ~~See sections 1 7 110(2) and 32 1 806(4), C.R.S.~~

28 ~~5.5.3-5.6.2~~ The election supplies provided to the supply judge of each polling place 29 shall include an adequate number of provisional ballot envelopes that include the affidavit set forth in Rule 26.8. THE DESIGNATED ELECTION OFFICIAL MUST 31 ENSURE THAT EACH POLLING PLACE HAS AN ADEQUATE NUMBER OF PROVISIONAL 32 **ENVELOPES.**

[provisional ballots should be identical to other voter marked ballots so that they cannot be identified later by their style or storage location once added to the election- therefore the provisional specific document should be the envelope and the change to 5.5.6 below is consistent with this, thanks.]

33 ~~5.5.4~~ The signature and date on the provisional ballot affidavit envelope shall remain 34 on the outside of the envelope.

~~5.5.6~~ The provisional ballot affidavit envelope shall be numbered to correspond to the 36 number of the provisional elector's name in the poll book, and the word 37 "provisional" shall be marked on the ballot.

38 ~~5.5.7-5.6.3~~ Verification of Information in Provisional Ballot Affidavit. The designated 39 election official shall verify the information contained in the provisional ballot

1 affidavit pursuant to Rule 26. If the information contained in the affidavit
2 provides adequate criteria such that the designated election official, using the
3 Rule 26 search, can ascertain the registration of the elector, the provisional
4 ballot shall count. If the information cannot be verified, the ballot shall be
rejected. See MUST FOLLOW THE PROVISIONAL BALLOT PROCEDURES CONTAINED
IN ARTICLES 1 THROUGH 13 OF TITLE 1 sections 1 8.5 105 and 1 8.5 106, C.R.S.,
7 and Rule 26.

8 5.5.8 The verification and counting of all provisional ballots shall be completed prior 9 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. —

11 5.5.9 Canvassing Board’s Count of Provisional Ballots. If, after the expiration of 12 twelve days following an
election, the election judges cannot complete the 13 count of the provisional ballots cast, the canvassing board
appointed pursuant to 14 Section 1 10 201(1.5), C.R.S., shall complete the count of such provisional ballots. —

16 5.5.10 If 25 or more provisional ballots have been cast and counted, the results shall be 17 reported as one total.
If less than 25 provisional ballots have been cast and 18 counted, the results shall be included in the results of the
mail in ballots counted 19 in the election. —

5.5.11 The provisional ballot shall not be counted if the elector failed to complete the 21 affidavit on
the envelope or the elector was not registered by the deadline in the 22 State of Colorado. —

23 5.5.12 A copy of the provisional ballot affidavit shall be provided to the county clerk 24 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. —

26 5.7 THE COUNTY CLERK AND RECORDER FOR A COUNTY THAT CONTAINS ANY PORTION OF A 27 POLITICAL
SUBDIVISION WITHIN ITS BORDERS MUST PROVIDE ELECTION DAY REGISTRATION 28 FOR THE POLITICAL
SUBDIVISION.

5.7.1 THE COUNTY CLERK AND RECORDER MUST PROVIDE VOTER REGISTRATION THROUGH THE 22-DAY ELECTION
PERIOD DURING NORMAL BUSINESS HOURS, 31 MONDAY THROUGH FRIDAY, AND 7:00 AM TO 7:00 PM ON
ELECTION DAY.

32 5.7.2 THE COUNTY CLERK AND RECORDER MUST PROVIDE DAILY REGISTRATION UPDATES 33 22
DAYS THROUGH THE DAY BEFORE ELECTION DAY, TO THE DESIGNATED ELECTION 34 OFFICIAL BY
SECURE TRANSMISSION AS OUTLINED IN RULE 43 AND PROVIDE A CERTIFICATE OF REGISTRATION TO
THE APPLICANT ON ELECTION DAY

36 5.7.3 ON ELECTION DAY, THE COUNTY CLERK AND RECORDER MUST PROVIDE A 37 CERTIFICATE OF
REGISTRATION TO ANY ELECTOR WHO REGISTERS TO VOTE OR 38 UPDATES HIS OR HER REGISTRATION.

1 Rule 6. ~~Rules Concerning Election Judges~~

2 ~~28.1~~ 6.1 For purposes of training election judges, an “election cycle” ~~shall mean~~ 3 MEANS all elections held during a calendar year beginning ~~with~~ January 1 and ending 4 December 31.

~~28.2~~ 6.2 In lieu of the oath for other election judges prescribed in section 1-6-114, 6 C.R.S., each person appointed to serve as a student election judge ~~shall~~ MUST take a self 7 affirming oath or affirmation before ~~beginning their duties~~ SERVING as a student election 8 judge, in substantially the following form:

9 “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 11 or Senior; that I will perform the duties of an election judge according to law and to the 12 best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in 13 conducting the same; that I will not try to determine how any elector voted, nor will I 14 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 16 court of justice; that I have never been convicted of election fraud, any other election 17 offense, or fraud and that, if any ballots are counted before the polls close on the date of 18 the election, I will not disclose the result of the votes until after the polls have closed and 19 the results are formally announced by the designated election official.”

6.3 A SUPERVISOR JUDGE IN A VOTER SERVICE AND POLLING CENTER MUST:

21 a. SUCCESSFULLY PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN RULE 28.5. 22 ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION OFFENSE OR FRAUD IS 23 PROHIBITED FROM HANDLING VOTER REGISTRATION APPLICATIONS OR CONDUCTING 24 VOTER REGISTRATION AND LIST MAINTENANCE ACTIVITIES.

b. SUCCESSFULLY COMPLETE A TRAINING COURSE PROVIDED BY THE SECRETARY OF 26 STATE.

27 6.4 THE COUNTY CLERK AND RECORDER MUST ARRANGE FOR A CRIMINAL BACKGROUND CHECK 28 ON A SUPERVISOR JUDGE AND ANY A PERSON REGISTERING VOTERS IN A VOTER SERVICE 29 AND POLLING CENTER. THE CRIMINAL BACKGROUND CHECK MUST BE CONDUCTED BY THE COLORADO BUREAU OF INVESTIGATION IN THE DEPARTMENT OF PUBLIC SAFETY OR BY 31 THE COUNTY SHERIFF’S DEPARTMENT FOR THE COUNTY IN WHICH THE COUNTY CLERK AND 32 RECORDER’S OFFICE IS LOCATED.

33 [Current Rule 28 is amended and moved to new Rule 6. Amendments are shown above.]

34 **RULE 7. ELECTIONS CONDUCTED BY THE COUNTY CLERK AND RECORDER**

7.1 MAIL BALLOT PLANS

36 (a) 7.1.1 ~~Written plan. The~~ FOR EVERY ELECTION CONDUCTED BY THE county clerk and 37 recorder, THE CLERK must submit a mail ballot plan to the Secretary of State BY 1 EMAIL no later than 90 days before the election. ~~The county clerk must use the~~ 2 approved mail ballot plan template, that includes the following:–

3 (A) FOR RECALL ELECTIONS, THE COUNTY CLERK MUST SUBMIT A MAIL BALLOT 4 PLAN TO THE SECRETARY OF STATE BY EMAIL WITHIN FIVE DAYS AFTER THE APPROPRIATE OFFICIAL SETS THE ELECTION. WITHIN FIVE DAYS AFTER 6 RECEIVING THE RECALL ELECTION PLAN, THE SECRETARY OF STATE WILL 7 APPROVE OR DISAPPROVE.

[this appears to be duplicate text of an earlier provision]

8 (B) THE COUNTY CLERK MUST SUBMIT WITH THE MAIL BALLOT PLAN THE 9 SECRECY SLEEVE OR ENVELOPE THAT THE CLERK INTENDS TO USE IN THE ELECTION.

11 *[Current Rule 12.4.2(a) is amended and moved to new Rule 7.1. Amendments are shown 12 above.]*

13 ~~12.4.3~~ 7.1.2 Approval of mail ballot plans and submission of amendments

14 (a) If the Secretary of State requests modifications to a plan prior to approval, the ~~designated election official shall~~ COUNTY CLERK AND RECORDER MUST 16 submit the modified plan within ten days from the request. The secretary of 17 state will approve or disapprove the modified plan within 15 days from the 18 date it is received.

19 (b) A ~~designated election official shall~~ COUNTY CLERK AND RECORDER may amend a timely submitted mail ballot plan by submitting a written statement 21 outlining the ~~amendment(s) to the plan~~ AMENDMENT. The amendment must 22 state the specific section of the plan amended and the ~~reason(s)~~ REASON for 23 the amendment. The secretary of state will approve or disapprove the 24 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 26 approve or disapprove the amendment within two business days.

27 *[Current Rule 12.4.3 is amended and moved to new Rule 7.1.2. Amendments are shown 28 above.]*

29 ~~12.3.3~~ 7.1.3 For elections coordinated by the THE county clerk and recorder, MUST SUBMIT a security plan ~~shall be submitted in accordance with~~ UNDER Rule 43 in 31 addition to the mail ballot plan submitted in accordance with this Rule.

32 *[Current Rule 12.3.3 is amended and moved to new Rule 7.1.3. Amendments are shown 33 above.]*

34 ~~12.5~~ 7.2 Ballots BALLOTS AND BALLOT PACKETS

~~12.5.1~~ 7.2.1 In any election where a multiple page printed ballot is used, a voter must 36 **[delete** vote and] return all pages of the ballot at the same time. Any voter who has 37 returned at least one page of a multiple page printed ballot will be considered to 1 have voted.

[this is also duplicate language and requires the same edits above.]

2 [Current Rule 12.5.1 is amended and moved to new Rule 7.2.1]

3 ~~12.5.5~~ 7.2.2 In accordance with section 1-7-116(1), C.R.S., for all Coordinated 4 elections, the outgoing envelope as well as the instructions or other notice ~~shall~~ MUST include a notice advising electors that they may receive a ballot from 6 another political subdivision conducting a mail ballot election.

7 ~~12.5.6~~ 7.2.3 If the ballot is returned to the election official as undeliverable, the ~~official~~ ~~shall not be~~ COUNTY CLERK AND RECORDER IS NOT required to re-mail the ballot 9 packet.

[Current Rules 12.5.5 and 12.5.6 are amended and moved to new Rules 7.2.2 and 7.2.3]

11 7.2.4 IN ACCORDANCE WITH SECTION 1-7.5-107(3), C.R.S., THE COUNTY CLERK AND 12 RECORDER MUST MAIL BALLOTS NO LATER THAN 18 DAYS BEFORE THE ELECTION.

["the election" has become a meaningless phrase, as has "election day". "BEFORE THE FIRST DEADLINE FOR BALLOT RETURN" would be correct and meaningful.]

13 (A) THE COUNTY CLERK MUST PROCESS ALL NEW REGISTRATION APPLICATIONS 14 AND UPDATES RECEIVED BY THE 22-DAY DEADLINE TO MAIL APPLICANTS A

BALLOT **PACKET** IN ACCORDANCE WITH SECTION 1-7.5-107(3), C.R.S.

16 (B) THE COUNTY CLERK MUST PROCESS NEW ONLINE AND IN-PERSON 17 REGISTRATION APPLICATIONS AND MAIL REGISTRATION UPDATES RECEIVED 18 BY THE EIGHTH DAY BEFORE THE **[FIRST DEADLINE FOR BALLOT RETURN [delete ELECTION]** AND MAIL A BALLOT **PACKET** WITHIN 24 19 HOURS AFTER THE APPLICATION IS SUBMITTED.

(C) IN COORDINATED ELECTIONS, THE COUNTY CLERK MUST MAIL BALLOTS TO 21 ALL ACTIVE ELIGIBLE ELECTORS OF EACH POLITICAL SUBDIVISION. FOR 22 SPECIAL DISTRICT ELECTIONS, THE DESIGNATED ELECTION OFFICIAL OF EACH 23 DISTRICT MUST CERTIFY TO THE COUNTY CLERK THE LIST OF ELECTORS 24 ELIGIBLE TO VOTE UNDER SECTION 32-1-806, C.R.S.

~~10.7~~ 7.2.5 Voiding ballots due to timely changes in address or affiliation.

26 ~~10.7.1~~ (A) If an elector ~~submits a~~ timely CHANGES HIS OR HER address or 27 affiliation ~~change~~ after the county mails ballots or sends the voter file to the 28 vendor, the county must void the first ballot and generate a second ballot.

29 ~~(a)~~ (i) 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, 31 the county must provide the vendor a voided ballot file to prevent the 32 vendor from printing and preparing voided ballots for mailing.

33 ~~(b)~~ (ii) If the county processes the change to the elector's record after the 34 vendor has printed ballots but before the vendor mails ballots, the county must work with the vendor to make every reasonable effort to 36 remove voided ballots before they enter the mail stream.

1 ~~10.7.3~~ (B) If the county mails its own ballots, the county clerk must remove 2 all voided ballots before mailing.

3 ~~10.7.4~~ (C) If the county processes the change to the elector’s record after it 4 mails ballots, the county must count the first ballot returned by the elector IN ACCORDANCE WITH SECTION 1-7.5-107(6), C.R.S., except as follows:

6 (a) (I) ~~In the case of an affiliation change~~ IF THE ELECTOR CHANGED HIS OR 7 HER AFFILIATION, the county must count the ballot issued for the 8 ELECTOR’S new party affiliation.

9 (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.

11 [*Current Rule 10.7 is amended and moved to new Rule 7.2.5. Amendments are shown 12 above.*]

13 7.3 ABSENTEE VOTING

14 7.3.1 AN ELECTOR MAY REQUEST THAT THE COUNTY CLERK MAIL HIS OR HER
BALLOT TO AN ADDRESS OTHER THAN THE ELECTOR’S ADDRESS OF RECORD BY
16 SUBMITTING AN APPLICATION IN ACCORDANCE WITH SECTION 1-7.5-116,
C.R.S.

17 7.3.2 THE COUNTY CLERK MUST MAIL THE BALLOT TO THE ADDRESS PROVIDED UNTIL 18 THE ELECTOR
INDICATES OTHERWISE. ELECTOR INDICATES OTHERWISE.

19 7.4 EMERGENCY BALLOT TRANSMISSION

~~42.1~~ 7.4.1 The county clerk and recorder may deliver a ballot to an elector’s 21
authorized representative or to the elector by electronic transmission IN THE 22 CASE OF an
administrative or medical emergency UNDER SECTION 1-7.5-115, 23 C.R.S. If THE COUNTY CLERK
DELIVERS a ~~mail in~~ ballot is delivered to an elector 24 by ~~facsimile~~ ELECTRONIC transmission, the
elector may return the ballot by ~~facsimile~~ ELECTRONIC transmission.

26 [*Portions of current Rules 42.1 and 42.3 are included in new Rule 7.4.2.*]

27 ~~42.4~~ 7.4.2 ~~Mail in ballots~~ BALLOTS sent by ~~facsimile~~ ELECTRONIC transmission shall 28 MUST include all races,
ballot issues, and questions ~~on~~ FOR which the elector 29 may IS ELIGIBLE TO vote. ~~Counties are encouraged to work
with their vendors to~~
~~develop a~~ THE ballot that is clearly MUST BE legible to the elector to increase the 31
~~readability of the ballot and~~ to avoid possible misinterpretations of the elector’s 32 intended choice because of poor
transmission of the document.

33 [*Current Rule 42.4 is amended and moved to new Rule 7.4.3. Amendments are shown 34 above.*]

7.4.3 THE BALLOT PACKET SENT BY ELECTRONIC TRANSMISSION MUST BE IN TEXT

1 FORMAT ON 8 ½" X 11" WHITE PAPER AND MUST INCLUDE: 2 (A) AN ELECTRONIC TRANSMISSION COVERSHEET TO PROTECT VOTER PRIVACY; 3 (B) THE BLANK BALLOT; 4 (C) THE ELECTRONIC TRANSMISSION BALLOT INSTRUCTIONS; AND

(D) THE SELF-AFFIRMATION REQUIRED BY SECTION 1-7.5-107(3)(B.5), C.R.S.

6 7.4.4 THE ELECTRONIC TRANSMISSION MUST INCLUDE: 7 (A) THE COUNTY CLERK AND RECORDER'S CONTACT INFORMATION INCLUDING 8 MAILING ADDRESS, EMAIL ADDRESS, PHONE, AND FAX NUMBER; 9 (B) A NOTICE THAT THE BALLOT MAY NOT BE DUPLICATED FOR ANY OTHER ELECTOR; 11 (C) INSTRUCTIONS FOR COMPLETING AND RETURNING THE BALLOT; 12 (D) A NOTICE REGARDING THE BALLOT RETURN DEADLINE; 13 (E) INFORMATION REGARDING HOW THE ELECTOR MAY VERIFY THAT HIS OR 14 HER BALLOT HAS BEEN RECEIVED BY THE COUNTY CLERK AND RECORDER; AND

16 (F) ANY OTHER INFORMATION DEEMED NECESSARY BY THE SECRETARY OF 17 STATE OR THE COUNTY CLERK AND RECORDER.

18 7.4.5 ANY BALLOT TRANSMITTED TO AN ELECTOR BY ELECTRONIC TRANSMISSION MUST 19 CONTAIN A UNIQUE IDENTIFICATION NUMBER FOR TRACKING AND AUDITING PURPOSES.

21 7.4.6 THE COUNTY CLERK AND RECORDER MUST MAINTAIN A LOG OF EACH BALLOT SENT 22 BY ELECTRONIC TRANSMISSION. THE COUNTY CLERK MUST RETAIN THE LOG AS 23 PART OF THE OFFICIAL ELECTION RECORD ALONG WITH ANY OTHER ELECTRONIC 24 TRANSMISSION RECORDS. THE LOG MUST INCLUDE:

(A) THE NAME OF THE VOTER; 26 (B) THE FAX NUMBER OR EMAIL ADDRESS TO WHICH THE BALLOT WAS 27 TRANSMITTED (AS APPLICABLE); 28 (C) THE UNIQUE IDENTIFICATION NUMBER OF THE BALLOT; 29 (D) THE DATE THE BALLOT PACKET WAS TRANSMITTED; AND

(E) THE INITIALS OF THE EMPLOYEE TRANSMITTING THE BALLOT.

1 [Portions of current Rule 42.7.2 are included in new Rule 7.4.7.]

2 ~~42.8~~ 7.4.7 The designated election official shall fax the blank ballot with the 3 ~~instructions to the fax number provided by the elector.~~ If THE COUNTY CLERK 4 TRANSMITS A BALLOT PACKET TO AN ELECTOR BY FAX AND the transmission is unsuccessful, the ~~designated election official shall~~ COUNTY CLERK MUST attempt 6 to fax THE BALLOT at least two more times ~~and make reasonable effort, if possible,~~ 7 to ensure the transmission was successful.

8 [*Current Rule 42.8 is amended and moved to new Rule 7.4.8. Amendments are shown 9 above.*]

~~42.9~~ 7.4.8 Upon receipt of the ballot, THE COUNTY CLERK MUST VERIFY THE 11 SIGNATURE ON THE AFFIDAVIT UNDER RULE 7.6. ~~when the information from the~~ 12 signed AFTER THE affidavit has been verified, a bipartisan team of judges ~~shall~~ 13 MUST duplicate the ballot. Duplicating judges ~~shall~~ MUST not reveal how the 14 elector has cast his or her ballot.

[*Current Rule 42.8 is amended and moved to new Rule 7.4.9. Amendments are shown 16 above.*]

17 7.5 RECEIPT AND PROCESSING OF BALLOTS

18 ~~42.10.4~~ 7.5.1 ~~Monitoring drop-off locations.~~ All drop-off locations must be monitored by 19 an election judge or video security surveillance recording system, as defined in Rule 43.

[an election judge is insufficient oversight- bipartisan oversight would be better]

21 (a) Freestanding drop-off locations must be monitored at all times.

22 (b) If the drop-off location utilizes a drop-slot into a building, the ballots must 23 be collected in a locked container, and both the drop-slot and container 24 must be monitored at all times.

[*Current Rule 12.10.4 is amended and moved to new Rule 7.5.1. Amendments are shown 26 above.*]

27 ~~42.7.2~~ 7.5.2 Each day when ballots come in, a judge ~~shall~~ MUST count the ballots, batch 28 them and record the number of ballots received.

29 ~~42.7.3~~ 7.5.3 ~~The ballots shall be date stamped when received.~~ AN ELECTION JUDGE MUST DATE-STAMP AND RECEIVE THE BALLOT **ENVELOPES** INTO THE STATEWIDE VOTER 31 REGISTRATION SYSTEM IMMEDIATELY UPON RECEIPT. If any ballot **ENVELOPE** is received 32 after the time set for the closing of the election[s], the ballot **ENVELOPE** ~~shall~~ MUST be date33 stamped but **THE BALLOT SHALL** ~~the ballot shall not~~ **BE** be counted. THE COUNTY CLERK MUST COLLECT 34 **BALLOT ENVELOPE** S FROM ALL DROP-OFF LOCATIONS, INCLUDING FREE STANDING BALLOT BOXES, HOURLY DURING REGULAR BUSINESS HOURS (INCLUDE OR MORE AS 36 NEEDED?).

1 ~~12.7.4~~ 7.5.4 ~~Records shall also be kept of~~ ELECTION JUDGES MUST RECORD the number 2 of ballot packets returned as undeliverable **DAILY**.

[this language is duplicative of a section above]

3 ~~12.7.5~~ 7.5.5 ~~Ballot packets shall then be placed~~ THE DESIGNATED ELECTION OFFICIAL 4 MUST SEAL AND STORE BALLOT **ENVELOPE** S in a safe, secure place until the counting of the ballots.

6 *[Current Rule 12.7 is amended and moved to new Rule 7.5.2 through 7.5.5. Amendments 7 are shown above.]*

8 ~~13.2~~ 7.5.6 The county clerk and recorder shall-MUST keep a list, to the extent 9 possible, of the names and mailing addresses of all individuals who deliver more than ~~ten (10)~~ 10 voted ~~mail in~~ ballots to the ~~designated- or coordinated~~ 11 ~~election official's~~ COUNTY CLERK'S office, DROP-OFF LOCATION, OR VOTER 12 SERVICE AND POLLING CENTER ~~or the designated drop site for mail in ballots.~~

13 ~~13.3~~ 7.5.7 The county clerk and recorder shall-MUST notify each individual on the list 14 required by ~~13.2~~ 12.8.8 by letter that they have violated section ~~1-8-113~~ 1-7.5

107(4)(B), C.R.S., by delivering more than ~~ten (10)~~ 10 ~~mail in~~ ballots to the 16 ~~designated election official~~ COUNTY CLERK.

17 *[Current Rules 13.2 and 13.3 are amended and moved to new Rules 7.5.6 and 7.5.7. 18 Amendments are shown above.]*

19 ~~10.9~~ 7.5.8 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 21 counted ballots no later than the final certification of the abstract of votes cast. **BATCHES OF BALLOTS COLLECTED IN PREPARATION FOR COUNTING MAY NOT BE IDENTICAL IN SELECTION TO BATCHES OF RECEIVED ENVELOPES OR REMOVED STUBS. BATCHES PREPARED FOR COUNTING SHOULD NOT CONTAIN UNIQUE BALLOT STYLES.**

[the original seems insufficient and out of date. Already there is a requirement that no number be on the voter intent part of the ballot that could identify it... here the rule is attempting to address identifiability of entire batches of ballots... but the batch number is not the only source of risk. The contents of the batch itself is the primary source of risk, and one major problem is the well intended attempt to maintain batch integrity from the time the envelopes are batched. Envelopes should be batched along with stubs and left identifiable. Accounting from ballot to voter must be done only with envelopes and stubs- not the voter intent portion of ballots.

Batch integrity from envelope batches must not be maintained. A rule should require the voter intent portion of every ballot to be identical in printed form except for style and precinct, and that voter intent portion of ballots should be mixed and batched after sorting by style and by precinct prior to counting This removes the association to the batch numbers of received envelopes as well as the potential for unique ballot styles to be identified within batches by virtue of the method of voting or source of

the batch.]

22 *[Current Rule 10.9 is amended and moved to new Rule 7.5.8. Amendments are shown 23 above.]*

24 7.6 SIGNATURE VERIFICATION PROCEDURES

~~29.1 Missing Signature on Mail Ballot, Provisional Ballot or Mail-in Ballot Envelope~~

26 ~~29.1.1~~ 7.6.1 If a mail, mail-in, or provisional ballot return envelope lacks a signature, 27 the election judge must contact the elector in writing no later than two calendar 28 days after election day. The designated election official must use the letter and 29 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 31 calling the elector. But a phone call may not substitute for written contact. If the 32 designated election official calls any elector he or she must call all electors whose 33 affidavits are unsigned.

[this rule appears insufficient from personal experience. Many voters are unlikely to become aware of the diverted status of their ballot when notified only by mail. The eight day period is already 3 days short because of the delayed sending of the letter after the election deadline- then there is the time for transit and delivery- and a weekend and maybe a holiday. So the 8 days is really very short. Not everyone goes to obtain their mail from a mailbox every day. And the state provides no means for a voter to confirm if their vote is in this suspended situation. If the state had a system to sign up for an email or telephone or fax contact if this situation arises, then at least the would-be voter has an option to get better service. Also the list of signature deficient voters should be arranged to be made public. Note the opportunity for gray area- unfair treatment county by county is embodied here- but I would not remove the text to allow a telephone call.]

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

~~29.1.2~~ 7.6.2 The letter ~~shall~~-MUST inform the ~~eligible~~-elector that ~~he/she~~-THE ELECTOR 36 must come to the office of the county clerk and recorder to sign the mail ballot, 1 provisional ballot, or mail-in ballot envelope no later than eight calendar days 2 after election day. The letter ~~shall~~-MUST inform military, overseas, and other 3 electors who are absent from the state that they may sign the affidavit and return 4 the form by mail, fax, or email, and that the county must receive the form no later 5 than eight calendar days after the election.

[note that electors far from the county office will find this very inconvenient and their time window for cure may be very short. Each elector deserves better treatment than this crude means for curing a problem that most likely is through no fault of their own.]

6 ~~29.1.3~~ 7.6.3 The letter and missing signature affidavit form does not violate section 7 1-13-801, C.R.S.

8 ~~29.1.4~~ 7.6.4 The letter or missing signature affidavit form must include the following 9 language:

10 “Any person who knowingly violates any of the provisions of the election code 11 relative to the casting of ballots or who aids or abets fraud in connection with any 12 vote cast, or to be cast, or attempted to be cast shall be punished by a fine of not 13 more than five thousand dollars or by imprisonment in the county jail for not 14 more than eighteen months, or by both such fine and imprisonment. Section 15 1-13-803, C.R.S.”

16 ~~29.2~~ 7.6.5 In accordance with section 1-8-114.5, C.R.S., for mail-in ballots and 17 section 1-7.5-107.3, C.R.S., for mail ballots, the election judges shall **[delete** AN 18 ELECTION JUDGE MUST **]**compare the signature on the self-affirmation on each 19 ~~respective~~-return envelope with the signature ~~stored in the statewide voter-20 registration system~~-SCORE. ~~Signatures shall require further~~ THE ELECTION JUDGE 21 MUST research THE SIGNATURE FURTHER if ~~any of the following discrepancies are-22 discovered~~-THERE IS:

[this change from two election judges to one is hugely problematic. The signature check process is potentially unfair and this unfairness can easily be made to have partisan effect. This language must be changed back to at least two election judges of opposing party affiliation.]

23 ~~Code 1~~—(A) An obvious change in the slant of the signature

24 ~~Code 2~~—(B) A printed signature on one document and a cursive signature on the 25 other document

26 ~~Code 3~~—(C) ~~Differences~~-A DIFFERENCE in the size or scale of the ~~signature~~-27 SIGNATURES

28 ~~Code 4~~—(D) ~~Differences~~-A DIFFERENCE in the individual characteristics of the 29 signatures, such as how the “t’s” are crossed, “i’s” are dotted, loops are made on 30 “y’s” or “j’s”

31 ~~Code 5~~—(E) ~~Differences~~-A DIFFERENCE in the voter’s signature style, such as how 32 the letters are connected at the top and bottom

33 ~~Code 6~~—(F) EVIDENCE THAT ballots or envelopes from the same household have 34 been switched

35 ~~Code 7~~—(G) ‘~~Other,~~’—ANY OTHER NOTICEABLE DISCREPANCY ~~including~~—SUCH AS 36 misspelled names & ~~description of discrepancy~~

1 ~~29.3~~ 7.6.6 ~~If~~ IN CONDUCTING further research is ~~necessary~~, the election judge shall ~~2~~ MUST check the county clerk's or election official's file SCORE for at least two ~~3~~ additional documents signed by the voter, if available. THE JUDGE MAY COMPARE ~~4~~ 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 ~~6~~ when comparing ~~this~~ other information may be used as part of the signature verification ~~7~~ decision process.

8 ~~29.3.1~~ (A) If it appears to the judges verifying the self-affirmation on the return ~~9~~ 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 ~~11~~ ballots, the ballot or ballots shall ~~MUST~~ be counted and no letter of advisement to ~~12~~ the elector is necessary.

13 ~~29.4~~ 7.6.7 ~~Whenever~~ IF THE ELECTION JUDGE DISPUTES THE a signature is ~~disputed~~, the ~~14~~ election judge shall HE OR SHE MUST document the discrepancy ~~by completing~~ AND THE RESEARCH STEPS TAKEN IN a log. ~~The log shall provide a record of the research steps~~ ~~16~~ taken to resolve the issue. ~~The~~ JUDGE MUST IDENTIFY THE ELECTOR IN THE log ~~will~~ ~~17~~ identify the voter using a unique tracking number. ~~This~~ THE tracking number shall ~~MAY~~ ~~18~~ not contain the voter's ELECTOR'S social security number; Colorado issued driver's ~~19~~ license number, or the identification number issued by the Department of Revenue. THE LOG MAY NOT CONTAIN THE ELECTOR'S SIGNATURE. THE JUDGE MUST NOTE THE FINAL ~~21~~ RESOLUTION AND BALLOT DISPOSITION ON THE RESEARCH LOG.

[throughout this section there is new language referring to the (singular) judge. This process must be restored to a two judge minimum.]

22 ~~29.5~~ The log shall be approved by the Secretary of State pursuant to section ~~1~~ ~~1~~ 109, C.R.S.

23 ~~29.6~~ There shall be no document containing the voter's signature attached to the research log.

24 ~~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 ~~26~~ address indicated in the registration records and the address where the mail in ballot or ~~27~~ mail ballot was mailed explaining the discrepancy in signatures and a form for the ~~28~~ eligible elector to confirm that the elector returned a ballot to the county clerk and ~~29~~ 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.

31 ~~29.8~~ 7.6.8 The election official must use the letter and the signature verification form ~~32~~ approved by the Secretary of State. (SECTIONS ~~1~~ ~~7.5~~ 107.3(2)(A) AND ~~1~~ ~~8~~ 114.5(2)(A), ~~33~~ C.R.S.) THE LETTER AND SIGNATURE VERIFICATION FORM DOES NOT VIOLATE SECTION ~~134~~ 13-801 C.R.S.

~~29.9~~ The letter and signature verification form does not violate section ~~1~~ ~~13~~ 801 C.R.S.

36 ~~29.10~~ The final signature verification resolution and ballot disposition shall be noted on the ~~37~~ research log.

38 ~~29.11~~ 7.6.9 Any **AFTER CERTIFICATION AND ANY RECOUNT** ALL uncounted ballot ~~BALLOTS~~ shall ~~MUST~~ remain sealed in the return ~~39~~ envelope and stored under seal with all other uncounted ballots as part of the election ~~1~~ record pursuant to ~~IN~~ ACCORDANCE WITH section ~~1~~ ~~7~~ 802, C.R.S., and may be removed ~~2~~ only under the authority of a district attorney or by order of a court having jurisdiction.

[this rule does not specify at what point the ballot becomes considered as "uncounted". Note that the decision regarding the counting of the ballot could occur

at any time until certification. And then after certification the envelope could possibly be opened as part of a recount.. therefore the language that states “may be removed only under the authority” should be limited to the time period after certification and any recount.]

3 ~~29.12~~ Use of Signature Verification Devices

~~29.12.1~~ 7.6.10 A county clerk and recorder who chooses to use USES a signature verification device to process mail in or mail ballots in accordance with sections 1-7.5 107.3 or 1-86 114.5, C.R.S., shall MUST FIRST conduct acceptance testing on the device. prior to its use-7 in an election.-

8 ~~29.12.~~ 7.6.11 The acceptance testing conducted in accordance with this rule shall MUST be 9 sufficient to verify the accuracy of the device The acceptance testing shall AND MUST ensure that the device will not accept a signature that a reasonable, trained election judge 11 would reject.

[this rule needs further specification to establish standards and a standard test for accuracy of signature verification before such automated systems are used any further.]

12 *[Current Rule 29 is amended and moved to new Rule 7.6. Amendments are shown 13 below.]*

14 7.7 VOTER SERVICE AND POLLING CENTERS

7.7.1 THE COUNTY CLERK AND RECORDER MUST DESIGNATE AND OPEN THE MINIMUM 16 NUMBER OF VOTER SERVICE AND POLLING CENTERS AND THE LOCATIONS MUST BE 17 OPEN DURING REASONABLE BUSINESS HOURS FOR THE MINIMUM NUMBER OF DAYS 18 OUTLINED IN SECTION 1-5-102.9, C.R.S., FOR A GENERAL ELECTION AND 1-7.519 107(4.5), C.R.S., FOR ALL OTHER ELECTIONS.

(A) REASONABLE BUSINESS HOURS MEANS AT LEAST EIGHT HOURS PER DAY 21 MONDAY THROUGH FRIDAY, AND AT LEAST FOUR HOURS ON SATURDAY.

22 (B) ALL VOTER SERVICE AND POLLING CENTERS MUST BE OPEN FROM 7:00AM 23 THROUGH 7:00 PM ON ELECTION DAY.

24 (C) THE COUNTY CLERK MUST PROVIDE ALL SERVICES OUTLINED IN SECTION 1-2509, C.R.S., AT EVERY DESIGNATED VOTER SERVICE AND POLLING CENTER.

~~26 7.1~~ 7.7.2 ~~Polling place~~ VOTER SERVICE AND POLLING CENTER materials shall include, 27 where applicable, SUFFICIENT COMPUTER STATIONS FOR SCORE ACCESS, HAVA 28 information, A voting demonstration display, A signature card table, registration-29 records or lists, poll books, electronic or paper, or completed signature cards, paper ballots, and voting booths or DRES, provisional voting area or procedure, 31 and A ballot box if provided.

[sufficient computer stations for SCORE access is a vague expression and requires better specification. This rule deserves a quantitative minimum for hardware that will be required to be used- because a shortfall will cause real problems that would have been solved in a polling place with paper pollbook eligibility checks. This is one of the areas of potential weakness of the new voting method specified by HB 1303.]

32 *[Current Rule 7.1 is amended and moved to new Rule 7.7.2. Amendments are shown 33 above.]*

34 7.7.3 VOTER CHECK-IN AT THE VOTER SERVICE AND POLLING CENTER

(A) EACH VOTER SERVICE AND POLLING CENTER MUST INCLUDE AND

1 ADEQUATELY STAFF A DESIGNATED VOTER CHECK-IN TABLE OR AREA.

2 (B) THE CHECK-IN JUDGE MUST VERIFY EACH ELECTOR’S REGISTRATION 3 INFORMATION, INCLUDING ADDRESS.

4 (C) IF AN ELECTOR HAS MOVED OR IS NOT REGISTERED, THE CHECK-IN JUDGE
MUST DIRECT THE ELECTOR TO THE REGISTRATION AREA. IF THE ELECTOR IS
6 REGISTERED AND HAS NO UPDATES , THE CHECK-IN JUDGE MUST DIRECT THE
7 ELECTOR TO THE VOTING TABLE.

8 7.7.4 EXCEPT FOR VOTERS WITH DISABILITIES, THE MAXIMUM ALLOWABLE TIME IN A 9 VOTING BOOTH IS 15
MINUTES IF THERE ARE VOTERS WAITING. THE SECRETARY OF STATE MAY ORDER ADDITIONAL TIME BASED ON
THE LENGTH OF THE BALLOT. 11 [SECTION 1-7-115, C.R.S.]

12 *[Portions of current Rule 7.6 are included in new Rule 7.7.3.]*

13 7.7.5 ANY ELIGIBLE ELECTOR MAY VOTE IN-PERSON AT A VOTER SERVICE AND POLLING 14 CENTER. THE
ELECTION JUDGE MUST VOID THE ELECTOR’S MAIL BALLOT BEFORE ISSUING AN IN-PERSON BALLOT.

[this is the place where the voting system takes on substantial new potential for fallibility- requiring access to adequate amounts of functioning and connected equipment at every VSPC- also the reference to election judge in the singular again avoids the standard use of election judges in pairs from different parties and this should be corrected.]

16 ~~47.2~~ 7.7.6 If a voter leaves the voting area without completing the voting process, 17 two judges of different
affiliation ~~shall~~-MUST, to the extent possible, cover the 18 voter’s choices, and cast the ballot as the voter left it.

19 *[Current Rule 47.2 is amended and moved to new Rule 7.7.6. Amendments are shown above.]*

21 ~~7.7.7 Any individual who~~ IF AN ELECTOR votes AFTER THE CLOSE OF POLLS BECAUSE 22 ~~in an election-~~
~~for federal office as a result of a federal or state court~~ ISSUES AN 23 order EXTENDING ~~or any other order-~~
~~that is in effect 10 days before that election-~~24 ~~and which extends~~ the time established for closing the polls
by state law, ~~may only vote in that election by casting a~~ THE ELECTOR MUST VOTE BY provisional 26 ballot
METHOD USING A PROVISIONAL BALLOT ENVELOPE ~~pursuant to state law and the rules~~
~~and regulations prescribed by the~~ 27 Secretary of State. THE COUNTY CLERK MUST KEEP ALL
PROVISIONAL BALLOTS 28 CAST UNDER THIS RULE SEPARATE FROM PROVISIONAL BALLOTS NOT
AFFECTED 29 BY THE COURT ORDER.

[as before, provisional voting should be by a standard ballot style in a specially marked envelope]

7.8 NO LATER THAN 90 DAYS BEFORE AN ELECTION, THE COUNTY CLERK AND RECORDER 31 MUST
DESIGNATE DROP-OFF LOCATIONS AND VOTER SERVICE AND POLLING CENTERS, 32 AND COMPLETE AN
ACCESSIBILITY SURVEY FOR ALL VOTER SERVICE AND POLLING 33 CENTER LOCATIONS ANNUALLY BEFORE
DESIGNATING A LOCATION FOR USE.

7.8.1 FOR THE FIRST SURVEY OF A LOCATION, THE COUNTY CLERK MUST COMPLETE THE FULL ADA CHECKLIST
FOR POLLING PLACES. THE COUNTY CLERK MUST 36 COMPLETE THE ANNUAL POLLING PLACE ACCESSIBILITY
SURVEY FORM FOR 37 EACH ELECTION AFTER THE INITIAL SURVEY IS COMPLETED. [SECTION 1-5-102, 38 C.R.S.]

1 [Portions of current Rules 7.7.1 and 7.7.2 are included in new Rule 7.8.1.]

2 ~~7.7.3~~ 7.8.2 ~~Barrier removal:~~ If, upon assessment, a location fails to meet the minimum 3 accessibility requirements outlined in the ADA Checklist for Polling Places, the 4 ~~designated election official~~ COUNTY CLERK must develop a barrier removal plan outlining the ~~permanent and or temporary~~ modifications that ~~will be implemented~~ 6 THE COUNTY CLERK WILL IMPLEMENT to bring the site into compliance ~~in order for 7 the location to be designated an official polling place location~~. THE COUNTY 8 CLERK MUST INDICATE ON THE SURVEY WHETHER THE MODIFICATIONS ARE 9 TEMPORARY OR PERMANENT.

[Current Rule 7.7.3 is amended and moved to new Rule 7.8.2. Amendments between the 11 current and new rule language are shown above.]

12 7.8.3 THE SECRETARY OF STATE MAY DENY AN APPLICATION FOR ACCESSIBILITY GRANT 13 FUNDS IF A COUNTY CLERK FAILS TO ASSESS LOCATIONS AND TIMELY FILE 14 COMPLETE ACCESSIBILITY SURVEYS, AND DEVELOP AND IMPLEMENT NECESSARY BARRIER REMOVAL PLANS IN ACCORDANCE WITH THIS RULE. THE SECRETARY WILL 16 CONDUCT SITE VISITS TO ASSESS COMPLIANCE AND IDENTIFY ACCESSIBILITY 17 BARRIERS. THE SECRETARY WILL SEEK INJUNCTIVE ACTION OR OTHER PENALTIES 18 UNDER SECTION 1-1-107(2)(D), C.R.S., AS NECESSARY TO REMEDY VIOLATIONS OF 19 THIS RULE.

[Portions of current Rules 7.7.2(d) and 7.7.4 are included in new Rule 7.8.3.]

21 7.9 VOTER SERVICE AND POLLING CENTER CONNECTIVITY

22 7.9.1 THE COUNTY MUST HAVE REALTIME ACCESS TO THE STATEWIDE VOTER 23 REGISTRATION SYSTEM AT EVERY VOTER SERVICE AND POLLING CENTER 24 DESIGNATED BY THE COUNTY CLERK AND RECORDER.

7.9.2 AT NO TIME MAY AN ELECTION JUDGE OPEN BOTH THE SCORE VOTER 26 REGISTRATION SCREEN AND THE VOTING MODULE ON A SINGLE WORKSTATION.

[this looks like a warning flag for a potential privacy violation. I think it would be helpful if the reason for this rule is explained by an expert.]

27 7.9.3 EVERY VOTER SERVICE AND POLLING CENTER DESIGNATED BY THE COUNTY CLERK 28 AND RECORDER MUST MEET THE MINIMUM SECURITY PROCEDURES FOR 29 TRANSMITTING VOTER REGISTRATION DATA AS OUTLINED IN SECTION 1-5-102.9, C.R.S., AND RULE 43.

31 7.10 ASSISTING VOTERS WITH DISABILITIES IN A VOTER SERVICE AND POLLING CENTER

32 ~~9-1~~ 7.10.1 The county clerk and recorder must post a sign at the ~~polling place or vote~~ 33 ~~center~~ VOTER SERVICE AND POLLING CENTER that states:

34 NOTICE VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

36 *Colorado law protects a voter's legal right to assistance in voting if assistance is needed*

1 because of a disability.

2 1. *If you require assistance, please inform an election judge.*

3 2. *Any person, including an election judge, may assist you.*

4 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:*

6 *I,, certify that I am the individual chosen by the elector to assist the 7 elector in casting a ballot.'*

8 4. *The person you select may provide any assistance you need, including entering 9 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 11 particular manner.*

12 6. *The election judge must record the name of each voter who receives assistance 13 and the name of the person who provides assistance in the pollbook or list of 14 eligible electors (or on the signature card if preprinted signature cards are used in the place of a pollbook and list of eligible electors).*

16 9.2 7.10.2 ~~When~~ IF a voter has spoiled two ballots and requests a third ballot, an 17 election judge ~~shall~~ MUST offer assistance in voting procedures and casting the 18 ballot.

19 [Current Rule 9 is amended and moved to Rules 7.10. Amendments are shown above.]

Rule 8. ~~Rules Concerning~~ Watchers

21 8.2 8.1 ~~Qualification of Watchers.~~ Watchers shall MUST certify THAT they are qualified pursuant 22 to UNDER sections 1-1-104(51), 1-7-105, 1-7-106, 1-7-107, and 1-7-108(2), C.R.S., AS 23 APPLICABLE. Watchers shall MUST take ~~an~~ THE oath as ~~provided~~ DESCRIBED in section 24 1-7-108(1), C.R.S. and shall, upon first entering the ~~precinct place~~ VOTER SERVICE AND POLLING CENTER or location, surrender THE CERTIFICATE OF APPOINTMENT to the election 26 official or ~~election judge~~ SUPERVISOR JUDGE a ~~certificate of appointment~~ at each ~~precinct~~ 27 ~~polling place~~ VOTER SERVICE AND POLLING CENTER or location where the watcher has 28 ~~been~~ IS designated to **ACT. [delete ~~act~~ OBSERVE.]**

[note the troubling change of “act” to “observe”. This suggests to me that the intention is for the watcher’s role to be further circumscribed. Note also the widespread shift in these rules towards a special authority of one election judge- the supervisor judge. This will introduce some partisan bias into some situations that should be handled in an entirely non-partisan way. I caution against giving one partisan citizen a special authority except for very limited practical functions.]

8.2.1 8.1.1 If a watcher leaves a ~~precinct and the same watcher~~ VOTER SERVICE AND POLLING CENTER BUT returns later in the day to the same ~~precinct~~ LOCATION, 31 another certificate of appointment is not necessary. ~~and shall not be required. The 32 original certificate of appointment will suffice.~~

33 ~~8.2.2~~ 8.1.2 If a watcher is replaced during the day, the watcher replacing the original 34 watcher must have an original certificate of appointment for that precinct. A NEW

1 WATCHER WHO IS REPLACING AN ORIGINAL WATCHER MUST PROVIDE AN ORIGINAL 2 CERTIFICATE OF APPOINTMENT ~~[delete~~ FOR THAT VOTER SERVICE AND POLLING CENTER.]

[The requirement that watchers be certified to particular VSPCs is an obstacle to effective watching- and leads to ridiculous extra forms in cases where DEOs require them. I suggest that certificates for watchers not require specification of the location where the watcher will act.]

3 ~~8.2.3~~ 8.1.3 ~~Certificate~~ A CERTIFICATE of appointment as a watcher is not transferable 4 to another individual.

~~8.3~~ 8.2 A political party ~~attorneys are not allowed~~ ATTORNEY MAY NOT BE in the ~~polling place~~ 6 VOTER SERVICE AND POLLING CENTER unless ~~they are~~ HE OR SHE IS A duly appointed as 7 ~~watchers~~ WATCHER.

8 ~~8.4~~ 8.3 ~~Watchers are not allowed to have cell phones, cameras, recording devices, laptops or~~ 9 PDAs- (Palm Pilot, Blackberry, etc.) in the ~~polling place~~. A WATCHER MAY NOT HAVE A CELL PHONE, CAMERA, RECORDING DEVICE, COMPUTER, TABLET, OR OTHER PERSONAL 11 ELECTRONIC EQUIPMENT IN THE VOTER SERVICE AND POLLING CENTER. **[AN ELECTION OFFICIAL SHALL PROVIDE FOR SAFE ACCESSIBLE STORAGE OF THESE ITEMS DURING ANY PROCESS OF THE CONDUCT OF ELECTIONS.]**

[the lack of ability to communicate is a huge obstacle for watcher functionality. In order to make watching even slightly functional the VSPC should be required to provide a set of lockers for watchers and election judges to keep their cell phones outside the polling place so they may have a opportunity to communicate.]

12 ~~8.5~~ 8.4 List of Eligible Electors. To assist ~~Watchers in performing their tasks, the election~~ 13 official or election judge shall THE SUPERVISOR JUDGE MUST provide TO EACH WATCHER a 14 list, log, check-in card, or other similar information of voters ~~who have appeared in the precinct polling place~~ APPEARING IN THE VOTER SERVICE AND POLLING CENTER to vote. 16 The WATCHER MAY NOT REMOVE THE information or documents ~~shall not be removed~~ 17 ~~from the polling place or voting location~~ FROM THE VOTER SERVICE AND POLLING CENTER. 18 ~~Watchers~~ A WATCHER may maintain a list of ~~[delete~~ eligible] electors who have voted by ~~utilizing~~ 19 USING only that information provided by **ELECTION JUDGES AND INFORMATION BROUGHT WITH THEM ON PAPER.** the election official or election 20 SUPERVISOR judge ~~except that they may bring with them into the polling place or location~~ ~~[delete~~ OR a list of 21 electors previously maintained by the watcher]. [Section 1-7-108(3), C.R.S.]

[the limitation of source of information to the “supervisor judge” is another obstacle to watching and it may introduce a partisan bias into the polling location that is presumably a citizen run, bipartisan authority of “judges” who interpret the law.]

22 *[Current Rule 8.1 is moved to Rule 1. Current Rules 8.2, 8.3, 8.4, and 8.5 are amended 23 and moved to new Rules 8.1, 8.2, 8.3, and 8.4. Amendments are shown above.]*

24 ~~8.6~~ 8.5 Watchers are subject to the provisions of section 1-5-503, C.R.S.

~~8.6.2~~ 8.5.1 The designated election official must position the voting equipment, 26 voting booths, and the ballot box so that they are in plain view of the election 27 officials and watchers.

28 8.6.3 8.5.2 ~~Watchers are permitted to~~ A WATCHER MAY witness and verify the conduct 29 of elections ~~[delete and recount activities]~~. Witness and verify means to personally observe **THE VOTING SYSTEM AND ALL actions of election [delete judges] OFFICIALS, OBSERVERS, OTHER WATCHERS AND ALL OTHER PARTIES OTHER THAN VOTERS IN THE PROCESS OF VOTING** in each step of the conduct of an election **FROM PRIOR TO OPENING OF THE POLLS THROUGH THE COMPLETION OF THE COUNT AND THE ANNOUNCEMENT OF THE RESULTS. WATCHERS MAY CHALLENGE INELIGIBLE ELECTORS AND ASSIST IN THE CORRECTION OF DISCREPANCIES.**

[citation here--CRS 1-7-108. Requirements of **watchers**

3) Each **watcher** shall have the right to maintain a list of eligible electors who have voted, to *witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, to challenge ineligible electors, and to assist in the correction of discrepancies.*]

[statute requires watcher access to verify each step of the conduct of an election... the use of the phrase “elections and recount activities” suggests that perhaps audit, canvass, ballot printing, signature checking, results reporting, etc. are not part of the “conduct of an election”. This is incorrect. This rule should clearly state that all processes of the conduct of an election are open for watching as statute intends. Watchers are not limited to “observing” election judges... watchers may observe and act to verify each step including those that are conducted by election officials and their designees.

31 (a) The conduct of ~~election~~-ELECTIONS includes **BUT IS NOT LIMITED TO** ~~polling place and early voting~~
32 ALL ACTIVITIES IN A VOTER SERVICE AND POLLING CENTER and ballot 33 processing and counting

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

(c) Watchers may be present at each stage of the conduct of the election, 36 including the **DESIGN AND PRINTING OF BALLOTS, DELIVERY OF BALLOT PACKETS, AND** receiving and bundling of the ballots received by the 37 designated election official.

1 (d) Watchers may be present during provisional ballot processing, SIGNATURE 2 VERIFICATION, AND UOCAVA
BALLOT PROCESSING, but may not have 3 access to confidential voter information.

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

6 ~~8.6.4~~ 8.5.3 ~~Watchers~~ A WATCHER may witness and verify activities described in 7 ~~Article I-~~
ARTICLE 1, Section 7, that are outside the immediate voting area, 8 including ballot processing and
counting. IF ELECTION OFFICIALS OR ELECTION 9 JUDGES ARE CONDUCTING ELECTIONS ACTIVITIES
IN SEPARATE ROOMS OR AREAS OF A BUILDING OR BUILDINGS, THE COUNTY CLERK AND RECORDER
MUST ALLOW 11 WATCHERS TO OBSERVE ACTIVITIES IN EACH ROOM OR AREA IN THE BUILDING OR
12 BUILDINGS.

13 ~~8.6.5~~ 8.5.4 Watchers appointed under ~~section 1-10.5-101(1)(a), C.R.S.,~~ THIS RULE 8 14 may observe the canvass
board while it performs its duties.

~~8.6.6~~ 8.5.5 ~~Watchers~~ A WATCHER may track the names of electors who have cast 16 ballots,
challenge electors under section 1-9-203, C.R.S., and Rule 48, and submit 17 written complaints in
accordance with section 1-1.5-105, C.R.S., and Rule 31.8.7. 18 ~~What Watchers May Observe. Duly-~~
~~appointed Watchers~~ A WATCHER may observe 19 ~~polling place voting, early voting~~ ALL ACTIVITIES IN A
VOTER SERVICE AND POLLING CENTER and the processing and counting of ~~precinct, provisional, mail, 21 and~~
~~mail-in~~ ballots. For mail ballot elections, or mail-in ballot processing, 22 ~~watchers~~ A WATCHER may be
present at each stage of the election including the 23 receiving and bundling of the ballots. ~~received by the~~
~~designated election official.~~ 24 ~~Watchers~~ A WATCHER may be present during provisional ballot processing
but may not have access to confidential voter information.

[this section contains duplication of much of what is in the previous paragraphs]

26 *[Current Rule 8.6.1 is amended and moved to new Rule 1. Current Rule 8.6 is amended 27 and moved to new
Rule 8.5. Amendments are shown above.]*

28 ~~8.7~~ 8.6 ~~Watcher oath.~~ In addition to the oath required by section 1-7-108(1), C.R.S., a watcher 29 must affirm
that he or she will not:

~~8.7.1~~ 8.6.1 Attempt to determine how any elector voted or review confidential voter 31 information;

32 ~~8.7.2~~ 8.6.2 Disclose any confidential voter information that he or she may observe; or

33 ~~8.7.3~~ 8.6.3 Disclose any results before the polls are closed and the designated election 34 official has formally
announced results.

**["formally announced results" is a vague term. This is not helpful. "Announced any
unofficial results" would be practical. After 7PM on the first deadline day for return
of ballots is a time period easier to deal with. I am not sure "polls are closed" is still
a defined point in time- best to make sure of this.]**

~~8.8~~ 8.7 ~~Limitations of Watchers.~~ Watchers A WATCHER may not:

36 ~~8.8.1~~ 8.7.1 Interrupt or disrupt the processing, verification and counting of any ballots 37 or any other stage of

the election.

1 ~~8.8.2~~ 8.7.2 **[delete** Write down any ballot numbers or any other identifying information about 2 the electors. **]**

[This rule is problematic- the only numbers on ballots that could identify a voter would be stub numbers and these are expected to be identifiable. Other identifying information would include the name of the elector and that is one item that a watcher is certainly expected to write down and carry out of the polling location. This rule is not appropriate. Watchers should be able to report on violations of privacy if they occur, even if they are not allowed to violate privacy themselves.]

3 ~~8.8.3~~ 8.7.3 Handle the ~~poll books~~-POLLBOOKS, official signature cards, ballots, mail 4 ballot envelopes, ~~mail-in ballot envelopes~~, provisional ballot envelopes, voting or counting machines, or machine components.

6 ~~8.8.4~~ 8.7.4 Interfere with the orderly conduct of any election process, including 7 issuance of ballots, receiving of ballots, and voting or counting of ballots.

8.8.5 8.7.5 Interact with election officials or election judges as defined in section 1-19 104(10) AND (47), C.R.S., except for the individual **S** designated by the election official

[why only one individual? Better though than requiring that it be the “supervisor judge” In order to assist in the correction of discrepancies according to statute watchers will require better access to communicate than this rule permits. “the election official” is vague- is that the “designated election official” or an election official?]

~~11 8.9.1~~ 8.8 A major ~~and~~ OR minor political parties PARTY with candidates A 12 CANDIDATE on the ballot, OR A REGISTERED ISSUE COMMITTEE SUPPORTING OR OPPOSING A 13 BALLOT MEASURE OR QUESTION ON THE BALLOT may appoint one ~~Watcher each to be~~ 14 present OR MORE WATCHERS to observe ~~polling place voting, early voting, and the processing and counting of regular, provisional, mail and mail-in ballots~~ ELECTION 16 ACTIVITIES. See [sections 1-7-105 and 1-7-106, C.R.S, AND RULE 8.6.4.]

17 [Current Rule 8.9.1 is amended and moved to rule 8.8. Amendments are shown above.]

~~18 8.10~~ 8.9 Official Observers Appointed by the Federal Government. THE 19 SECRETARY OF STATE MUST APPROVE Official Observers appointed by the federal government. shall be approved by the Secretary of State and shall be OFFICIAL 21 OBSERVERS ARE subject to Colorado law and these rules as they apply to Watchers. ~~22 however, they need not~~ BUT AN OFFICIAL OBSERVER IS NOT REQUIRED TO be AN eligible 23 ELECTOR electors in the jurisdiction in which they act as Watchers. This Rule ~~shall~~ DOES 24 not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State ~~shall be~~ ARE subject to the rules 26 and regulations as prescribed by the Secretary of State. Official Observers ~~shall~~ MUST 27 obtain A LETTER OF AUTHORITY from the Secretary of State, ~~or his or her designee, duly~~ 28 executed letters of authority. The Official Observers ~~shall~~ MUST surrender such THE letter 29 of authority to the COUNTY CLERK AND RECORDER ~~designated election official in the jurisdiction in which they act as Watchers.~~

31 [Current Rule 8.10 is amended and moved to rule 8.9. Amendments are shown above.]

~~32 8.11~~ 8.10 Watchers, Official Observers and Media Observers at a Recount. 33 Watchers, Official Observers, and Media Observers may be present ~~at~~ DURING a recount. 34 Watchers, Official Observers, and Media Observers must be qualified and sworn IN for a recount ~~in the same manner as provided~~ AS DESCRIBED in Rule 8.2 and are subject to all 36 other provisions related to the recount process. Any political party OR candidate involved 37 in the recount or proponents or opponents of an issue or question involved in the recount 38 may appoint one ~~Watcher~~ OR MORE WATCHERS to be present at any time during the 39 recount. ~~The~~ A candidate who is subject to a recount may appoint ~~him or her self~~ HIMSELF OR HERSELF, or a member of the candidate’s family by blood, or marriage, OR CIVIL

1 UNION, as a watcher at a recount. See sections [SECTIONS 1-7-105 and 1-7-106, C.R.S, 2 AND RULE 8.6.4.]

~~3 8.12 8.11 Media Observers. Media Observers with valid and current media 4 credentials may be present to witness early voting, election day voting and the processing and counting of provisional, mail and mail in ballots ALL ELECTION ACTIVITIES. However, 6 at the discretion of the county clerk and recorder, Media Observers may be required A 7 COUNTY CLERK AND RECORDER MAY, IN HIS OR HER DISCRETION, REQUIRE A MEDIA 8 OBSERVER to appoint one member of the media as a pool reporter and one member as a 9 pool photographer to represent all media observers. ALL MEDIA OBSERVERS ARE SUBJECT TO in accordance with the Guidelines established by the Colorado Press Association in 11 conjunction with the Colorado County Clerks' Association and the Secretary of State as 12 set forth herein OUTLINED BELOW:~~

13 *Guidelines for Member of the Media Who Observe Election Counts and Recounts 14 (to be distributed to members of the Colorado Press Association):*

The Colorado State Association of County Clerks and Recorders, Colorado 16 Broadcasters' Association and Colorado Press Association have collaborated to 17 develop the following guidelines and protocols for use when members of the 18 media observe the counting or recounting of ballots. You are strongly 19 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 21 compromise the integrity of the election process.

22 1. If practical, please contact the election official's office prior to coming to 23 observe the counting of ballots. If the election official knows you are 24 coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.

26 2. At the discretion of the election official, a specific viewing area for 27 members of the media and other observers may be available. To the 28 extent practicable, the area will have been designated with sight lines to 29 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 31 need, the election official may be able to make arrangements to 32 accommodate your needs.

33 3. Please observe counting procedures without disrupting the count. Please 34 take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers 36 who ask you not to include their images in your pictures or video. We 37 encourage you to honor those requests if you can reasonably do so.

38 4. The Secretary of State's election rules state that if observers leave the 39 area during a recount, they may not reenter without the consent of the 1 election official. If you have occasion to leave the area, you may be 2 denied re-admittance.

3 5. Please do not use the information you see when observing vote counts to 4 report on partial election results. Please do not report anything that 5 could be used to identify the person who casts a particular ballot.

6 The Colorado State Association of County Clerks and Recorders, 7 Colorado Broadcasters' Association and Colorado Press Association are 8 all committed to working together to ensure the media has access to 9 election counts and recounts, but that access is afforded in manners that 10 do not disrupt the counts and do nothing to compromise the integrity of 11 the process. Your cooperation in following these standards will help us to 12 meet all these goals.

13 [*Current Rules 8.11 and 8.12 are amended and moved to new Rules 8.10 and 8.11. 14 Amendments are shown above.*]

15 ~~8.13 8.12 Watchers at Vote Centers.~~ To assist Watchers in performing their tasks when a 16 ~~vote center election is held~~ AT A VOTER SERVICE AND POLLING CENTER, the ~~designated~~ 17 ~~election official shall~~ COUNTY CLERK MUST provide a list of all voters who have VOTED IN 18 THE LOCATION ~~appeared in the vote centers to vote. This list shall be made~~ THE COUNTY 19 CLERK MUST MAKE THE LIST available at the ~~designated election official's~~ main office. 20 THE CLERK MAY MAKE THE ~~Such list may be made~~ available to a requesting Watcher(s) in 21 the form of data files, paper, or reports, and furnished to all interested parties via email, 22 paper reports, or faxed copies as ~~may be available to the designated election official.~~

[this amount of uncertainty as to the medium with which the voter list will be provided is an obstacle to effective watching. Since the list is coming from SCORE it is surely possible to specify the minimum formats that will be available including email.]

23 ~~8.14 8.13~~ A designated election official shall THE COUNTY CLERK MUST certify the 24 appointment of all eligible watchers duly designated by a political party, candidate or 25 committee ~~pursuant to~~ UNDER sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.

26 ~~8.15~~ 8.14 Removal of Watchers.

27 ~~8.15.1~~ 8.14.1 A ~~designated election official~~ COUNTY CLERK may remove a watcher upon 28 finding that the watcher:

29 (a) Commits or encourages fraud in connection with his or her duties;

30 (b) Violates any of the limitations outlined in Rule 8.8;

31 (c) Violates his or her oath; or

32 (d) Is abusive or threatening toward election officials or voters.

33 ~~8.15.2~~ 8.14.2 Upon removal of a watcher, the ~~designated election official~~ COUNTY 34 CLERK must inform the political party, candidate, or committee who appointed the 35 watcher.

1 ~~8.15.3~~ 8.14.3 A removed watcher may be replaced by an alternate watcher duly 2 designated in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S. Any 3 ~~designated election official~~ COUNTY CLERK who removes a watcher must, to the 4 best of the official's-CLERK'S ability, expeditiously certify the appointment.

5 ~~8.16~~ 8.15 Watchers may be designated to observe more than one ~~precinct or polling place~~ 6 VOTER SERVICE AND POLLING CENTER. ~~but in no event shall more than one watcher be~~ 7 ~~designated for any single polling place.~~ See section 1-7-106, C.R.S.

8 8.17 Watchers may be appointed to observe recall elections held ~~pursuant to~~ UNDER article 12, 9 title I, C.R.S., and ~~shall~~ MUST be designated in accordance with sections 1-7-106 and 1-7-107, C.R.S.

11 *[Current Rules 8.13, 8.14, 8.15, 8.16 and 8.17 are amended and moved to new Rules 8.10 12 and 8.11. Amendments are shown above.]*

13 Rule 9. VOTING CHALLENGES

14 ~~48.19.1~~ UNDER SECTION 1-9-201, C.R.S., AN ELECTION JUDGE, POLL WATCHER, OR ELIGIBLE 15 ELECTOR OF THE PRECINCT MAY CHALLENGE AN ELECTOR'S RIGHT TO VOTE. ~~Pursuant to~~ 16 ~~section 1-9-203 (7), C.R.S., a~~ A person WHOSE ELIGIBILITY IS CHALLENGED ~~on the grounds~~ 17 ~~of residency shall~~ MUST be offered a regular ballot by ~~the~~ AN election judge ~~when~~ IF the 18 person ~~challenged~~ satisfactorily answers the APPLICABLE challenge questions specified in 19 section 1-9-203(3)(a)-(e), C.R.S. The following demonstrate ~~when a person challenged~~ 20 satisfactory ~~answered~~ ANSWERS TO THE CHALLENGE QUESTIONS. ~~the challenge questions~~ 21 ~~and action to be taken by the election judge based on the elector's response:~~ IF THE 22 PERSON CHALLENGED PROVIDES UNSATISFACTORY ANSWERS OR REFUSES TO ANSWER THE 23 CHALLENGE QUESTIONS, AN ELECTION JUDGE MUST OFFER THE PERSON A PROVISIONAL 24 BALLOT.

25 9.2 CITIZENSHIP

26 A. ARE YOU A CITIZEN OF THE UNITED STATES?

27 SATISFACTORY ANSWER: YES.

28 *IF THE PERSON CHALLENGED ANSWERS YES, AN ELECTION JUDGE MUST OFFER 29 THE PERSON A REGULAR BALLOT.*

30 UNSATISFACTORY ANSWER: NO.

31 *IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION JUDGE MUST OFFER 32 THE PERSON A PROVISIONAL BALLOT.*

33 9.3 RESIDENCY

34 A. Have you resided in ~~this state and precinct~~ COLORADO for the PAST ~~thirty~~ 22 days 35 ~~immediately preceding this election?~~

[Is this form intended only for use on the final day that VSPCs are open for voting? If not, the language including more of it below is not correct.]

1 Satisfactory ~~response~~-ANSWER: Yes, he/she has resided in ~~this state~~-COLORADO 2 ~~and precinct~~ for the entire ~~thirty~~-22-day period immediately preceding this 3 election. (In other words, his/her primary home or place of abode was in ~~this state~~-4 COLORADO ~~and precinct~~ during the entire ~~thirty~~-22-day period in accordance with sections 1-1-104(43) and 1-2-102, C.R.S.)-

6 *IF THE PERSON CHALLENGED ANSWERS YES, ~~Proceed~~-CONTINUE to challenge 7 question B.*

8 Unsatisfactory ~~response~~-ANSWER: No, for some portion of the ~~thirty~~-22-day period 9 immediately preceding this election, he/she has not resided in ~~this state~~-COLORADO ~~and precinct~~.

11 *IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION JUDGE MUST 12 CONTINUE TO CHALLENGE QUESTION B ~~Offer the elector a provisional ballot.~~*

13 B. IF YOU ~~Have~~-HAVE you been absent from ~~this state~~-COLORADO during the PAST ~~thirty~~-14 22 days ~~immediately preceding this election~~, DID YOU ~~and during that time have you~~-
maintained-maintain a home or domicile elsewhere?

16 Satisfactory ~~response #1~~-ANSWER: No, he/she EITHER has not been absent from 17 ~~this state at any time~~ COLORADO during the ~~thirty~~-22-day period immediately 18 preceding this election.-OR HAS BEEN ABSENT BUT HAS NOT MAINTAINED A HOME 19 OR DOMICILE ELSEWHERE.

IF THE PERSON CHALLENGED ANSWERS NO, ~~Offer~~-THE ELECTION JUDGE MUST 21 OFFER the elector-~~PERSON~~ a regular ballot.

22 Satisfactory ~~response #2~~: Yes, he/she has been absent from ~~this state~~ during the-23 ~~thirty day period immediately preceding this election~~, but has not maintained a-24 home or domicile elsewhere.-

~~Offer the elector a regular ballot.-~~

26 UNSATISFACTORY ~~Response requiring follow up questions~~ ANSWER: Yes, he/she 27 has been absent from ~~this state~~-COLORADO during the ~~thirty~~-22-day period 28 immediately preceding this election, and has maintained a home or domicile 29 elsewhere.

IF THE PERSON CHALLENGED ANSWERS YES, THE ELECTION JUDGE MUST 31 ~~Proceed~~ CONTINUE to challenge question C.

32 C. HAVE YOU BEEN ABSENT ~~If so, when you left, was it~~ for a temporary purpose with the 33 intent of returning, or did you intend to remain ~~away~~-OUTSIDE COLORADO?

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

1 IF THE PERSON CHALLENGED ANSWERS YES, THE ELECTION JUDGE MUST ~~2 Proceed~~ CONTINUE to challenge question D.

3 Unsatisfactory ~~response~~ ANSWER: No, when he/she left, he/she did not intend to 4 return.

IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION JUDGE MUST ~~Offer~~ 6 OFFER the ~~elector~~ person a provisional ballot.

7 D. ~~Did you, while~~ While YOU WERE absent, DID YOU ~~look upon and regard~~ CONSIDER ~~this~~ 8 state as COLORADO TO BE your home?

9 Satisfactory response ANSWER: Yes, while absent, he/she ~~looked upon and regarded~~ CONSIDERED ~~this state as~~ COLORADO TO BE his/her home.

11 IF THE PERSON CHALLENGED ANSWERED YES, ~~Proceed~~ CONTINUE to challenge 12 question E.

13 Unsatisfactory ~~response~~ ANSWER: No, while absent, he/she did not LOOK UPON 14 AND REGARD CONSIDER ~~this state as~~ COLORADO TO BE his/her home.

IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION JUDGE MUST ~~Offer~~ 16 OFFER the ~~elector~~ PERSON a provisional ballot.

17 E. ~~Did you, w~~ While YOU WERE absent, DID YOU vote in any other state or ~~any~~ territory of 18 the United States?

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

21 THE ELECTION JUDGE MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a regular 22 ballot.

23 Unsatisfactory ~~response~~ ANSWER: Yes, while absent, he/she ~~did vote~~ VOTED in 24 another state or territory of the United States.

THE ELECTION JUDGE MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a provisional 26 ballot.

27 9.4 AGE 28 A. WILL YOU BE 18 YEARS OF AGE OR OLDER ON ELECTION DAY? 29 SATISFACTORY ANSWER: YES.

IF THE PERSON CHALLENGED ANSWERS YES, AN ELECTION JUDGE MUST OFFER 31 THE PERSON A REGULAR BALLOT.

32 UNSATISFACTORY ANSWER: NO.

1 IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION JUDGE MUST OFFER 2 THE PERSON A PROVISIONAL
BALLOT.

3 48.2 If the person challenged answers unsatisfactorily or refuses to answer the challenge 4 questions, the elector shall
be offered a provisional ballot.—

[Current Rule 48 is amended and moved to Rule 9. Amendments are shown below.]

6 **Rule 10. CANVASSING AND RECOUNT**

7 ~~41.1~~ Definitions—

8 ~~41.1.1~~ “Canvass board” means a committee composed of the county clerk and recorder 9 and the registered-
electors appointed by the major parties in accordance with section 1-10-101, C.R.S.—

11 ~~41.1.2~~ “Canvass workers” means workers appointed or hired by the designated election-12 official to assist in the
preparation and conduct of the canvass.—

13 ~~41.1.3~~ “Statement of Ballots Form” means the form used at the polling location that 14 accounts for all ballots at
that location and includes all information required by—
this rule.—

16 [Current Rule 41.1 is moved to new Rule 1]

17 ~~41.2-10.1~~ Appointment to the Canvass Board

18 ~~41.2.1-10.1.1~~ In all cases, the canvass board must consist of an odd number of members, 19 and each member has
equal voting rights.

~~41.2.2-10.1.2~~ For a partisan election, each major party may have no more than two 21 representatives
on the canvass board. The board must include an equal number 22 of representatives from each major party, unless a
major party fails to certify 23 representatives for appointment.

24 ~~41.2.3-10.1.3~~ 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 26 party he or
she represents.

27 ~~41.2.4-10.1.4~~ A candidate for office and members of the candidate’s immediate family 28 may not serve on the
canvass board.

29 ~~41.3-10.2~~ Duties of the Canvass Board

~~41.3.1-10.2.1~~ The canvass board must make its determinations by majority vote in 31 accordance with
section 1-10-101.5(3), C.R.S.

32 ~~41.3.2-10.2.2~~ The canvass board’s duties are:

1 (a) Conduct the canvass in accordance with section 1-10.5-101, C.R.S., 2 including:

3 (i) Account and balance the election and certify the official abstract of 4 votes;

(i). Reconcile the number of ballots counted to the number of ballots cast; 6 and

7 (iii) Reconcile the number of ballots cast to the number of voters who voted 8 by reviewing the reconciled detailed ballot logs and Statement of 9 Ballots;

(b) Observe the post-election audit in accordance with section 1-7-514(4), 11 C.R.S., and Election Rule 11.5.4;

12 (c) In coordination with the county clerk and recorder, investigate and report 13 discrepancies found in the audit under section 1-7-514(2), C.R.S.; and

14 (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 **BUT IS NOT LIMITED TO** 16 selecting ballots for the random test, observing the recounting of ballots, and 17 certifying the results.

[this is a limiting interpretation of statute unless it means to be a partial description- but a more fair interpretation of statute would not be attempting to limit the function to these three minor items.]

18 41.3.3-10.2.3 If the board identifies a discrepancy in the Statement of Ballots, the Board 19 may review the particular ballots at issue to identify, correct, and account for the error.

[the canvass board should be able to access any ballot, particularly during a recount.]

21 41.3.4-10.2.4 The canvass board may not perform duties typically reserved for election 22 judges, including:

23 (a) Determining voter intent;

24 (b) evaluating voter eligibility; and

(c) Requesting new logs or reports that were not created to conduct the election.

[These three rules are intended to limit the canvass board function to a point where it may not be able to ascertain the accuracy of the election, and hence cannot certify the abstract of the vote. Who provides the authority for escalation of determinations of voter intent, voter eligibility and who may request logs that were not already created? This is a step to take the election authority away from the citizens and give it to the election official who benefits from the outcome of the election.]

26 41.4-10.3 Detailed Ballot Log

27 41.4.1-10.3.1 The designated election official must keep a detailed ballot log that 28 accounts for every ballot

issued and received beginning when ballots are 29 ordered and received. The election judges must reconcile the log at the

conclusion of each workday.

31 ~~41.4.2~~-10.3.2 The designated election official must keep and reconcile daily logs of 32 mail-in, mail, and early voting ballots.

33 ~~41.4.3~~-10.3.3 The designated election official must indicate in the detailed log the 1 number of paper ballots that are sent to each polling location for use on election 2 day.

3 ~~41.4.4~~-10.3.4 The designated election official must keep required logs in either 4 electronic or manual format.

~~41.5~~-10.4 Election Day Tracking Process

6 ~~41.5.1~~-10.4.1 The designated election official must supply each polling location with a 7 Statement of Ballots Form. Combined precincts may use one form. The form 8 must include a place for the judges to account for the following information:

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

(b) The number of ballots provided to the polling location; 11 (c) The

number of ballots cast; 12 (d) The number of unvoted ballots; 13 (e) The number of damaged

or spoiled ballots; and 14 (f) The number of voted provisional ballots.

~~41.5.2~~-10.4.2 The election judge must reconcile the total number of voted ballots with 16 the number of voters who voted.

17 ~~41.5.3~~-10.4.3 The election judge must verify that the total number of voted ballots, 18 spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same 19 as the number of total ballots supplied to the polling location.

~~41.5.4~~-10.4.4 The election judge must reconcile the number of people who signed the 21 pollbook to the total of the number of ballots cast.

22 ~~41.5.5~~-10.4.5 If there is a discrepancy in the numbers on the Statement of Ballots form, 23 the judge must explain the discrepancy in writing (for example, the voter signed 24 in but left the polling place without voting, etc.).

~~41.5.6~~-10.4.6 The judge must return the completed Statement of Ballots form to the 26 designated election official with the other precinct supplies and mail a duplicate 27 copy to the designated election official's office.

28 ~~41.6~~-10.5 Designated Election Official's Disposition of Forms

29 ~~41.6.1~~-10.5.1 The designated election official must review the Statement of Ballots form for completion and accuracy.

31 ~~41.6.2~~-10.5.2 If the designated election official or the canvass board discovers a problem 32 with the Statement of Ballots form that cannot be easily resolved, they may 1 contact the election judges for an explanation or correction.

2 ~~41.7-10.6~~ Procedures for the Day of the Canvass

3 ~~41.7.1-10.6.1~~ The designated election official must provide the following information to 4 the canvass board:

(a) The name of each candidate, office, and votes received;

[should include undervotes and overvotes]

6 (b) The number/letter of each ballot issue or question and votes received; 7

[should include undervotes and overvotes]

(b) The number of voters who voted early; 8 (d) The number of mail-in or mail ballots cast,

[old language here]

(c) including the number accepted 9 and rejected; and

(e) The number of provisional ballots counted.

11 ~~41.7.2-10.6.2~~ Any written documentation regarding official numbers is included as part 12 of the canvass.

13 ~~41.8-10.7~~ Official Abstract

14 ~~41.8.1-10.7.1~~ The designated election official must include the number of eligible voters on election day on the official abstract.

16 ~~41.8.2-10.7.2~~ The canvass board must use the official abstract in a format approved by 17 the Secretary of State.

18 ~~41.8.3-10.7.3~~ The official abstract must include, by precinct/ballot style or vote center, 19 where applicable:

[reports by vote center (old language) may violate the anonymity of some voter intent however reports by precinct would not]

(a) The statement of votes counted by race and ballot question or issue;

21 (b) The total active registered electors in the precinct and the total for the 22 jurisdiction holding the election;

23 (c) The total number of electors voting in each precinct and the total for the 24 jurisdiction holding the election;

(d) The number of voters who voted early; 26 (e) The number of emergency registrations;

27 (f) The number of mail-in or mail ballots counted and the number rejected; 28 (g) The number of provisional

ballots counted and the number rejected listed by 29 each rejection code; and

1 (h) The number of damaged and spoiled ballots.

2 ~~41.9-10.8~~ The Abstract is the Official Permanent Record.

3 ~~41.9.1-10.8.1~~ The designated election official must keep all official canvass reports and 4 forms as part of the official permanent election record.

~~41.9.2-10.8.2~~ Once the canvass board certifies the abstract it may not withdraw the 6 certification. In the event of a recount, the canvass board may only affirm or 7 amend the abstract.

8 ~~41.10-10.9~~ Appointment of Canvass Workers.

10.9.1 The designated election official may appoint canvass workers to help prepare and conduct the canvass. 11

~~41.11-10.10~~ Voter History. 12 ~~41.11.1-10.10.1~~ After the canvass, the designated election official must give credit 13

to each voter who votes by mail, at an early voting site, or at a polling location. 14 ~~41.11.2-10.10.2~~ 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: 16 (a) Each voter received credit for voting; and 17 (b) All pollbooks and signature cards are accounted for.

18 ~~41.11.3-10.10.3~~ All research concerning discrepancies must be explained and 19 documented.

~~41.12-10.11~~ Written Complaints.

21 10.11.1 The designated election official must provide the canvass board with any written 22 complaint submitted by a registered elector about a voting device.

[limiting complaints to a “voting device” is unreasonable, even if this is the language in statute]

23 ~~41.12.1-10.11.2~~ If the complaint is resolved, the designated election official must provide 24 the details of the resolution

~~41.12.2-10.11.3~~ If the complaint is pending resolution when the board meets to conduct 26 the canvass, the designated election official must provide a proposal for how the 27 issue will be resolved.

28 ~~41.13-10.12~~ 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.

1 41.14-10.13 Role of the Secretary of State. 2

3 10.13.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may 4 provide guidance and investigate imperfections as outlined below.

6 41.14.1-10.13.2 The county clerk and recorder or the canvass board may request 7 that the Secretary of State provide guidance and support to the canvass board in 8 the exercise of the board's duties. 9

41.14.2-10.13.3 If, in the course of assisting a canvass board, the Secretary of State 11 discovers an imperfection that the Secretary believes may affect the conduct of 12 other canvass boards, the Secretary may provide notice to other counties 13 regarding the nature of the imperfection. 14

41.14.4-10.13.4 Imperfect returns or failure to certify. 16 17 (a) If the canvass board fails to certify or certifies imperfect returns that have 18 no reasonable potential to change the outcome of any race or ballot 19 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, 21 C.R.S. 22 23 (b) If the canvass board fails to certify or certifies imperfect returns that have 24 a reasonable potential to change the outcome of any race or ballot measure, the Secretary of State will conduct an investigation to identify 26 the nature of, and advise the county clerk and recorder in correcting, the 27 inaccuracy.

[this rule suggests that the county clerk has sole responsibility for correcting the inaccuracy- yet the canvass board is the more appropriate authority.]

28 *[Current Rule 41 moved to new Rule 10 Amendments between the current and new rule 29 language are shown above.]*

14.3-10.14 RECOUNT GENERALLY.

31 10.14.1 The purpose of a recount is to RE-TABULATE THE BALLOTS. review the ballots to 32 ~~assure they were counted properly. Unless directed otherwise by the Secretary of~~ 33 ~~State, all procedures of election night shall be followed as closely as possible~~ 34 ~~during the recount, including an examination of the ballots.~~

10.14.2 FOR STATEWIDE OR FEDERAL RACES, BALLOT ISSUES OR BALLOT QUESTIONS, THE 36 COUNTY CLERK AND RECORDER MUST COORDINATE SCHEDULING THE RECOUNT 37 THROUGH THE SECRETARY OF STATE'S OFFICE SO THAT IT CAN ENSURE ADEQUATE 38 OBSERVER COVERAGE.

39 10.15 RECOUNT COST ESTIMATES AND REIMBURSEMENTS

10.15.1 A COUNTY MUST SUBMIT A REQUEST FOR REIMBURSEMENT FOR A MANDATORY 41 RECOUNT IN A STATEWIDE OR FEDERAL RACE USING THE SECRETARY OF STATE 1 APPROVED FORM. THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR MEALS 2 OR NORMAL OVERHEAD COSTS OR REGULAR EMPLOYEE COMPENSATION. THE 3 COUNTY MUST INCLUDE ITEMIZED COSTS FOR REASONABLE EXPENDITURES, 4 INCLUDING:

5 (A) MAILINGS AND NOTICES;

6 (B) ELECTION JUDGES, TEMPORARY STAFF, CANVASS BOARD PAY, AND 7 OVERTIME PAY; AND

8 (C) COPIES AND OTHER OFFICE EXPENSES RELATED TO THE RECOUNT.

9 10.15.2 REQUESTED RECOUNTS

10 (A) THE COUNTY CLERK MUST PROVIDE A COST ESTIMATE IN ACCORDANCE 11 WITH SECTION 1-10.5-106, C.R.S., UPON SUBMISSION OF A FORMAL 12 REQUEST FOR A RECOUNT.

13 (B) IN PREPARING A COST ESTIMATE FOR A REQUESTED RECOUNT, THE COUNTY 14 MUST USE THE SECRETARY OF STATE APPROVED FORM. THE ESTIMATE MUST 15 INCLUDE REASONABLE ITEMIZED COSTS FOR CONDUCTING THE RECOUNT. 16 THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR NORMAL OVERHEAD 17 COSTS.

18 (C) ANY OTHER COSTS AGREED TO BY THE REQUESTING PARTY.

19 (D) THE COUNTY CLERK MUST SUBMIT A COST ESTIMATE TO THE SECRETARY OF 20 STATE WHEN THE CLERK PROVIDES IT TO A REQUESTING PARTY.

21 10.16 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND RULE 10.2.2(D), THE CANVASS 22 BOARD'S ROLE IN CONDUCTING A RECOUNT INCLUDES SELECTING BALLOTS FOR THE TEST, 23 OBSERVING THE RECOUNTING OF BALLOTS, AND CERTIFYING THE RESULTS.

[statute says simply the canvass board conducts the recount. These three minor items above are not representative of the intent of the statute. The intent of the above rule appears to be to remove responsibility from the canvass board, and this is inappropriate. It would be more helpful to fill out more of the necessary role of conducting a recount.]

[citation 1-10.5-107. Canvass board to conduct recount

(1) Any county clerk and recorder or governing body required to conduct a recount shall arrange to have the recount made by the canvass board who officiated in certifying the official abstract of votes cast. If any member of the canvass board cannot participate in the recount, another person shall be appointed in the manner provided by law for appointment of the members of the original board. **]**

24 ~~14.4-10.17 General Provisions~~ WATCHERS AND OBSERVERS

25 ~~14.4-10.17.1~~ The Secretary of State may ~~have~~ APPOINT an official observer ~~at every~~ 26 ~~recount location~~ IN ANY RECOUNT.

27 ~~14.4.2~~ Any candidate who is subject to the recount may be present and observe the 28 recount at any recount location or designate one Watcher to observe the recount 29 at any recount location. Watchers must provide the election official with a 30 certificate signed by the candidate, except that an officer of the county party 31 may be accepted as a candidate's watcher without a certificate if no other person 32 is designated by the candidate for that location.

33 ~~14.4.3~~ 10.17.2 Each candidate, ~~his or her watcher,~~ OR THE CANDIDATE'S WATCHER, 34 ~~members of the media~~

OBSERVERS, and official observers as defined in Rule 8.1, 35 may be present in the room when a AND WITNESS THE recount is conducted IN 1 ACCORDANCE WITH RULE 8. During the recount the candidate, watcher, 2 members of the media, and official observers may not interfere with the recount-3 process.

4 ~~14.4.4~~ 10.17.3 The recount board, candidates, AND watchers, ~~members of the media, and official observers will~~ MUST take an oath.

6 10.17.4 COMPLAINTS. A WATCHER MAY SUBMIT A COMPLAINT IN WRITING TO THE 7 COUNTY CLERK. WRITTEN COMPLAINTS DURING A RECOUNT WILL BE ADDRESSED 8 IN ACCORDANCE WITH RULE 4

9 10.18 TESTING

10.18.1 THE CANVASS BOARD MUST REVIEW THE POST-ELECTION AUDIT BEFORE 11 SELECTING THE EQUIPMENT FOR TESTING UNDER SECTION 1-10.5-102, C.R.S. TO 12 THE EXTENT FEASIBLE, THE BOARD MUST SELECT EQUIPMENT FOR TESTING THAT 13 WAS NOT INCLUDED IN THE POST-ELECTION AUDIT.

14 10.18.2 THE COUNTY CLERK MUST TEST ALL SCANNERS THAT WILL BE USED IN THE RECOUNT. THE PURPOSE OF THE TEST IS TO ENSURE THAT THE TABULATION 16 MACHINES ARE COUNTING PROPERLY.

17 (A) THE TEST DECK MUST INCLUDE 50 BALLOTS OR 1% OF THE TOTAL NUMBER 18 OF BALLOTS CAST IN THE ELECTION, WHICHEVER IS GREATER, EXCEPT THAT 19 THE TOTAL NUMBER OF BALLOTS TESTED MAY NOT EXCEED THE TOTAL

NUMBER OF BALLOTS TESTED IN THE LOGIC AND ACCURACY TEST BEFORE 21 THE ELECTION. THE BALLOTS MUST BE MARKED TO TEST EVERY OPTION FOR 22 THE RACE OR MEASURE THAT WILL BE RECOUNTED

[In order for the recount to be significantly more accurate than the original count, especially without executing it as a hand count, these tests will have to be much more sensitive to error- 1% of ballots is insufficient, as is the number of ballots used in the original LAT. The number of ballots to be tested should not be capped but rather adjusted to the circumstances of the margin of the certified results. The reason is that we want the devices used for retabulation to be demonstratively as or more accurate than devices used for the original count but also accurate enough to accommodate a very close election margin. A 50 ballot test or even 1% is simply not a sufficient sample to gain confidence in equipment expected to determine an outcome with a narrow margin. Experts in election statistics should be consulted in setting these standards.]

23 (1) IN A MANDATORY RECOUNT, THE CANVASS BOARD MUST SELECT THE 24 BALLOTS TO BE TESTED FROM THE **[BALLOTS VOTED IN THE ELECTION. SELECTION SHOULD BE SURE TO INCLUDE POORLY MARKED OR OTHER EXCEPTIONAL BALLOTS]** ~~[delete~~ PRE-ELECTION PUBLIC LOGIC AND

ACCURACY TEST DECK.

26 (2) IN A REQUESTED RECOUNT, THE PERSON REQUESTING THE RECOUNT 27 MAY MARK UP TO 25 BALLOTS. ANY OTHER CANDIDATE IN THE RACE 28 MAY ALSO MARK UP TO 25 BALLOTS. THE CANVASS BOARD MUST 29 RANDOMLY SELECT BALLOTS FROM THE PRE-ELECTION PUBLIC LOGIC

AND ACCURACY TEST DECK TO ENSURE THE MINIMUM NUMBER OF 31 TEST BALLOTS REQUIRED BY THIS RULE.]

[the idea of marking new test ballots or selecting the old LAT ballots before a recount is absurd. Of course the test before recount uses the live election ballots- preferably ballots with a substantial representation of poorly marked ballots to make sure that the election will be accurately counted and that a hand count is not the only way to get an accurate election result. Far safer to ensure accuracy is to simply hand count the election for recount purposes.]

32 (B) SWORN JUDGES OR STAFF MUST HAND TALLY THE TEST BALLOTS FOR 33 COMPARISON TO THE TABULATION RESULTS.

[no reason why sworn judges or staff must hand count the ballots selected but in any case it is important that this hand count be accurate and totally independent of the machine count of the same ballots. It is important that the ballots selected represent the styles used in the contest and include the variations found among the election ballots.]

34 (C) THE TEST IS LIMITED TO THE RACE OR MEASURE THAT IS RECOUNTED.

10.18.3 THE COUNTY CLERK MUST TEST THE VVPAT RECORDS FROM 1% OF THE DRES 36 THAT HAD VOTES CAST FOR THE RACE OR MEASURE BEING RECOUNTED.

1 (A) SWORN JUDGES OR STAFF MUST MANUALLY VERIFY THE RESULTS ON THE 2 MACHINES SELECTED FOR THE TEST.

[it is unclear what this test entails- a comparison of VVPAT to the electronic stored cast vote record? If so it should say so here. Again 1% will be insufficient.]

3 (B) THE TEST IS LIMITED TO THE RACE OR MEASURE THAT IS RECOUNTED.

4 10.19 COUNTING OF BALLOTS

10.19.1 IN ACCORDANCE WITH SECTION 1-10.5-102(3)(B), C.R.S., IF THERE ARE NO 6 DISCREPANCIES IN THE TEST UNDER RULE 14.6, THE RECOUNT MUST BE 7 CONDUCTED IN THE SAME MANNER AS THE BALLOTS WERE COUNTED IN THE 8 ELECTION EXCEPT AS OUTLINED IN THIS RULE.

[If the test scope is large enough – sensitive enough to ensure accuracy sufficient to deal with a narrow victory margin- then it can make sense to conduct a machine recount, but preferably in a manner independent of anything in the original count that may have affected the results incorrectly. Colorado statute may require revision to bring sense to this provision.]

~~14.6.5~~ 10.19.2 A clear audit trail ~~shall~~ MUST be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot 11 boxes as defined in section 1-7-505, C.R.S., and the corresponding numbered 12 seal used as a replacement for the original seal, upon completion of the recount 13 of ballots within ~~that~~ FOR EACH transfer case or ballot box.

14 *[Current Rule 14.6.5 is amended and moved to new Rule 10.19.2. Amendments between the current and new rule language are shown above.]*

16 10.19.3 BALLOTS MUST BE REVIEWED FOR VOTER INTENT USING THE STANDARDS IN RULE 17 18.

18 (A) EVERY BALLOT WITH AN OVER-VOTE OR UNDER-VOTE IN THE RACE(S) OR 19 MEASURE(S) SUBJECT TO THE RECOUNT MUST BE REVIEWED FOR VOTER INTENT USING THE SAME GUIDELINES THAT WERE USED DURING THE 21 ELECTION.

[this makes no sense if the guidelines used during the election did not reflect true voter intent. A voter intent standard must apply here to achieve an accurate recount.]

22 (B) THE JUDGES CONDUCTING THE VOTER INTENT REVIEW MAY RESOLVE THE 23 INTENT DIFFERENTLY THAN THE JUDGES IN THE ELECTION.

[yes, thanks for this provision- the previous rule made no sense at all.]

24 10.19.4 TO RECOUNT BALLOTS ON OPTICAL SCANNERS:

(A) IF THE ORIGINAL COUNT METHOD WAS CENTRAL COUNT, THE COUNTY MUST 26 CREATE A NEW ELECTION DATABASE.

27 (B) IF THE ORIGINAL COUNT WAS BY PRECINCT COUNT, THE COUNTY MUST USE 28 ONE OR MORE BLANK PROM CARTRIDGES, ROM CARTRIDGES, OR MEMORY 29 CARDS.

[here is where the definition of central vs precinct count will become important- and it is not a particularly careful definition]

(C) ALL PRECINCT BALLOTS MAY BE TABULATED CENTRALLY REGARDLESS OF WHETHER PRECINCT OR CENTRAL TABULATION WAS USED ON ELECTION DAY.

[election day does not exist- ballots may be tabulated for 15 days prior to the first deadline for return of ballots.]

32 *[Portions of Current Rules 14.6.9 – 14.6.12 are moved to new Rules 10.19.3 and 33 10.19.4]*

34 10.19.5

~~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:~~ TO RECOUNT BALLOTS USING “BALLOT NOW”:

3 (A) BACK UP THE OFFICIAL ELECTION DATABASE.

4 (aB) Open Ballot Now with an unused ~~MBB (Mobile Ballot Box)~~ from the election and create a Ballot Now recount database.

6 (bC) Scan and resolve all recount ballots ~~following original election procedures~~ 7 ACCORDING TO THIS RULE 14.

8 (e) ~~Use the Audit Trail Report and Original Scan Batch Reports with notes to~~ 9 ensure that resolution action follows the original resolution.

(d) Save all recount CVRs (Cast Vote Records) to the MBBS (~~Mobile Ballot~~ 11 ~~Box~~) after verifying that the number of ballots processed matches the 12 number of ballots cast in the recount contest(s).

13 (e) Open a new recount election in “Tally” and process the recount MBBS 14 following the tabulation procedures above.

(f) Compare recount results to original results and document any differences.

16 (g) Backup the test database and the official recount database ~~following the~~ 17 “Archive” procedures.

18 [*Portions of current Rule 14.7.1 and 14.7.2 are moved to Rule 10.19.5. Current* 19 *Rule 14.7.3 is amended and moved to new Rules 10.19.5. Amendments are shown above.*]

21 10.19.6 TO RECOUNT BALLOTS BY HAND COUNT.

22 (A) IF THE TABULATION OF THE ORIGINAL COUNT WAS CONDUCTED BY HAND 23 COUNT, THE RECOUNT MUST BE CONDUCTED BY HAND COUNT.

24 ~~14.5.4~~ (B) Ballots ~~shall~~ MUST be counted ~~into groups~~ IN BATCHES of 25 to ensure that the number of ballots recounted matches the number originally 26 counted.

27 ~~14.5.5~~ (C) Votes ~~shall~~ MUST be counted by individual hash marks in 25-count 28 sections by two different judges.

29 [Current Rules 14.5.4 and 14.5.5 are amended and moved to new Rules *10.19.6(a) and (b). Amendments between the current and new rule language are* 31 *shown above.*]

32 10.19.7 FOR TABULATION OF DRES, IF THERE ARE NO DISCREPANCIES IN THE TEST UNDER 33 RULE 14.6, THE COUNTY CLERK MUST UPLOAD THE MEMORY CARDS.

1 10.19.8 TABULATION OF BALLOTS CAST BY ONE METHOD MUST BE COMPLETED THROUGH 2 A
PRECISE, CONTROLLED PROCESS THAT ENSURES EACH CONTAINER OF BALLOTS 3 IS RECOUNTED,
RESEALED, AND RETABULATED BEFORE TABULATION OF THE NEXT 4 METHOD BEGINS. EXCEPT
THAT, IF MAIL-IN BALLOTS WERE ORIGINALLY COUNTED WITH EARLY VOTING BALLOTS, THE
RECOUNT MUST BE CONDUCTED IN THE SAME 6 MANNER.

7 ~~14.6.6-10.19.9~~ The number of ballots counted by a METHOD AND precinct according to the 8 ~~election night report~~
~~shall~~ FINAL RESULTS FOR THAT RACE OR MEASURE MUST be 9 available during the recount for comparison
purposes.

*[Current Rule 14.6.6 moved to new Rule 10.19.9. Amendments between the 11 current
and new rule language are shown above.]*

12 10.20 CANVASS AND REPORTING RESULTS

13 ~~14.6.7-10.20.1~~ Totals of recounted ballots ~~shall be processed, counted, and~~ MUST BE 14 reported in summary
form as follows:

(a) Sum total of votes cast for each ~~candidate, ballot issue or ballot question~~ 16 ~~subject to~~
~~the recount~~ RACE OR MEASURE RECOUNTED, under-votes, and over 17 votes for all precincts;

18 (b) Sum total of votes cast for ~~each candidate, ballot issue or ballot question~~ 19 ~~subject to the recount~~ RACE OR
MEASURE RECOUNTED, under-votes and over-
votes for all mail-in ballots (~~a combined total, not totaled by individual~~ 21 ~~precincts or~~
~~location, unless your system allows~~);-

22 (c) Sum total of votes cast for ~~each candidate, ballot issue or ballot question~~ 23 ~~subject to the recount~~ RACE OR
MEASURE RECOUNTED, under-votes, and over 24 votes for all early voting locations (a combined total, not totaled by
~~individual precinct or locations, unless the voting system so allows~~);-

26 (d) ~~Determine the~~ THE grand total of ballots cast in early, mail-in, and precinct 27 voting.

28 (E) THE TOTALS MUST BE A COMBINED TOTAL, NOT TOTALED BY INDIVIDUAL 29 PRECINCTS OR LOCATION,
UNLESS THE TABULATION SYSTEM ALLOWS.

**[this is written poorly- we want precinct results (not location) in order to verify the
relative accuracy of the two election counts. Discrepancies in specific precincts can
be investigated. Reporting by location is likely to cause privacy problems as
reporting by method may also.]**

*[Current Rules 14.5.1 and 14.6.7 are amended and moved to new Rule 10.20.1. 31
Amendments are shown above.]*

32 10.20.2 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND THIS RULE 10, THE 33 CANVASS BOARD MUST
AMEND, IF NECESSARY, AND RE-SUBMIT THE ABSTRACT OF 34 VOTES CAST.

Rule 11. ~~Rules Concerning~~ Voting Systems

1 11.1 Voting system access.

2 ~~11.2.1 The county clerk and recorder shall not program or operate the voting system~~ 3 subject to section 1 5 607, C.R.S.

~~11.2.2-11.1.1 Any election setup materials shall be stored by~~ The county clerk and recorder MUST SECURELY STORE ELECTION SETUP RECORDS under security with 6 access limited to the person or persons so authorized in writing by ~~the county~~ 7 clerk and recorder. NO PERSON MAY ACCESS THE RECORDS WITHOUT THE CLERK'S 8 WRITTEN AUTHORIZATION.

[this is written too broadly and will have the effect of limiting oversight that would help find errors and omissions.]

[My 8/7/2013 comments end here for lack of time. Sorry but the rest of the document will have to wait. Harvie Branscomb]

~~11.2.3-11.1.2 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~~ 11 setup materials shall RECORDS MUST be deputized by the ~~county clerk and~~ 12 recorder for this specific purpose and so sworn prior to BEFORE the first election. 13 of the calendar year in which they will be performing one or more of these 14 activities.

~~11.2.4-11.1.3 The county clerk and recorder shall request an Internet Criminal History~~ 16 Check (ICHC) from the Colorado Bureau of Investigation (CBI) for all full time, 17 part time, permanent and contract employees of the county who staff the counting 18 center and OR who have any access to the electromechanical voting systems or 19 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 21 and recorder shall request the ICHC once per calendar year for such employees 22 prior to the first election of the year. IN ACCORDANCE WITH SECTION 24-72-305.6, 23 C.R.S., ALL PERMANENT AND TEMPORARY COUNTY STAFF AND ALL VENDOR STAFF 24 WHO HAVE ACCESS TO THE VOTING SYSTEM OR ANY VOTING OR COUNTING EQUIPMENT MUST PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN
RULE

26 6.4.

~~27 11.2.5 If the ICHC indicated that the employee or contract employee has been found~~ 28 guilty of a crime involving breach of trust, fraudulent, coercive, or dishonest 29 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~~ 31 MUST prohibit such employee or contact employee from preparing, programming, 32 operating, using or having any access whatsoever to electromechanical voting 33 systems or electronic vote tabulating equipment at any time during that person's 34 employment.

~~11.2.6 Vendors or their authorized representatives shall provide a criminal history~~ 36 check to the county clerk and recorder for any employee of the vendor who has any 37 access to electromechanical voting systems or electronic vote tabulating 38 equipment The vendor shall provide the criminal history check ICHC to the 39 county clerk and recorder once per calendar year for such employees prior to the first election of the year.

1 11.2 Performance Bond.

2 11.2.1 ~~Effective upon the date of the adoption of this rule,~~ A voting system provider or 3 service provider that ~~provides election setup or tabulation services to one or more~~ 4 counties shall ~~shall~~ MUST:

(a) ~~Provide the services by~~ ENTER INTO A written contract, AND FILE a copy of 6 ~~which shall be kept on file~~ with the county clerk and recorder and the 7 Secretary of State.

8 (b) Post a performance bond, executed by a corporate surety licensed to 9 transact business in the State of Colorado. The county under contractual obligation with the ~~voting system provider or~~ service provider that 11 ~~provides election setup or tabulation services shall~~ MUST be designated as 12 the NAMED beneficiary ~~of the bond; and~~. THE BOND AMOUNT MUST BE THE 13 GREATER OF \$10,000 OR THE FULL AMOUNT OF THE CONTRACT WITH THE 14 BENEFICIARY COUNTY AND THE BOND MUST BE ON FILE 30 DAYS BEFORE WORK STARTS.

16 (c) Provide proof ~~that a~~ OF THE performance bond ~~has been posted with~~ TO the 17 Secretary of State and the office of the designated election official 18 COUNTY CLERK AND RECORDER. ~~The amount of the bond shall be the~~ 19 greater of either \$10,000 or the full amount of the contract with the ~~beneficiary county.~~

21 ~~11.3.2 Performance bonds shall be on file 30 (thirty) days prior to any work commencing~~ 22 ~~under contract with the county.~~

23 11.2.3 The voting system provider ~~shall~~ MUST update all bond documents for each 24 contract or election. ~~performed.~~

~~11.3.4 Copies of the performance bond for the secretary of state's office shall be sent to: 26 Colorado Department of State, Voting Systems Specialist, 1700 Broadway, Suite 27 270, Denver, Colorado 80290, or to voting.systems@sos.state.co.us~~

28 11.3 Voting System Inventory.

designated election official ~~shall~~ MUST maintain an inventory record for each electronic vote-tabulating device used in an election. ~~Such records shall~~ THE 31 RECORD MUST include, but ~~not be~~ IS NOT limited to, the manufacturer, make, 32 model, serial number, hardware/firmware/software version or release number, 33 hash value documentation where applicable, date of acquisition, description of 34 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~~ THE 36 SERVICES WERE PERFORMED.

37 11.3.2 IF THE INVENTORY IS IN ELECTRONIC FORMAT, IT MUST BE EXPORTABLE TO A 38 COMMA SEPARATED (CSV), EXCEL SPREADSHEET (XLS OR XLSX), OR QUOTE OR 1 TAB QUOTE OR TAB SEPARATED (TXT) FILE BEFORE DELIVERY TO THE SECRETARY 2 OF STATE.

~~3 11.4.2-11.4.3 The designated election official shall MUST furnish FILE THE INVENTORY 4 WITH the Secretary of State with an extract or copy of the inventory NO LATER THAN 10 DAYS BEFORE THE ELECTION for use in the Logic and Accuracy Test and 6 the Post-Election Audit Test. The requirements for this extract are:-~~

~~7 (a) Be in either electronic or paper format;-~~

~~8 (b) Contain information regarding: make, model, serial number, type (optical-9 scanner or DRE), AND specific location of use, and specific precincts programmed on each device or card;-~~

~~11 (c) Inventories maintained in electronic format shall be exportable to an 12 industry standard file type — comma separated (CSV), excel spreadsheet-13 (XLS OR XLSX), or Quote or Tab separated (TXT) file prior to electronic-14 delivery to the Secretary of State; and-~~

~~(d) The designated election official shall send the inventory list to the 16 Secretary of State's office not less than ten (10) days prior to an election to-17 the attention of the Voting Systems Specialist. Inventory lists may be sent-18 BY MAIL, E-MAIL, OR FAX. in one of three means: E-mail: 19 voting.systems@sos.state.co.us Subject line = County Number, County Name, HARDWARE INVENTORY LIST; or Via facsimile to: 303-86921 4861 attn: Secretary of State, Voting Systems Specialist; or via First-22 Class-22 Mail to Colorado Department of State/Attn: Voting Systems 23 Specialist/1700 Broadway Suite-270/Denver, CO 80290.-~~

~~24 11.4 Voting System Testing.-~~

~~11.5.1 THE CLERK MUST PERFORM A HARDWARE DIAGNOSTIC TEST, A LOGIC AND 26 ACCURACY TEST, AND A POST-ELECTION AUDIT TEST. Three types of voting system-27 testing: shall be performed for each election within a jurisdiction. The three tests-28 are:-~~

~~29 • A Hardware Diagnostic Test;~~

~~• A Logic and Accuracy Test (LAT); and~~

~~31 • A Post-Election Audit Test.~~

~~32 11.5.2-11.4.1 Hardware Diagnostic Test~~

~~33 11.5.2.1(a) The county clerk and recorder shall commence MUST PERFORM the 34 Hardware Diagnostic Test prior to-BEFORE the election ON EACH~~

~~DEVICE THAT THE CLERK WILL USE IN THE ELECTION, INCLUDING 36 SPARE OR BACK UP DEVICES. THE TEST MUST INCLUDE THE~~

1 FOLLOWING DEVICES AND PROVIDE THE FOLLOWING INFORMATION: 2 ~~and allow time for each~~
~~electronic voting device within the county~~ 3 ~~to be tested. Each device being used in the election,~~
~~including units~~ 4 ~~identified as spare or backup units, shall be tested to verify that mechanical~~
components are working correctly. This test shall 6 ~~include, but not be limited to, the following tests:~~

7 ~~(a)~~-(1) All input and output devices;

8 ~~(b)~~-(2) Communications ports;

9 ~~(c)~~-(3) System printers;

~~(d)~~-(4) System modems when applicable; 11 ~~(e)~~-(5)

System screen displays; 12 ~~(f)~~-(6) Boot performance and initializations; 13 ~~(g)~~-(7) Firmware

loads; 14 ~~(h)~~-(8) Software loads;

~~(i)~~-(9) Display of firmware OR software hash value (MD5 or SHA16 1) when possible;

17 ~~(j)~~-(10) Confirmation that screen displays are functioning; and

18 ~~(k)~~-(11) Date, time and calibration of systems.

19 ~~11.5.2.2~~-(b) THE CLERK MUST SEAL each device ~~tested shall be sealed~~ upon the
successful completion of the test AND RETAIN documentation of the 21 seal
information and all records ~~from testing must be maintained~~ 22 ~~for each device~~ IN ACCORDANCE WITH SECTION
1-7-802, C.R.S.

23 ~~11.5.3~~ 11.4.2 Logic and Accuracy Test. ~~The designated election official shall conduct a~~ 24 ~~Logic and Accuracy~~
~~Test according to the following requirements.~~

~~11.5.3.1~~-(a) The designated election official ~~shall~~ MUST create a Testing Board 26 ~~consisting~~
of at least two persons ONE REGISTERED ELECTOR 27 AFFILIATED WITH THE MAJOR POLITICAL PARTIES, AS
DEFINED IN 28 SECTION 1-1-104(22), C.R.S., AND one REGISTERED ELECTOR from 29 each OTHER major political
party, IF APPOINTED. TESTING BOARD 30 MEMBERS MUST BE REGISTERED TO VOTE IN THE COUNTY.

31 ~~11.5.3.2~~-(b) ~~Prior to the commencement of voting,~~ The designated election 32 official ~~shall~~ MUST conduct the
public Logic and Accuracy Test 33 BEFORE VOTING.

1 ~~11.5.3.3~~(c) The DESIGNATED ELECTION OFFICIAL MUST ENSURE THAT THE Logic 2 and Accuracy Test ~~shall be~~ IS open to representatives of the press-3 and THE MEDIA AND the public to the extent allowable ~~and pursuant 4 to~~ IN ACCORDANCE WITH section 1-7-509(2)(b), C.R.S. The designated election official may limit the number of 6 representatives from each group ~~to accommodate for~~ BECAUSE OF 7 space limitations ~~and~~ OR other considerations.

8 ~~11.5.3.4~~(d) ~~Testing Board Test Ballots~~—In preparation for the Logic and-9 Accuracy Test, The designated election official ~~shall~~ MUST provide to each member of the Testing Board, at least ~~twenty five (25)~~-25 11 CLEARLY-MARKED TEST ballots that are clearly marked as test 12 ballots-TO EACH TESTING BOARD MEMBER ~~to be used for the Logic-13 and Accuracy Test.~~

14 ~~11.5.3.5~~(e) ~~The members of the~~ Testing Board MEMBERS ~~shall~~ MUST secretly vote their ~~position~~ BALLOTS IN ACCORDANCE WITH THE 16 INSTRUCTIONS PRINTED ON THE BALLOTS and retain a record of the 17 tally. ~~of their test votes.~~ The test ballots ~~shall~~ MUST have a known 18 predetermined outcome by the members of the Testing Board's 19 secret vote and tally. Of the ~~twenty five-25~~ test ballots, two ~~shall~~ MUST be tested as audio ballots where applicable.

21 ~~11.5.3.6~~(f) ~~County Test Ballots~~—In preparation for the Logic and Accuracy-22 Test, The designated election official ~~shall~~ MUST prepare a 23 sufficient number of test ballots that represent every precinct 24 ~~which shall~~ \include-AND every ballot style, allow for a sufficient number of ballots to mark every vote position for every candidate 26 on every race including write-in candidates, allow for situations 27 where a race may permit an elector to vote for two or more 28 positions WHERE APPLICABLE, and include overvotes and 29 undervotes for each race.

~~11.5.3.7~~(g) The ~~test ballots shall~~ TESTING BOARD MUST ~~be tested~~ TEST THE 31 BALLOTS on each type of voting device ~~utilized~~ USED in a ~~given~~-32 THE election and each ~~method of counting~~ TYPE OF BALLOT 33 INCLUDING ~~The tests shall include testing of mail in ballot counting-34 methods, election day counting methods MAIL, REGULAR, provisional, ballot, counting methods, early voting counting-36 methods~~ and audio ballots, if applicable.

37 ~~11.5.3.8~~(h) Conducting the Test.

38 ~~11.5.3.8.1~~(1) The designated election official and Testing Board ~~shall~~-39 MUST observe the tabulation of all test ballots ~~by means of~~ the voting device- and compare the tabulation with the 41 previously retained records of the test vote count ~~The cause-1 of~~ AND MUST CORRECT any discrepancies ~~shall be corrected-2 prior to the start of~~ BEFORE vote tabulation.

~~3 11.5.3.8.2 (2) Prior to the start of testing, THE DESIGNATED ELECTION 4 OFFICIAL MUST all devices-
used will have the public counter- reset THE PUBLIC COUNTER to zero ON ALL DEVICES, and 6 PRESENT
ZERO TAPES presented to the Testing Board for 7 verification. For any device capable of producing OR
8 VERIFYING the trusted build hash value (MD5 or SHA-1) of 9 the firmware or software, the
DESIGNATED Election Official shall MUST verify and document the accuracy of the value 11 to be-
included with the records for the device.~~

~~12 11.5.3.8.3 (3) THE DESIGNATED ELECTION OFFICIAL MUST MAKE an 13 appropriate number of voting devices
will be available and the 14 Testing Board may witness the necessary programming and/or
downloading of memory devices necessary to FOR THE test. the-16 specific
precincts.-~~

~~17 11.5.3.8.4 (4) The Testing Board and designated election official or his or-18 her designated deputized clerks, as
necessary, shall MUST count 19 the test ballots as follows:~~

~~(a) Mail in Ballots:-~~

~~21 (1) All county test ballots shall be counted on at least-22 one, but not more than three, mail in ballot vote-23
counting devices and have the predetermined total-24 verified to the machine total.-~~

~~(2) All Testing Board Member test ballots shall be 26 counted
individually with reports generated to 27 verify the machine count to the predetermined hand-28 tally.~~

~~29 (b) Precinct Count Ballots (Optical Scan and DRE):-~~

~~10 (1) The Testing Board shall randomly select 20% but-31 not more than
ballots representing unique 32 precincts from the Testing Board's test ballots.-~~

~~33 (2) In the event a selected precinct contains a 34 combination of DRE and Optical Scan voting
devices, the Testing Board shall decide on the 36 percentage of
ballots to be counted on each type of 37 device used for that precinct.-~~

1 (3) The precinct specific county test ballots will be 2 ~~added to the testing board test ballots to be counted~~ 3 ~~on the specific precinct device. The testing board~~ 4 ~~shall manually verify the ballots to be counted prior~~ 5 ~~to any machine count.~~

6 (4) ~~The Testing Board shall verify the manual count to~~ 7 ~~the voting device count.~~

8 (e)-(A) ~~Vote Center Count Ballots—Optical Scan~~ SCANNERS:

9 (1)-(I) ~~All testing board~~ THE TESTING BOARD ~~test ballots~~ 10 ~~shall~~ MUST ~~be counted~~ COUNT TEST BALLOTS on at
11 least one, but not more than 5 FIVE voting devices, 12 WHICH MUST REPRESENT AT LEAST ONE DEVICE USED 13
AT A VOTER SERVICE AND POLLING CENTER, AND ONE 14 CENTRAL COUNT DEVICE. ~~designated for Vote Center~~ 15
Counting and have the predetermined total verified 16 ~~to the machine total.~~

17 (II) THE TESTING BOARD MUST RANDOMLY SELECT THE 18 MACHINES TO TEST.

19 (2)-(III) ~~All~~ THE TESTING BOARD MUST COUNT THE BOARD'S 20 AND THE COUNTY'S test ballots BALLOT
BATCHES 21 ~~shall be counted individually~~ SEPARATELY AND 22 GENERATE REPORTS ~~with reports generated~~ to verify
23 THAT the machine count IS IDENTICAL to the 24 predetermined tally. ~~of the test ballots.~~

25 (3) The testing board shall randomly select the 26 ~~machines to be tested.~~

27 (d)-(B) ~~Vote Center Count Ballots—DREs:~~

28 (1)-(I) ~~All testing board~~ THE TESTING BOARD MUST COUNT 29 THE test ballots ~~shall be counted~~ on at least one,
but 30 not more than 5 FIVE DREs. ~~designated for Vote~~ 31 ~~Center Counting and have the predetermined total~~ 32
~~verified to the machine total.~~

33 (II) THE TESTING BOARD MUST RANDOMLY SELECT THE 34 MACHINES TO TEST.

35 (III) THE TESTING BOARD MUST IDENTIFY AND TEST TWO 36 BALLOTS AS AUDIO BALLOTS.

~~1 (2)(iv) All THE TESTING BOARD MUST COUNT THE BOARD'S 2 AND THE COUNTY'S test ballots-BALLOT BATCHES 3 shall be counted individually SEPARATELY AND 4 GENERATE REPORTS with reports generated to verify 5 THAT the machine count IS IDENTICAL to the 6 predetermined tally of the test ballots. FOR DRES 7 WITH VVPAT DEVICES, THE TESTING BOARD MUST 8 MANUALLY COUNT THE PAPER RECORD TO VERIFY 9 THAT THE PRE-DETERMINED TOTALS OF THE TESTING 10 BOARD AND COUNTY TEST BALLOT BATCHES MATCH 11 THE VVPAT TOTAL.~~

~~12 (3) The testing board shall randomly select the 13 machines to be tested.~~

~~14 (e) Early Voting and Provisional Ballots Counted on Optical-15 Scan Devices:~~

~~16 (1) All test ballots shall be counted on at least one, but-17 not more than five, optical scan devices designated-18 for Early Voting or Provisional Ballot Counting and-19 have the predetermined total verified to the machine-20 total.~~

~~21 (2) All test ballots shall be counted individually with-22 reports generated to verify the machine count to the-23 predetermined tally of the test ballots.~~

~~24 (f) Early Voting and Provisional Ballots Counted on DREs:~~

~~25 (1) All test ballots shall be counted on at least one, but-26 not more than five, DREs designated for Early 27 Voting or Provisional Ballot Counting and have the-28 predetermined total verified to the machine total.~~

~~29 (2) All Testing Board Member test ballots shall be 30 counted individually with reports generated to 31 verify the machine count to the predetermined tally-32 of the Testing Board test ballots.~~

~~33 11.5.3.8.5 DREs equipped with V-VPAT devices shall be manually 34 verified (by hand) to determine that the pre-determined total of-35 the testing board ballots, matches the V-VPAT total, which in-36 turn matches the machine total.~~

~~37 11.5.3.8.6 At least two of the testing board ballots shall be identified as 38 Audio Ballots to be tested as such, and included with the count.~~

1 ~~11.5.3.8.7~~(5) THE DESIGNATED ELECTION OFFICIAL MUST KEEP all test 2 materials, when not in use, ~~shall be kept in a metal~~ DURABLE, 3 SECURE box with individual seals for each member of the Testing 4 Board. The designated election official may affix his or her own seal in addition to those of the Testing Board. The designated 6 election official ~~shall~~ MUST be the custodian of the box or boxes 7 but ~~shall~~ MAY not open ~~and/or~~ use the test materials outside of the 8 TESTING BOARD'S presence. ~~of the Testing Board.~~

TESTING BOARD MUST WATCH THE DESIGNATED ELECTION OFFICIAL RESET AND SEAL EACH VOTING 11 DEVICE.

12 ~~11.5.3.8.8~~(7) The Testing Board and the designated election official ~~shall~~ 13 MUST sign a written statement attesting to the qualification of each 14 device ~~that was~~ successfully tested, the number of the seal attached to the voting device at the end of the test, 16 and ~~provide~~ any other documentation as necessary to provide a full 17 and accurate account of the condition of a given device.

18 ~~11.5.3.8.9~~ Upon completion of the testing, the Testing Board shall witness 19 the resetting and sealing of each tested voting device.

~~11.5.4~~ 11.4.3 Post-Election Audit

21 ~~11.5.4.1~~(a) ~~Within forty eight (48)~~ NO LATER THAN 48 hours ~~of~~ AFTER the 22 close of polls on election night, the Secretary of State ~~shall~~ MUST 23 notify the designated election official which voting devices and 24 which race or races on the ballots ~~have been selected for auditing~~ purposes WILL BE AUDITED based on the submitted hardware 26 inventory list referred to in Rule 11.4.2.

27 ~~11.5.4.2~~(b) The ~~selection of~~ SECRETARY OF STATE WILL RANDOMLY SELECT 28 equipment ~~will be~~ based on a random selection of five (5) percent 29 of precinct COUNT SCANNERS ~~scanner based voting equipment~~, at least one central count scanner/~~vote center~~, and five (5) percent of 31 ~~Direct Record Electronic (DRE)~~ DRE voting devices.

32 ~~11.5.4.3~~(c) ~~Pursuant to~~ IN ACCORDANCE WITH section 1-7-514, C.R.S., THE 33 SECRETARY OF STATE MAY only SELECT devices used in the 34 election. ~~shall be selected for the audit.~~

(d) THE SECRETARY OF STATE MUST RANDOMLY SELECT AT LEAST TWO 36 RACES PER DEVICE FOR VERIFICATION TO ENSURE THAT EACH RACE 37 OR MEASURE ON THE BALLOT IS AUDITED IN ACCORDANCE WITH 38 SECTION 1-7-514, C.R.S.

~~1 11.5.4.4 For optical scanners used for any function of counting ballots except for 2 Central Count/vote center as defined herein, the designated election 3 official shall manually verify all of the ballots that were counted on the 4 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 6 State shall randomly select a minimum of two (2) races per device to be 7 manually verified to ensure that each office, issue, and question on the 8 ballot is audited in accordance with section 1 7 514, C.R.S.~~

~~11.5.4.5(e) For optical scanners used for the purpose of counting ballots in a Central Count/vote center environment as defined herein, the 11 designated election official shall MUST randomly select EITHER OF 12 THE FOLLOWING AMOUNTS BASED UPON THE TOTAL NUMBER OF 13 BALLOTS COUNTED:~~

~~14 (1) IF LESS THAN 500 BALLOTS WERE COUNTED, THEN A MINIMUM OF 20 PERCENT OF THE BALLOTS COUNTED ON THE 16 DEVICE.~~

~~17 (2) IF 500 OR MORE BALLOTS WERE COUNTED, THEN A MINIMUM 18 OF 100 BALLOTS PLUS five (5) percent OF THE DIFFERENCE 19 BETWEEN THE NUMBER OF BALLOTS COUNTED AND 500, but not more than 500. five hundred (500) ballots of all the 21 ballots counted on the specific audited device. If the 22 amount of ballots is less than five hundred (500) on the 23 audited device, then a minimum of twenty percent (20%) of 24 the ballots counted on the device will be manually verified.~~

~~(f) The DESIGNATED ELECTION OFFICIAL MUST RESET THE public 26 counter for that THE voting device shall be reset to zero and 27 RECOUNT the ballots. shall be recounted on the voting device.~~

~~28 (g) A-THE DESIGNATED ELECTION OFFICIAL MUST MANUALLY VERIFY 29 THE new report will be generated from the electronic count. of the ballots and shall be manually verified.~~

~~31 (h) The DESIGNATED ELECTION OFFICIAL MUST SEAL THE ballots and a 32 copy of the report shall be sealed in a separate container. and 33 secured with the remainder of the official election records for the 34 election. The Secretary of State shall randomly select a minimum of two (2) races per device to be manually verified to ensure that 36 each office, issue, and question on the ballot is audited in 37 accordance with section 1 7 514, C.R.S.~~

~~38 11.5.4.6(i) For Direct Record Electronic Devices (DREs)-DRES that do not 39 meet the requirements of section 1-5-802, C.R.S. WITHOUT A VVPAT, used for any function of counting ballots in an election,~~

1 the designated election official ~~will~~MUST manually verify the 2 image of all the ballots ~~contained in the~~
~~Ballot Log or Ballot Audit~~3 BALLOT LOG OR BALLOT AUDIT that ~~were counted on the specific~~4 THE device
COUNTED ALONG with the report generated for that ~~specific~~ device at the close of polls. ~~which contains the~~
election-6 summary report. The Secretary of State shall randomly select a-7 minimum of two (2) races per
device to be manually verified to-8 ensure that each office, issue, and question on the ballot is audited-9 in
accordance with section 1-7-514, C.R.S.-

11.5.4.6.1(1) For any device capable of producing OR VERIFYING the 11
trusted build hash value (MD5 or SHA-1) of the firmware 12 or software, the designated election
official ~~shall~~MUST 13 verify and document the accuracy of the value to be 14 included with the
records for the device prior to conducting the audit.

16 11.5.4.7 (j) For ~~Direct Electronic Devices (DREs)~~DRES that WITH A VVPAT 17 ~~do meet the requirement of~~
section 1-5-802, C.R.S., ~~used for any~~18 function of counting ballots in an election, after the close of the-19 polls,
the designated election official ~~will~~MUST manually verify all-
of the ENTIRE voter verified paper-VVPAT record produced with the 21 report
generated for that specific device. ~~which contains the election~~22 summary report. The Secretary of State shall
randomly select a-23 minimum of two races on each device to be manually verified to-24 ensure that each office,
issue, and question on the ballot is audited-
in accordance with section 1-7-514, C.R.S.-

26 11.5.4.7.1(1) For any device capable of producing OR VERIFYING the 27 trusted build hash value (MD5 or
SHA-1) of the firmware 28 or software, the designated election official ~~shall~~MUST 29 verify and document the
accuracy of the value to be
included with the records for the device prior to conducting 31 the
audit.

32 11.5.4.8 (k) AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE the 33 ~~actions of the~~ random audit. as
~~identified in this section are to be~~34 observed by at least two members of the canvass board. The
designated election official may ~~appoint additional deputized~~36 clerks to
assist WITH ~~in the functions of~~ the audit.

37 11.5.4.9 (l) If there are discrepancies in the audit, the Canvass Board or the 38 designated election official's
~~deputized clerks shall~~OFFICIAL MUST:

39 11.5.4.9.1(1) First, manually verify the results as many times as
necessary to-Confirm that there is no discrepancy in the 41 manual
count;

1 ~~11.5.4.9.2~~-(2) ~~Second~~, Take any ~~additional~~ steps as necessary to check for 2 voter error, which ~~shall~~-MUST include but IS not ~~be~~-limited 3 to: overvotes, stray marks on the ballot, or other voter 4 intent indicia; and

~~11.5.4.9.3~~-(3) Third, review the situation and Take ANY action as-6 necessary in accordance with the Canvass Board's powers 7 as ~~set forth~~-DESCRIBED in part 1 of Article 10 of Title 1, 8 Colorado Revised Statutes.

~~11.5.4.10~~-(m) At all times relevant to the Post Election-DURING THE audit, the designated election official ~~or the deputized clerks or the Canvass 11 Board shall~~-MUST take every precaution necessary to protect the 12 confidentiality of the-CAST ballots. ~~cast by the electors.~~

13 ~~11.5.4.11~~-(n) Upon completion of-AFTER the audit, the designated election 14 official ~~shall~~-MUST promptly report the results of the audit to the

Secretary of State's Office by 5:00 PM ON THE LAST DAY TO 16 CANVASS. The report shall MUST be submitted following the 17 ~~completion of the audit and up to and including 5:00 pm on the last 18 day of the canvass.~~The report ~~shall~~-MUST contain:

19 (a)-(1) The make, model, and serial number of the voting ~~device~~-DEVICES that was audited.;

21 ~~(b)~~-(2) The number of ballots originally counted by ~~the~~-EACH 22 device or the number of ballots audited as identified in 23 paragraph ~~(d)~~-(4) of this section;

24 ~~(c)~~-(3) The count of the specific ~~race or races as provided~~ on the summary report printed at the close of polls or the report 26 generated for the audit;

27 ~~(d)~~-(4) The count of the specific ~~race~~-RACES as manually verified;

28 ~~(e)~~-(5) Any other information required by section 1-7-514, C.R.S.; 29 and

~~(f)~~-(6) The ~~signature~~-CANVASS BOARD MEMBERS' AND 31 DESIGNATED ELECTION OFFICIAL'S SIGNATURES. ~~of the 32 canvass board and the designated election official.~~

33 ~~11.5.4.12~~-(o) The DESIGNATED ELECTION OFFICIAL MAY SEND THE report ~~may be~~-34 sent by REGULAR MAIL, E-MAIL, OR FAX. ~~any of the following three~~

~~methods: E mail: voting.systems@sos.state.co.us; Subject line =-36 County Number, County Name, POST ELECTION AUDIT; or via 37 facsimile to: 303-869-4861 attn: Secretary of State, Voting 38 Systems Specialist; or via First Class Mail: to Colorado 1 Department of State/ Attn: Voting Systems Specialist/1700 2 Broadway Suite 270/Denver, CO 80290.~~

3 [Rule 11.6 is relocated to Rule 43.2.10]

4 ~~11.6 Procedures for Voter Verifiable Paper Audit Trail (V-VPAT)~~

~~11.6.1 Security~~

6 11.6.1.1 The V-VPAT record is considered an official record of the 7 election, pursuant to section 1-5-802. All security procedures related to 8 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. 11 Documentation of the seal number(s) must be maintained and noted 12 prior to voting, and at the conclusion of voting.~~

13 (a) Election Judges shall attest to the V-VPAT record having no votes 14 included on the paper record prior to the start of voting, and prior
to the installation or replacement of a new V-VPAT record.

16 11.6.1.3 If a DRE with V-VPAT is used during early voting, the seal number(s) 17 must be recorded at the beginning and end of each voting day.

18 11.6.1.4 At the Close of the polls, the V-VPAT records will be transferred to the 19 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 21 office in the same manner as any memory cards containing electronic 22 ballots.

23 ~~11.6.2 Anonymity~~

24 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 26 periods. These
measures shall include:

27 (a) Encouraging poll workers to personally vote on DREs when 28 possible to ensure more than one vote will be east on the device.

29 (b) Appropriate marking in Poll Book or other voting list indicating
voters choice to vote on DRE with the words: "Voted DRE", or 31 similar in
place of paper ballot information. No record shall be 32 kept indicating the order in which people voted on the DRE,
or 33 which V-VPAT record is associated with the voter.

~~1 (c) When more than one DRE is available at a voting location, the 2 voter shall be given the choice as to which DRE they would like to 3 vote on, to the extent practical.~~

~~4 (d) Encouraging or allowing any and all voters the opportunity to vote 5 on a DRE if desired.~~

~~6 11.6.2.2 Any report or export (electronic or paper based) generated from an 7 Electronic Pollbook shall remove the date/time stamp from the record 8 and not use this field as a sort method. Any assignment of Record IDs, 9 Key ID, or Serial Number stored in the database of votes shall be 10 randomly assigned.~~

~~11 11.6.2.3 Any Pollbook, electronic, paper or otherwise shall not be exposed to the 12 same people at the same place who have exposure to the V-VPAT 13 records.~~

~~14 11.6.2.4 The examination of the V-VPAT record shall always be done by at least 15 two witnesses.~~

~~16 11.6.3 Storage~~

~~17 11.6.3.1 The storage of the V-VPAT records must be consistent with 18 storage of Paper Ballots pursuant to section 17 802.~~

~~19 11.6.3.2 Individual spools containing V-VPAT records must contain the 20 following catalog information affixed to the spool:~~

~~21 (a) Date and Name of Election;~~

~~22 (b) Name of Voting Location;~~

~~23 (c) Date(s) and Time(s) of Voting;~~

~~24 (d) Machine Serial Number of DRE Associated with the Record; and~~

~~25 (e) Number of spools associated with this machine for this election (i.e. 26 "Spool 1 of 1", or "Spool 1 of 2", etc.).~~

~~27 11.6.3.3 Light sensitive storage containers shall be used for the 25 month storage 28 period to ensure the integrity of the V-VPAT paper record. Containers 29 shall be sealed, with record of the seal numbers maintained on file and 30 signed by two elections officials.~~

~~31 11.6.3.4 A master catalog shall be maintained for the election containing the 32 complete total number of V-VPAT spools used in the election.~~

1 ~~11.7-11.5 Escrow of County Election Setup~~. THE DESIGNATED ELECTION OFFICIAL MUST 2 SUBMIT ELECTION SETUP RECORDS BY REGULAR MAIL NO LATER THAN 5:00 PM ON 3 THE SEVENTH DAY BEFORE AN ELECTION.

~~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 6 the Secretary of State's office by mail.~~

7 ~~11.7.2-11.5.1 Jurisdictions that have contracted CONTRACT with either a Software-8 Service Bureau or a Vendor of Electronic Vote Counting Equipment 9 SOFTWARE SERVICE BUREAU OR A VENDOR OF ELECTRONIC VOTE COUNTING EQUIPMENT may choose to have the VENDOR DELIVER THE necessary 11 election setup records. delivered to the Secretary of State's office within-12 the specified time frame.~~

13 ~~11.7.3-11.5.2 Election Setup Records-SETUP RECORDS shall-MUST be contained within-IN 14 an electronic media format that is native to the jurisdiction's specific ballot creation and tabulation system. Acceptable media formats range-16 from Tape, Diskette, Cartridge, CD-ROM, DVD-ROM, Floppy, External-17 Hard Drive, or Flash Media-INCLUDE TAPE, DISKETTE, CARTRIDGE, CD18 ROM, DVD-ROM, FLOPPY, EXTERNAL HARD DRIVE, OR FLASH MEDIA.~~

19 11.7.14 All copies of electronic media shall be sent to:

~~Colorado Secretary of State-21 Attn:—
Voting Systems Specialist 22 1700 Broadway—Suite 270-23
Denver, CO 80290—~~

~~25 The DESIGNATED ELECTION OFFICIAL MUST include a point of contact and method of contact (phone, fax, e-mail, etc.). to inform-26 the jurisdiction that the Secretary of State's office has received the 27 election setup records.~~

28 ~~11.7.6-11.5.4 Within 24 hours of receipt of the election setup files-RECORDS, the 29 Secretary of State or his or her designee-STATE'S OFFICE will contact the jurisdiction to confirm receipt. of the escrow files.~~

31 ~~11.7.7-11.5.5 The Secretary of State's office will store the ELECTION setup files-32 RECORDS in a secured, fire proof, limited-access location. or container.~~

33 ~~11.7.8-11.5.6 All parties shall-MUST treat as confidential all escrowed materials and any 34 other related information that comes into their possession, control, or custody. pursuant to this rule.~~

36 [Rule 11.8 is amended and moved to New Rule 45.12]

37 ~~11.8 Escrow of Voting System Software by Voting System Provider-1 11.8.1 Voting System Providers must place in escrow a copy of the election software and 2 supporting documentation being certified with either the Secretary of State or an 3 independent escrow agent approved by the Secretary of State. See section 4 1-7-511, C.R.S.~~

~~11.8.2 Within ten days of the Voting System provider receiving notification of 6 examination of voting equipment as part of the certification process, the Voting 7 System Provider shall arrange for the completion of escrow requirements as 8 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. 11 An annual update of the affidavit will be on file in a secured location with the 12 Secretary of State's office.~~

~~13 11.8.4 A complete copy of the certified election software including any and all 14 subsystems of the certified software shall be maintained in escrow.~~

~~11.8.5 Any changes to current configurations or new installations must be approved 16 through the certification program of the Secretary of State.~~

~~17 11.8.6 In addition to the requirements listed below, the Voting System Provider must 18 include a cover/instructions sheet for any escrow material to include the Voting 19 System Provider Name, Address and pertinent contact information, Software~~

~~Version, Hardware Version, Firmware Revision Number and other uniquely 21 identifying numbers of the software submitted for certification.~~

~~22 11.8.7 Election Software Source Code, maintained in escrow, shall contain internal 23 documentation such that a person reasonably proficient in the use of the 24 programming language can efficiently use the documentation to understand the~~

~~program structure, control techniques, and error processing logic in order to 26 maintain the Source Code should it be removed from escrow for any reason.~~

~~27 11.8.8 System documentation shall include instructions for converting the escrowed 28 Source Code into Object Code, organized and configured to produce an 29 executable system, if warranted.~~

~~11.8.9 System documentation shall include technical architecture design, analysis, detail 31 design, testing and an installation and configuration guide.~~

~~32 11.8.10 A set of schematics and drawings on electronic vote casting and counting 33 equipment purchased or in use by the county clerk and recorder shall be on file 34 with the Secretary of State.~~

~~11.8.11 All parties shall treat as confidential the terms of this Section including all 36 escrow materials and any other related information that comes into their 37 possession, control or custody pursuant to this section.~~

1 11.8.12 Copies of Electronic media and supporting documentation for Escrow 2 ~~within the Secretary of State shall be sent to:-~~

3 ~~Colorado Secretary of State 4 Attn: Voting Systems Specialist 1700 Broadway Suite 270-6 Denver, CO 80290-7~~

8 11.8.13 Any cost of using an alternative third party escrow agent shall be borne by 9 ~~the Voting System provider.~~

11.6 THE DESIGNATED ELECTION OFFICIAL MUST RETAIN ALL TESTING RECORDS AND 11 DOCUMENTATION FOR 25 MONTHS.

12 11.7 METHODS OF SUBMISSION ARE:

13 11.7.1 BY REGULAR MAIL TO:

SECRETARY OF STATE ATTN: VOTING SYSTEMS 16 1700 BROADWAY – SUITE 200 17 DENVER, CO 80290

18 11.7.2 BY EMAIL TO:

19 VOTING.SYSTEMS@SOS.STATE.CO.US

11.7.3 BY FAX TO:

21 303-869-4861

22 11.8 RULES CONCERNING ACCESSIBLE VOTING SYSTEMS

23 ~~34.2-11.8.2 No~~ A political subdivision ~~shall~~ MAY NOT purchase or lease ~~direct~~ 24 recording electronic DRE voting systems or other voting systems ~~equipped for individuals~~ USE BY PEOPLE with disabilities at each ~~polling~~ 26 ~~place unless such voting system(s) THEY are fully certified pursuant to~~ 27 standards and guidelines recommended by the National Institute of 28 ~~Standards and Testing (NIST) and adopted by the U.S. Election Assistance~~ 29 ~~Commission (EAC) IN ACCORDANCE WITH THE 2002 VOTING SYSTEM STANDARDS PROMULGATED BY THE FEDERAL ELECTION COMMISSION.~~

31 [Rule 34 is amended and moved to New Rule 11.9. (Amendments are shown above)]

32 11.9 RULES CONCERNING NOTICE OF VOTING SYSTEM MALFUNCTION

33 ~~36.1-11.9.1 A vendor or the political subdivision~~ DESIGNATED ELECTION OFFICIAL ~~if no~~ 34 ~~private vendor supports their system~~ must ~~give notice to~~ NOTIFY the Secretary of State within 24 hours of a REPORTED OR ACTUAL malfunction 36 of its voting/election system (including, but not limited to, software, 37 ~~firmware, hardware, or other equipment) in preparation for and on an~~

1 ~~election held in this state.~~ THE NOTICE MUST INCLUDE A DESCRIPTION, 2 DATE, AND THE NAMES OF THOSE WHO WITNESSED THE MALFUNCTION, AS 3 WELL AS THE PROCEDURES FOLLOWED PRIOR TO THE MALFUNCTION, AND 4 ANY ERROR MESSAGES DISPLAYED. The notice may be verbal, but ~~must also be in~~ A writing MUST FOLLOW.

6 36.2 Following the notice, the Secretary of State shall determine whether further 7 ~~information on the malfunction is required.~~ At the request of the Secretary of 8 State, a vendor (or the political subdivision, if no private vendor supports their 9 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 11 ~~malfunction in preparation for and on an election held using the vendor's system.~~ 12 The report shall address whether permanent changes are necessary to prevent 13 similar malfunctions in the future. If the malfunction requires a programming or 14 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 16 system database to the Secretary of State's office as set forth in Rule 11.

17 11.9.2 IF THE SECRETARY OF STATE REQUIRES ADDITIONAL INFORMATION THE VENDOR OR 18 THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A REPORT TO THE SECRETARY 19 OF STATE'S OFFICE DETAILING THE REPROGRAMMING OR ANY OTHER ACTIONS NECESSARY TO CORRECT A VOTING SYSTEM MALFUNCTION.

21 (A) THE REPORT MUST ADDRESS WHETHER PERMANENT CHANGES ARE 22 NECESSARY TO PREVENT SIMILAR MALFUNCTIONS IN THE FUTURE.

23 (B) IF THE MALFUNCTION REQUIRES A PROGRAMMING OR ELECTION SETUP 24 CHANGE TO THE DATABASE OR OTHER PARTS OF THE VOTING SYSTEM, THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT AN UPDATED ELECTION 26 SETUP RECORD TO THE SECRETARY OF STATE'S OFFICE AS SET FORTH IN 27 RULE 11.8.

28 36.3-(C) The report ~~shall~~ MUST be submitted within 30 days after the date of 29 the request by the Secretary of State. ~~Notwithstanding the foregoing, if~~ IF an election is scheduled within 60 days of the date of request by the 31 Secretary of State, the Secretary of State may set an emergency deadline 32 for filing the report. ~~The request may be verbal, but must also be in~~ 33 writing.

34 36.4-(D) Failure to submit a report within the required period ~~shall~~ IS be grounds to decertify the system.

36 36.5-(E) The political subdivision holding the election in which the voting 37 system malfunction occurred may submit the report in lieu of a report 38 from the system's vendor.

39 36.6-(F) A copy of this report will be ~~attached to the system's most recent certification~~ on file in the Secretary of State's office.

1 ~~36.7~~(G) The Secretary of State's office will distribute a copy of this report 2 to all counties using the voting system in question.

3 [Rule 36 is amended and moved to New Rule 11.10. Amendments are shown above]

4 11.10 PURCHASES AND CONTRACTS

11.10.1 IN ACCORDANCE WITH SECTION 1-5-623(3), C.R.S., A POLITICAL 6 SUBDIVISION MAY NOT PURCHASE A NEW ELECTRONIC VOTING DEVICE OR SYSTEM 7 OR ANY RELATED COMPONENT OF A DEVICE OR SYSTEM WITHOUT APPROVAL FROM 8 THE SECRETARY OF STATE.

~~45.12.1~~ 11.10.2 ~~Any~~ A POLITICAL SUBDIVISION MAY ONLY PURCHASE OR LEASE A CERTIFIED voting system IF ~~that has been certified under the procedures of Rule 45-11 are IS eligible for purchase, lease, or rent for use by jurisdictions within the State~~ 12 of Colorado providing IF the contract contains the following items:—

13 (a) ~~The voting system is certified for use within the state;—~~

14 (b)-(A) The contract contains training and maintenance costs ~~for the jurisdiction;~~ and

16 (c)-(B) ~~The contract identifies components contained in the certified~~ THE voting 17 system COMPONENTS and ~~appears complete with all accessories necessary~~ 18 APPEAR COMPLETE AND CAPABLE OF ~~for~~ successfully conducting an 19 election ~~within the laws and rules of the State of~~ IN Colorado.

~~45.12.2~~ 11.10.3 The Secretary of State ~~shall~~ WILL maintain on file a list of all 21 components used and purchased ~~for use~~. The list ~~shall~~ WILL include, at a 22 minimum, the name of the jurisdiction, the date of purchase, the serial number(s) 23 of voting devices and name of the voting systems that ~~was~~ WERE purchased.

24 [Rule 45.12 is amended and moved to New Rule 11.11. Amendments are shown above]

11.11 ELECTION NIGHT REPORTING (ENR). THE COUNTY MUST REPORT ELECTION NIGHT 26 RESULTS FOR ALL PRIMARY, GENERAL, COORDINATED AND RECALL ELECTIONS.

27 11.11.1 A DATA ENTRY COUNTY MUST PROGRAM THE ELECTION TO SUPPORT THE 28 EXPORTING OF ELECTION NIGHT RESULTS IN ACCORDANCE WITH THE FOLLOWING 29 ENR VENDOR'S DATA UPLOAD REQUIREMENTS:

(A) LIST CONTEST NAMES AND CANDIDATE NAMES EXACTLY AS PROVIDED ON 31 THE CERTIFIED LIST.

32 (B) PROVIDE CONTEST NAMES IN ALL UPPERCASE LETTERS.

33 (C) FOR COUNTIES THAT USE THE ES&S AND PREMIER VOTING SYSTEMS, 34 ARRANGE THE CONTESTS IN THE ORDER PRESCRIBED BY SECTION

1-5-403(5), C.R.S.

- 1 (D) CAPITALIZE CANDIDATE NAMES (EG. JOHN A. SMITH).
- 2 (E) PRESENT A PRECINCT NAME AS A TEN-DIGIT PRECINCT NUMBER.
- 3 (F) FOR COUNTIES THAT USE THE HART VOTING SYSTEMS, USE THE 4 “SPLIT_NAME” FIELD SPLIT PRECINCT NAMING PURPOSES.
- (G) CREATE A “PROVISIONAL” PRECINCT.
- 6 (H) USE ONLY THE PARTY CODES CERTIFIED BY THE SECRETARY OF STATE.
- 7 (I) DO NOT INCLUDE THE PARTY NAME OR CODE IN THE CANDIDATE NAME 8 FIELD.

11.11.2 NO LATER THAN EIGHT DAYS BEFORE THE ELECTION, A COUNTY MUST SEND THE FOLLOWING INFORMATION TO THE SECRETARY OF STATE, AT THE ADDRESS IN 11 RULE 11.8:

- 12 (A) A DATA ENTRY COUNTY MUST EMAIL A SAMPLE .
- 13 (B) A MANUAL ENTRY COUNTY MUST SEND A LIST OF CONTESTS TITLES, 14 CANDIDATES, AND PARTY AFFILIATION.

11.11.3 THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS AND UPLOAD 16 THEM TO THE ENR SYSTEM A MINIMUM OF THREE TIMES ON ELECTION NIGHT:

- 17 (A) AFTER THE CLOSE OF POLLS BUT NO LATER THAN 7:30 PM.
- 18 (B) AT OR AROUND 9:00 PM.
- 19 (C) AT THE CONCLUSION OF TABULATION, THE COUNTY MUST INDICATE THAT ELECTION NIGHT REPORTING IS COMPLETE IN THE ENR SYSTEM.

21 11.11.4 AFTER CANVASS THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS, AND 22 CHECK THE APPROPRIATE BOX IN THE ENR SYSTEM TO INDICATE THAT THE CANVASS 23 UPLOAD IS COMPLETE.

24 **Rule 12. RECALL**

~~32.2~~ 12.1 Signature requirements

26 ~~32.2.1~~ 12.1.1 For petitions to recall school district directors the petition must be signed 27 by the eligible electors of the director’s district equal in number to at least 40% 28 of the ballots cast in the district in the last preceding election at which the 29 director to be recalled was elected as indicated by the pollbook or abstract for the election. See section 1-12-105, C.R.S.

31 ~~32.2.2~~ 12.1.2 When determining the number of required valid signatures for an elected 32 office for which electors were allowed to vote for more than one candidate in a 33 single race, the signature requirements shall be based on the number of ballots 34 cast for that race as indicated by the pollbook or abstract for the election.

1 ~~32.6~~ 12.2 In accordance with section 3 of article XXI of the Colorado constitution and 2 section 1-12-117 (1), C.R.S., for partisan recall elections involving a state officer, in 3 order to appear on the ballot a successor candidate must file a nomination petition with 4 the Secretary of State no later than ten calendar days after the Governor sets the election date. A write-in candidate must file an affidavit of intent to run as a write-in candidate no 6 later than the fifteenth day before the election.

7 ~~32.6~~ 12.3 In accordance with section 3 of article XXI of the Colorado constitution and 8 section 1-12-117(1), C.R.S., for partisan recall elections involving a state officer, in order 9 to appear on the ballot a successor candidate must file a nomination petition with the Secretary of State no later than ten calendar days after the Governor sets the election date. 11 A write-in candidate must file an affidavit of intent to run as a write-in candidate no later 12 than the fifteenth day before the election.

13 [Current Rule 32.6, adopted on a temporary basis on July 22, 2013.is moved to new Rule 12.3]

14 **Rule 13. ELECTION AND HAVA COMPLAINTS**

13.1 ELECTION COMPLAINT PROCEDURES

16 13.1.1 ANY PERSON WHO HAS PERSONALLY WITNESSED A VIOLATION OF TITLE 1, C.R.S. 17 MAY FILE AN ELECTION COMPLAINT.

18 13.1.2 AN ELECTION COMPLAINT MUST INCLUDE THE APPROVED SECRETARY OF STATE'S 19 ELECTION COMPLAINT COVER SHEET.

13.1.3 PROCESSING AND DOCKETING ELECTION COMPLAINTS

21 (A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ELECTION 22 DIVISION STAFF WILL REVIEW THE COMPLAINT TO DETERMINE IF IT 23 SATISFIES RULE 31.2 AND SUFFICIENTLY ALLEGES A VIOLATION.

24 (I) IF THE COMPLAINT DOES NOT MEET THE CRITERIA, ELECTION DIVISION STAFF WILL NOTIFY THE COMPLAINANT OF THE DISCREPANCY.

26 (II) IF A COMPLAINT MEETS THE CRITERIA, ELECTION DIVISION STAFF 27 WILL ASSIGN A COMPLAINT NUMBER, NOTIFY THE COMPLAINANT, AND 28 SEND A COPY OF THE COMPLAINT TO THE PERSON OR ENTITY ALLEGED 29 TO HAVE COMMITTED A VIOLATION.

(B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE 31 COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A 32 WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

33 13.1.4 AMENDING AN ELECTION COMPLAINT

34 (A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING

1 COMPLAINT. 2 (B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

3 13.1.5 INVESTIGATION 4 (A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE 31.3.2, ELECTION 5 DIVISION
STAFF WILL INVESTIGATE THE COMPLAINT. 6 (B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE
INVESTIGATION IS 7 REQUIRED, ELECTION DIVISION STAFF WILL BEGIN INVESTIGATING BEFORE 8 THE RESPONSE
PERIOD HAS CLOSED. IN MAKING THE DETERMINATION, THE 9 SECRETARY WILL CONSIDER WHETHER THE ISSUE
HAS THE POTENTIAL TO 10 AFFECT AN UPCOMING ELECTION. 11 (C) DEPENDING ON THE VIOLATION ALLEGED,
ELECTION DIVISION STAFF MAY: 12 (I) REVIEW DOCUMENTS; 13 (II) VISIT THE COUNTY; 14 (III) CONDUCT
INTERVIEWS; 15 (IV) TEST EQUIPMENT; OR 16 (V) TAKE OTHER STEPS NECESSARY. 17 (D) WHILE AN
INVESTIGATION IS ONGOING, COUNTY CLERK AND RECORDERS 18 AND STAFF MUST ACCOMMODATE REQUESTS BY
ELECTION DIVISION STAFF 19 IN THE TIMEFRAME REQUESTED BY STAFF. 20 13.1.6 RESOLUTION OF ELECTION
COMPLAINTS 21 (A) AFTER AN INVESTIGATION AND HEARING, IF APPLICABLE, ELECTION 22 DIVISION STAFF WILL:
23 (I) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE; 24 (II) REFER THE COMPLAINT TO A
PROSECUTING AUTHORITY UNDER 25 ARTICLE 13, C.R.S.; OR 26 (III) FIND A VIOLATION AND RECOMMEND A
RESOLUTION. 27 (B) ELECTION DIVISION STAFF WILL FORWARD THE RECOMMENDATION FOR 28 RESOLUTION TO
THE SECRETARY OF STATE, WHO WILL ADOPT, AMEND, OR 29 REJECT THE RECOMMENDATION. 30 13.1.7 THE
SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION

1 13.2 HAVA COMPLAINT PROCEDURES

2 13.2.1 ANY PERSON WHO HAS BEEN PERSONALLY AGGRIEVED BY OR HAS PERSONALLY 3 WITNESSED A VIOLATION OF TITLE III OF THE HELP AMERICA VOTE ACT (HAVA) 4 MAY FILE A HAVA COMPLAINT WITH THE SECRETARY OF STATE.

13.2.2 A HAVA MUST INCLUDE THE APPROVED SECRETARY OF STATE'S HAVA 6 COMPLAINT COVER SHEET.

7 13.2.3 PROCESSING AND DOCKETING HAVA COMPLAINTS

8 (A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ELECTION 9 DIVISION STAFF WILL REVIEW THE COMPLAINT TO DETERMINE IF IT SATISFIES RULE 31.2 AND SUFFICIENTLY ALLEGES A VIOLATION.

11 (I) IF THE COMPLAINT DOES NOT INCLUDE A COVER SHEET, ELECTION 12 DIVISION STAFF WILL NOTIFY THE COMPLAINANT OF THE 13 DISCREPANCY.

14 (II) IF A COMPLAINT DOES NOT SUFFICIENTLY ALLEGE A VIOLATION OF
TITLE III OF HAVA, ELECTION DIVISION STAFF WILL DISMISS THE 16
COMPLAINT WITHOUT PREJUDICE.

17 (III) IF A COMPLAINT MEETS BOTH CRITERIA, ELECTION DIVISION STAFF 18 WILL ASSIGN A COMPLAINT NUMBER, NOTIFY THE COMPLAINANT, AND 19 SEND A COPY OF THE COMPLAINT TO THE PERSON OR ENTITY ALLEGED TO HAVE COMMITTED A VIOLATION.

21 (B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE 22 COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A 23 WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

24 13.2.4 AMENDING A HAVA COMPLAINT

(A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER 26 FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING 27 COMPLAINT.

28 (B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

29 13.2.5 INVESTIGATION

(A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE 31.3.2, ELECTION 31 DIVISION STAFF WILL INVESTIGATE THE COMPLAINT.

32 (B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE INVESTIGATION IS 33 REQUIRED, ELECTION DIVISION STAFF WILL BEGIN INVESTIGATING BEFORE 34 THE RESPONSE PERIOD HAS CLOSED. IN MAKING THE DETERMINATION, THE 1 SECRETARY WILL CONSIDER WHETHER THE ISSUE HAS THE POTENTIAL TO 2 AFFECT AN UPCOMING ELECTION

3 (C) DEPENDING ON THE VIOLATION ALLEGED, ELECTION DIVISION STAFF MAY:

4 (I) REVIEW DOCUMENTS;

(II) VISIT THE COUNTY; 6 (III) CONDUCT INTERVIEWS; 7 (IV) TEST EQUIPMENT; OR 8

(V) TAKE OTHER STEPS NECESSARY. 9 (D) WHILE AN INVESTIGATION IS ONGOING, COUNTY CLERK AND

RECORDERS AND STAFF MUST ACCOMMODATE REQUESTS BY ELECTION DIVISION STAFF 11 IN THE TIMEFRAME

REQUESTED BY STAFF. 12 13.2.6 HEARING AND RESOLUTION OF HAVA COMPLAINTS 13 (A) IF THE COMPLAINANT

REQUESTS, THE SECRETARY OF STATE OR HIS OR HER 14 DESIGNEE WILL HOLD A HEARING.

(B) AFTER THE INVESTIGATION AND HEARING, IF ANY, ELECTION DIVISION 16 WILL:

17 (I) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE;

18 (II) REFER THE COMPLAINT TO A PROSECUTING AUTHORITY UNDER 19 ARTICLE 13, C.R.S.;

(III) FIND A VIOLATION AND RECOMMEND A RESOLUTION.

21 (C) ELECTION DIVISION STAFF WILL FORWARD THE RECOMMENDATION FOR 22 RESOLUTION TO THE SECRETARY OF STATE, WHO WILL ADOPT, AMEND, OR 23 REJECT THE RECOMMENDATION.

24 13.2.7 THE SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION.

[Current Rule 31 is repealed and complaint rules are moved to new Rule 13 as shown above.]

26 Rule 14. ~~Rules Regulating~~ **Voter Registration Drives**

27 ~~44.1-14.1~~ 14.1 Statement of Intent

28 ~~44.1-14.1.1~~ 14.1.1 In accordance with section 1-2-701, C.R.S., *et seq.*, the organizer of a 29 Voter Registration Drive ("VRD") shall MUST file a Statement of Intent AND TRAINING ACKNOWLEDGMENT FORM with the Secretary of State to conduct a

1 voter registration drive on a form prescribed by the Secretary of State. The 2 Statement of Intent shall
STATEMENT OF INTENT AND TRAINING 3 ACKNOWLEDGMENT FORM MUST include the following information:

4 (a) The name of the group conducting the VRD, and the name and contact information of
the individual organizing the VRD;

6 (b) The name of the agent (who is required to be a Colorado resident) and the 7 contact information for that
agent, if different from the person organizing 8 the VRD;

9 (c) A statement specifying that the VRD intends to operate within the State of Colorado;

11 (d) A notice that the VRD number expires at the end of the calendar year; and

12 (e) A signature line requiring the organizer's signature.

13 ~~44.1.2-14.1.2 Any amendments to the Statement of Intent shall be filed in writing.~~ A 14 VRD ORGANIZER MUST
FILE AMENDMENTS TO THE STATEMENT OF INTENT AND

TRAINING ACKNOWLEDGMENT FORM with the Secretary of State no later than 16 three
business days after the change(s) occurs. Amendments may be made by fax, 17 email, mail or in person.

18 ~~44.1.3-14.1.3 The Secretary of State shall~~ WILL immediately attempt to verify the 19 information provided in the
Statement of Intent AND TRAINING

ACKNOWLEDGMENT FORM prior to issuing a number to the VRD organizer. The 21 Secretary
of State may deny a number to the voter registration drive organizer if 22 the information provided on the Statement
of Intent cannot be verified.

23 ~~44.1.4-14.1.4 The last day for a VRD to file a Statement of Intent AND TRAINING 24 ACKNOWLEDGMENT FORM~~
with the Secretary of State ~~shall be~~ IS THE 22ND days-
before the General Election in a given calendar year.

26 ~~44.2-14.2 Training~~

27 ~~44.2.1-14.2.1 In order to be issued~~ TO RECEIVE a VRD number, the organizer VRD ~~shall~~ 28 MUST successfully
complete the online training and test provided by the Secretary 29 of State, and submit a Statement of Intent ~~along~~
with a AND Training

Acknowledgment form to the Secretary of State.

31 ~~44.2.2-14.2.2 In addition to training for the organizer, the Secretary of State shall make~~ 32 available information
for the organizer to train individual circulators. Organizers 33 shall MUST provide training to all circulators.
Organizers shall MUST obtain and 34 ~~maintain on file~~ RETAIN signed attestations from each circulator that he or she
will

adhere to all the requirements of the Secretary of State election rules and the 36 Colorado
Revised Statutes pertaining to elections, and that they are aware of the 37 penalties associated with the mishandling
of voter registration application forms.

1 The organizers ~~shall~~ MUST furnish the circulator attestations to the ~~secretary of 2 state~~ SECRETARY OF STATE upon request.

3 ~~44.2.3-14.2.3~~ 14.2.3 The mandatory training provided by the Secretary of State ~~shall~~ will 4 include, ~~but not be limited to:~~

(a) The use of the VRD Application;

6 (b) Information on where to obtain the VRD Application;

7 (c) Information on how to ensure that a VRD Application is filled out 8 completely; including which fields are optional and which are required, ~~9 and how to fill out the circulator portion of the Application;~~

(d) Notice of statutory deadlines relating to Voter Registration Applications 11 and VRDs;

12 (e) The requirements for ~~when and where~~ DELIVERING the COMPLETED Voter 13 Registration Applications ~~must be turned in;~~

14 (f) Penalties for violating statutory prohibitions including fraud, intimidation, mishandling Applications, failing to turn in Applications and other 16 penalties relevant to VRDs;

17 (g) The handling and treatment of confidential information on the Voter 18 Registration Applications; and

19 (h) Notice that circulators ~~shall not~~ CANNOT be paid per Voter Registration Application, but if compensated, ~~shall~~ THEY MUST be paid by the hour or 21 day.

22 ~~44.2.4-14.2.4~~ 14.2.4 The training ~~shall be~~ IS provided online-, BUT IF ~~if~~ a VRD organizer 23 prefers, he or she may schedule a time to view the training at the office of the 24 Secretary of State.

~~44.2.5-14.2.5~~ 14.2.5 After completing the training, the VRD organizer must complete the 26 training test and answer the questions 100% correctly before THE SECRETARY OF 27 STATE WILL ISSUE a VRD number ~~will be issued.~~

28 ~~44.2.6-14.2.6~~ 14.2.6 After completing the training and test, the VRD organizer ~~shall~~ MUST sign 29 a STATEMENT OF INTENT AND TRAINING ACKNOWLEDGMENT ~~Training-~~

~~Acknowledgement~~ FORM confirming that the training and test have been 31 completed and that he or she ~~has been duly~~ WAS informed of rules, laws and 32 penalties relating to voter registration drives.

33 ~~44.2.7-14.2.7~~ 14.2.7 A Voter Registration Drive organizer must complete the training and test 34 every calendar year in which he or she intends to conduct a VRD.

1 ~~44.3-14.3~~ Number Assigned

2 ~~44.3.1-14.3.1~~ After successful completion of the required training and test, and 3 submission of the ~~required-~~
~~forms~~ STATEMENT OF INTENT AND TRAINING 4 ACKNOWLEDGMENT FORM, the Secretary of State ~~shall~~ WILL assign
a unique number to the VRD. After issuing a unique number to the VRD, the Secretary of 6 State ~~shall~~ WILL:

7 (a) Advise the VRD organizer of their unique number;

8 (b) Notify the county clerks within 24 hours after each VRD number has been 9 issued by the Secretary of State;
and

(c) Post the agent and the name of the group conducting the drive on the 11 Secretary of State
website.

12 ~~44.3.2-14.3.2~~ All assigned VRD numbers are valid through December 31 of the year that 13 the number is
assigned.

14 ~~44.4-14.4~~ Voter Registration Drive Voter Application Forms

~~44.4.1-14.4.1~~ The Secretary of State ~~shall~~ WILL approve a standard Colorado Voter 16 Registration
DRIVE Application Form ~~to be used by the VRD that shall include a~~ 17 ~~tear off receipt.~~

18 (a) The VRD may also use the National Mail Voter Registration Form. 19 ~~Because the National Mail Voter~~
~~Registration Form. does not include a~~
~~tear off receipt, the applicant and VRD are afforded greater protection~~ 21 ~~when the~~
~~standard Colorado form is used.~~

22 ~~44.4.2-14.4.2~~ ~~The Secretary of State and county clerks shall make available the official,~~ 23 approved Colorado
Voter Registration Drive Application Forms to the VRD 24 ~~organizer~~ A VRD ORGANIZER CAN OBTAIN COLORADO
VOTER REGISTRATION

DRIVE APPLICATION FORMS FROM COUNTY CLERK AND RECORDERS AND THE 26
SECRETARY OF STATE.

27 ~~44.4.3-14.4.3~~ The organizer ~~shall be~~ IS responsible for placing the VRD number on the 28 application form ~~and~~
~~the receipt portion of the standard Colorado form.~~

29 ~~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~~ 31 ~~to the~~
applicant. The person circulating the voter application forms shall advise 32 the applicant that the receipt may be
needed when he or she votes.

33 ~~44.4.5-14.4.4~~ The VRD organizer MUST RECEIVE A VRD NUMBER BEFORE HE OR SHE CAN 34 ~~is not eligible to~~
receive the approved Colorado Voter Registration ~~drive~~ DRIVE Application Forms. until the organizer has
completed training, signed the

1 statement of intent, completed and signed the Acknowledgement, and been 2 ~~assigned a number.~~

3 ~~44.4.6~~ 14.4.5 Any voter registration drive that provides a voter registration application 4 on its website or a link to such voter registration form must direct the applicant to 5 return the completed form directly to the county clerk and recorder of the 6 applicant's legal residence. No voter registration drive may provide a voter 7 registration form on its website or a link to such voter registration form which 8 instructs or directs, in any way, the applicant to return the completed form to 9 anyone or any group other than directly to the county clerk and recorder of the 10 applicant's legal residence or, in the case of overseas electors or UOCAVA 11 electors, the county clerk and recorder or the Secretary of State.

12 ~~44.5 Repealed.~~

13 ~~44.6~~ 14.5 Voter Registration Drive Complaints and fines

14 ~~44.6.1~~ 14.5.1 Any person, including the Secretary of State, who believes a VRD 15 organizer or circulator has not complied with the requirements of section 1-2-701 16 et seq., C.R.S., or this Rule 44 may file a written complaint with the Secretary of 17 State.

18 ~~44.6.2~~ 14.5.2 A written complaint filed with the Secretary of State ~~shall~~ MUST contain 19 the following information:

20 ~~a.~~ (A) The complainant's name;

21 ~~b.~~ (B) The complainant's full residence address and mailing address (if different 22 from residence);

23 ~~c.~~ (C) A description of the alleged violation, which may include a reference to 24 the particular statute or rule;

25 ~~d.~~ (D) The name and assigned number of the VRD, if known;

26 ~~e.~~ (E) The date and location of the alleged violation, if known; and

27 ~~f.~~ (F) Other applicable or relevant information

28 ~~44.6.3 Repealed.~~

29 ~~44.6.4~~ 14.5.3 The Secretary of State ~~shall~~ WILL review all complaints submitted in 30 writing and conduct such investigations as may be necessary and appropriate. If 31 the Secretary of State determines that a violation has occurred, the Secretary of 32 State ~~shall~~ WILL impose a fine in accordance with section 1-2-703, C.R.S., and 33 notify the VRD organizer of:

1 44.6.4.1(A) The date and factual basis of each act with which the VRD 2 organizer is being charged;

3 44.6.4.2(B) The particular provision of the statute violated; and

4 44.6.4.3(C) The amount of the fine imposed.

44.6.5-14.5.4 Notification of violation ~~shall~~ WILL be sent by certified or registered mail, 6 return receipt requested, to the last known address of the VRD organizer.

7 44.6.6-14.5.5 The VRD organizer may appeal a fine and ~~shall have~~ HAS ~~thirty (30)~~ 30 8 days following receipt of notification to submit a written response setting forth the 9 reason(s) that the VRD organizer is appealing the fine. The VRD organizer may request, within the ~~thirty (30)~~ 30 days, a hearing with the secretary of state to 11 dispute the fine.

12 44.6.7-14.5.6 Within ~~thirty (30)~~ 30 days after receipt of the written response, or hearing 13 procedures, the secretary of state ~~shall~~ WILL issue an order affirming or dismissing 14 the imposed fine.

[Current Rule 44 is amended and moved to new Rule 14. Amendments between the current and 16 new rule language are shown below.]

17 Rule 15. **Rules Concerning Preparation, Filing, and Verification of Statewide Initiative 18 Petitions**

19 15.1 PETITION ENTITY license, registration, ~~and filing,~~ AND CIRCULATION. ~~procedures.~~

15.1.1 ~~In accordance with section 1-40-135, C.R.S., any person or issue committee~~ A 21 PETITION ENTITY that intends to ~~compensate~~ PAY petition circulators must obtain a 22 petition entity license, PAY A FEE, and register with the Secretary of State ~~prior to~~ 23 ~~compensating any circulator~~ BEFORE CIRCULATING PETITIONS. THE LICENSE 24 APPLICATION MUST INCLUDE:

15.1.2 ~~To apply for a license the designated agent of a petition entity must pay a fee and~~ 26 ~~submit a signed application including:~~

27 a. The PETITION ENTITY'S name, address, telephone number, and email 28 address; ~~of the petition entity;~~

29 b. The DESIGNATED AGENT'S name AND; ~~of the designated agent;~~

c. An affirmation that the entity will not pay any circulator more than 20% of 31 ~~his or her compensation on a per signature or per petition basis; and~~

32 c. ~~d.~~ An affirmation that at least one representative of the entity THE 33 DESIGNATED AGENT has read and understands Colorado petition laws as 1 outlined in article 40 OF title 1, C.R.S., and has completed the SECRETARY 2 OF STATE'S circulator training program. ~~provided by the Secretary of State.~~

3 ~~15.1.3~~ 15.1.2 BEFORE COMPENSATING A CIRCULATOR, ~~To register with the Secretary of State,~~ the designated agent of a licensed petition entity must REGISTER WITH THE SECRETARY OF STATE BY SUBMITTING ~~submit~~ a signed registration form in ~~6~~ accordance with section 1-40-135(5)(a), C.R.S., and provide THAT INCLUDES a list ~~7~~ of the PROPOSED INITIATIVES ~~initiative numbers that~~ the petition entity will ~~8~~ circulate.

9 ~~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.

11 ~~15.1.5~~ 15.1.3 A petition entity license expires if the ~~IF~~ a petition entity fails to register at ~~12~~ least one A proposed measure INITIATIVE over any two-year period, THE LICENSE ~~13~~ EXPIRES. The Secretary of State will notify a petition entity that its license has ~~14~~ expired within 30 days ~~from~~ AFTER the date of expiration.

~~15.1.6~~ 15.1.4 A petition entity whose license has expired may renew its ~~AN EXPIRED~~ ~~16~~ license WITHOUT A FEE by submitting a NEW license application. in accordance ~~17~~ with Rule 15.1.2. No fee is required to submit an application to renew an expired ~~18~~ license.

19 ~~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 ~~21~~ shall be addressed, in accordance with the requirements of section 1-40-135, ~~22~~ C.R.S.

23 ~~15.1.8~~ At the time the petition is filed, the proponents shall file with the Secretary of ~~24~~ 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~~ ~~26~~ required by section 1-40-121(1), C.R.S.

27 15.2 Petition representatives.

28 15.2.1 No petition shall be accepted which lists proponents other than the two identified ~~29~~ as petition representatives pursuant to section 1-40-104, C.R.S. A PETITION SECTION MUST LIST THE NAMES OF THE TWO PROPONENTS OR THE NAMES OF THE ~~31~~ TWO DESIGNATED REPRESENTATIVES, AS DEFINED IN 1-40-104, C.R.S.

32 15.2.2 THE TERM "PERSON RESPONSIBLE," AS USED IN ~~For the purposes of section 1-4033~~ 118(2.5)(a), C.R.S., the "person responsible" includes but is not necessarily ~~34~~ limited to any ~~MEANS~~ A person or entity who circulates a petition, or causes a petition to be circulated, and who commits, authorizes, or knowingly permits ~~36~~ fraud as defined in sections 1-40-111(3)(a) and 1-40-135(2)(c), C.R.S., ~~resulting~~ ~~37~~ in the collection of THAT RESULTS IN invalid signatures or petition sections.

38 15.3 Petition circulation.

1 15.3.1 Proponents may begin circulating a petition for signatures at any time PETITION 2 CIRCULATION
MAY BEGIN after the TITLE BOARD’S final decision of the title board, 3 including disposition of any
REHEARING motion for rehearing or the expiration of 4 AND AFTER the time for filing a REHEARING motion
for rehearing, and after the Secretary of State has approved the PETITION format. of the petition as provided
in 6 section 1-40-113(1), C.R.S., whether or not an appeal is filed with the Supreme 7 Court pursuant to
section 1-40-107(2). If an appeal is filed with the Supreme 8 Court, the six-month period specified in
section 1-40-108(1), C.R.S., shall begin 9 BEGINS on the date that the first signature is affixed to the
petition IS FIRST SIGNED or on the date that the SUPREME COURT’S decision of the Supreme Court becomes
11 final, whichever date occurs IS first. Signatures shall be counted only if affixed to 12 the petition during
the period provided in this rule GATHERED OUTSIDE OF THIS 13 PERIOD ARE INVALID.

14 15.3.2 The petition circulator shall MUST provide his or her A permanent residence
address as defined in paragraph (a) of this rule on the circulator affidavit. In 16 addition to
providing his or her permanent residence address, If the circulator is 17 not a permanent COLORADO resident, of
Colorado as described in section 1-218 102(1)(a)(i), C.R.S., and paragraph a of this rule, the circulator shall MUST
also 19 provide the address in Colorado where he or she is temporarily living. as of the
date the affidavit is signed.

21 a. For purposes of Article 40 of Title 1, C.R.S., and this rule, a circulator's 22 permanent “residence” or
“domicile” means his or her principal or primary 23 home or place of abode in which a circulator's habitation is
fixed and to 24 which the circulator, whenever absent, has the present intention of
returning after a departure or absence, regardless of the duration of the 26 absence. A
permanent “residence” or “domicile” is a permanent building 27 or part of a building and may include a house,
condominium, apartment, 28 room in house, or mobile home. Except as provided in paragraph (b) of 29 this rule, no
A vacant lot, business address, or post office box shall be
considered IS NOT a permanent “residence” or “domicile”. (Sections 1-231 102(1)(a)(i)
and 1-40-121(1)(b), C.R.S.)

32 b. For the purposes of petition circulator residence address, A homeless 33 circulator shall MUST provide the
address or location where he or she is 34 living as of the date the affidavit is signed. The circulator must provide a
physical location; a post office box may not be provided.

36 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 38 address that does not comply with this Rule 15.3.2 is considered a “false 39
address”.

15.4 Only one filing of a petition or an addendum is allowed. PROPONENTS MAY FILE A 41 PETITION OR
ADDENDUM ONLY ONCE, AND. After a petition or an addendum is filed, the 42 petition or the addendum may not be
supplemented with SUPPLEMENT additional

1 signatures AFTER FILING THE PETITION OR ADDENDUM, EVEN IF THE ADDITIONAL 2 SIGNATURES ARE OFFERED BEFORE THE DEADLINE TO SUBMIT THE ORIGINAL PETITION OR 3 ADDENDUM. If additional signatures are submitted after the original filing, such 4 ~~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.~~

6 ~~17.1 15.5 General procedures concerning verification of petitions.~~ PETITION RECEIPT BY 7 SECRETARY OF STATE.

8 ~~17.1.1 15.5.1 No petition shall be accepted which~~ EXCEPT AS SPECIFIED IN RULE 15.2.1, 9 THE SECRETARY OF STATE WILL NOT ACCEPT A PETITION THAT lists proponents other than those authorized by law.

11 ~~17.1.2 15.5.2 When the petitions are received, each section shall be date stamped and~~ 12 ~~consecutively numbered with a four digit number.~~ UPON RECEIPT OF A PETITION, 13 SECRETARY OF STATE STAFF WILL DATE-STAMP AND CONSECUTIVELY NUMBER 14 PETITION SECTIONS WITH A FOUR-DIGIT NUMBER. The number may be printed by ~~a printer, hand-stamped with a manual stamp, or handwritten.~~

16 ~~17.1.3 Each petition shall be either an individual sheet for signatures or multiple sheets~~ 17 ~~that are stapled together.~~

18 ~~17.1.4 15.5.3 STAFF WILL INSPECT each PETITION section shall be checked for evidence~~ 19 of disassembly. If it appears that the section was disassembled, THE SECRETARY OF STATE WILL REJECT all ~~entries~~ SIGNATURES in the section. ~~shall be rejected.~~

21 ~~17.1.5 15.5.4 STAFF WILL CONSECUTIVELY NUMBER EACH LINE~~ the lines on each petition 22 section. ~~shall be consecutively numbered.~~ FOR PURPOSES OF THIS RULE, “LINE” 23 MEANS the block of information ~~which consists of THAT CONTAINS the~~ 24 printed last name, first name, middle initial, county, signing date, street address, city, and signature OF A PETITION SIGNER. ~~is considered a line.~~

26 ~~17.1.6 15.5.5 If the number of entries~~ LINES is less than the ~~total~~ number of signatures 27 required to certify the measure to the ballot, THE SECRETARY OF STATE WILL 28 ISSUE a statement of insufficiency. ~~shall be issued.~~

29 ~~17.1.7 15.5.6 STAFF WILL COUNT each line with writing shall be counted~~ on each petition SECTION. FOR PURPOSES OF THIS RULE, AN “ENTRY” MEANS A COUNTED LINE 31 WITH WRITING. and shall be considered an entry. AT THE BOTTOM OF EACH 32 PAGE, STAFF WILL WRITE the number of entries ~~for each~~ ON THAT page ~~of the~~ 33 section ~~shall be written on the page~~ and, ON THE FACE OF EACH PETITION 34 SECTION, STAFF WILL WRITE the total NUMBER entries for ~~the~~ THAT section. ~~shall be written on the face of the petition section.~~

36 a.(A) STAFF WILL NOT COUNT A line ~~that has~~ WITH no writing or marks on it OR A 37 LINE WITH COMPLETELY-CROSSED-OUT WRITING ON IT AS AN ENTRY. ~~shall not~~ 38 ~~be considered an entry.~~

1 ~~b. A line that has writing on it but is completely crossed out shall not be~~ 2 ~~considered an entry.~~

3 ~~e.(B) STAFF WILL COUNT a line which has WITH INCOMPLETE writing, A PARTIAL~~ 4 ~~CROSS OUT,~~
5 ~~OR WITH WHAT APPEARS ON ITS FACE TO BE AN INVALID SIGNATURE AS AN ENTRY. on it but is~~
6 ~~incomplete or on its face contains an~~ 6 ~~invalid signature or which is partially crossed out shall be~~
7 ~~considered an~~ 7 ~~entry to be included in this count.~~

8 ~~17.1.8 15.5.7 Additional signatures submitted after the original filing of an initiative~~ 9 ~~petition or~~
10 ~~addendum, or candidate petition shall be rejected, even if such signatures are submitted to the designated~~
11 ~~election official within the time~~ 11 ~~permitted by law for the original filing. THE SECRETARY OF STATE~~
12 ~~WILL NOT~~ 12 ~~ACCEPT OR COUNT ADDITIONAL SIGNATURES AFTER PROPONENTS FILE THE~~ 13 ~~ORIGINAL~~
14 ~~PETITION OR ADDENDUM.~~

14 ~~17.2 15.6 Checking the circulator's~~ CIRCULATOR affidavit.

15.6.1 ~~17.2.1 The circulator's affidavit shall be checked for each entry. If the affidavit~~ 16 ~~is not~~
17 ~~attached and completed, all entries in the section shall be rejected. If a~~ 17 ~~PETITION SECTION DOES NOT HAVE A~~
18 ~~COMPLETED CIRCULATOR AFFIDAVIT, THE~~ 18 ~~SECRETARY OF STATE WILL REJECT THE ENTIRE SECTION.~~

19 ~~15.6.2 17.2.2 The notary clause at the end of the affidavit shall be checked for each~~
20 ~~entry. If any information is missing, or if the date on the notary clause is not the~~ 21 ~~same~~
22 ~~date as the circulator signed the affidavit, all entries in the section shall be~~ 22 ~~rejected. If a~~ ~~PETITION SECTION DOES~~
23 ~~NOT HAVE A COMPLETED NOTARY CLAUSE, OR IF THE DATE OF THE NOTARY CLAUSE DIFFERS FROM THE DATE~~
24 ~~THE~~ 24 ~~CIRCULATOR SIGNED THE AFFIDAVIT, THE SECRETARY OF STATE WILL REJECT THE~~
25 ~~ENTIRE SECTION.~~

26 ~~17.2.3 15.6.3 The circulator's affidavit shall be checked to assure it has been completed~~ 27 ~~in accordance with~~
28 ~~the statutory requirements listed below. If the affidavit was~~ 28 ~~not completed in accordance with the requirements~~
29 ~~listed below, all entries in~~ 29 ~~the section shall be rejected.~~

a. For candidate petitions, the circulator's affidavit shall be completed in 31 ~~accordance with~~
32 ~~section 1-4-905(1) and (2), C.R.S.~~

b. For initiative petitions, the circulator's affidavit shall be completed in 33 ~~accordance with section 1-40-111(2),~~
34 ~~C.R.S.~~

34 ~~15.5 15.7 PETITION verification. by Random Sample.~~

15.5.1 ~~15.7.1 Each petition section shall be verified according to the procedures set forth~~ 36 ~~in Rule~~
37 ~~17.1. VERIFICATION BY RANDOM SAMPLE.~~

1 ~~15.5.2~~ 15.7.2 Preliminary count and RANDOM NUMBER generation. ~~of random-2 numbers.~~

3 ~~a.~~(A) After COUNTING the entries ~~have been counted for~~ ON each petition section, 4 a data entry clerk shall enter the following data into the database; SECRETARY OF STATE STAFF WILL ENTER the petition identification 6 number, the petition section number, the page number and the number of 7 entries on the page INTO THE DATABASE.

8 ~~b.~~(B) STAFF WILL THEN CREATE a record ~~shall then be created for each entry 9 which record shall contain~~ THAT CONTAINS the petition identification number, petition section number, page number, and the entry number. 11 STAFF WILL TALLY the total number of entries. ~~submitted for the petition-12 shall be tallied.~~

13 ~~c.~~(C) If the number of entries is less than the total number of signatures required 14 to certify the measure to the ballot, THE SECRETARY OF STATE WILL ISSUE a statement of insufficiency. ~~shall be issued.~~

16 d. A series of random numbers shall be generated by the database which is 17 ~~the greater of four thousand (4,000) signatures or five percent (5%) of the-18 total number of entries.~~

19 ~~15.5.3 Verification of Selected Entries~~

a. The random numbers selected shall be matched with the appropriate 21 ~~petition section, page number, and entry number.~~

22 b. Each entry generated shall be checked for validity in accordance with Rule 23 ~~17.1.~~

jection of an entry shall be recorded by separate code ~~and a master record of the rejected entries shall be maintained. A- master-26 record shall also be maintained of each entry that is accepted.~~

27 15.7.3 RANDOM SAMPLE. THE DATABASE WILL GENERATE A SERIES OF RANDOM NUMBERS 28 EQUAL TO 4,000 SIGNATURES OR FIVE PERCENT OF THE TOTAL NUMBER OF 29 SIGNATURES, WHICHEVER IS GREATER. STAFF WILL CHECK THE VALIDITY OF THE RANDOM SIGNATURES IN ACCORDANCE WITH THIS RULE. STAFF WILL MAINTAIN A 31 MASTER RECORD OF EACH ACCEPTED SIGNATURE, AS WELL AS A RECORD OF EACH 32 REJECTED SIGNATURE ALONG WITH THE REASON FOR THE REJECTION.

33 ~~15.5.4~~ 15.7.4 ~~Checking the circulator's affidavit. The circulator's affidavit shall be-34 checked for each entry in accordance with Rule 17.2.~~ STAFF WILL VERIFY THAT THE CIRCULATOR'S AFFIDAVIT MEETS THE STANDARDS OF THIS RULE 17. If the 36 affidavit is not attached and completed, all entries in the section shall be rejected.

1 ~~15.5.5~~ Checking individual signatures. Each individual signature shall be checked in 2 accordance with Rule 17.3.

3 ~~15.5.6~~ 15.7.5 Computation of total accepted signatures.

4 a.(A) STAFF WILL KEEP a tally shall be made of the number of accepted signatures and the number of rejected signatures.

6 b.(B) The Secretary of State shall WILL determine the range of signatures by 7 multiplying the constitutionally required number of signatures by 0.90 to 8 compute DETERMINE ninety percent (90%) of the required signatures and 9 by 1.10 to compute DETERMINE one hundred and ten percent (110%) of the required signatures. This number shall be calculated after the general 11 election at which the Secretary of State was elected.

12 c.(C) After completing a petition, the number of signatures checked shall then 13 be divided into the number of accepted signatures. This number will be 14 the percentage of accepted signatures which were submitted. STAFF WILL THEN DIVIDE THE NUMBER OF ACCEPTED SIGNATURES BY THE TOTAL 16 NUMBER OF SIGNATURES SUBMITTED TO DETERMINE THE PERCENTAGE OF 17 ACCEPTED SIGNATURES.

18 d.(D) The percentage calculated in paragraph c of this Rule 15.5.6 shall then be 19 multiplied by the total number of entries which were previously tallied. This number will be the number of presumed valid signatures which were 21 submitted. STAFF WILL THEN MULTIPLY THE PERCENTAGE OF ACCEPTED 22 SIGNATURES BY THE TOTAL NUMBER OF SIGNATURES SUBMITTED TO 23 DETERMINE THE NUMBER OF SIGNATURES PRESUMED TO BE VALID.

24 e.(E) If the number generated is:

(i) Ninety percent (90%) or less of the constitutionally required 26 number of signatures as calculated in paragraph b of this Rule 27 15.5.6, then the Secretary of State shall WILL issue a statement of 28 insufficiency. If the number generated is

percent (110%) or more of the constitutionally required number OF SIGNATURES, then the 31 Secretary of State shall WILL issue a statement of sufficiency.

32 (iii) MORE THAN NINETY PERCENT BUT LESS THAN ONE HUNDRED TEN 33 PERCENT OF THE REQUIRED NUMBER OF SIGNATURES, THE 34 SECRETARY OF STATE'S STAFF WILL REVIEW EVERY SIGNATURE TO DETERMINE SUFFICIENCY.

36 f. If the number generated is more than ninety percent (90%) but less than 37 one hundred and ten percent (110%) of the required number, the Secretary 1 of State shall order that each signature on the petition be verified to 2 determine whether the issue or question should be certified to the ballot.

3 ~~17.3~~ 15.8 ~~Checking~~ VERIFYING Individual signatures.

4 ~~17.3.1~~ 15.8.1 STAFF WILL CHECK each individual entry ~~shall be checked against the~~ 5 INFORMATION CONTAINED IN SCORE. ~~master voter registration files to assure~~ 6 that the elector was an eligible elector in the political subdivision at the time the ~~7~~ petition was signed.

8 ~~17.3.2~~ 15.8.2 Each reason for rejection of an entry shall be recorded by separate code ~~9~~ and a master record of the rejected entries shall be maintained. A master record ~~10~~ shall also be maintained of each entry that is accepted. STAFF WILL CREATE AND ~~11~~ MAINTAIN A MASTER RECORD OF EACH ACCEPTED AND REJECTED ENTRY, ALONG ~~12~~ WITH THE REASON CODE FOR EACH REJECTED ENTRY.

13 ~~17.3.3~~ 15.8.3 ~~If the information on the current voter registration file does not match the~~ 14 ~~information on the entry, the elector's voter registration history shall be checked~~ 15 ~~to determine if the information on the entry matches the voter registration file at~~ 16 ~~the time the entry was signed.~~ IF AN ENTRY DOES NOT MATCH THE SIGNOR'S ~~17~~ CURRENT INFORMATION IN SCORE, STAFF MUST CHECK THE SIGNOR'S ~~18~~ INFORMATION IN SCORE AS OF THE DATE THE SIGNOR SIGNED THE PETITION.

19 ~~17.3.4~~ 15.8.4 Name of eligible elector. ~~To be accepted, the name on the entry must be in~~ 20 ~~a form similar to that found on the voter registration record. Signatures that are~~ 21 ~~common variants of the name found on the voter record shall be counted. If the~~ 22 ~~signer of the petition is not found on the voter registration file, or if applicable,~~ 23 ~~the county assessors' list, the entry shall be rejected.~~ SECRETARY OF STATE ~~24~~ STAFF WILL REJECT THE ENTRY IF:

25 (A) THE NAME ON THE ENTRY IS NOT IN SCORE;

26 (B) THE MIDDLE INITIAL OR MIDDLE NAME ON THE ENTRY DOES NOT MATCH THE ~~27~~ MIDDLE INITIAL OR MIDDLE NAME IN SCORE;

28 (C) THE ADDRESS ON THE ENTRY DOES NOT MATCH THE ADDRESS IN SCORE;

29 (D) THE ADDRESS ON THE ENTRY IS A POST OFFICE BOX;

30 (E) THE ENTRY IS INCOMPLETE;

31 (F) THE SIGNER COMPLETED THE ENTRY BEFORE THE DESIGNATED ELECTION ~~32~~ OFFICIAL APPROVED THE PETITION FORMAT;

33 (G) THE SIGNER WAS NOT AN ELIGIBLE ELECTOR AT THE TIME HE OR SHE ~~34~~ COMPLETED THE ENTRY;

35 (H) THE SIGNER COMPLETED THE ENTRY AFTER THE DATE ON THE CIRCULATOR

1 AFFIDAVIT;

2 (I) EVIDENCE EXISTS THAT SOME OTHER PERSON ASSISTED THE SIGNER IN 3 COMPLETING THE ENTRY BUT NO STATEMENT OF ASSISTANCE ACCOMPANIES 4 THE ENTRY;

(J) THE NAME AND SIGNATURE ON THE ENTRY IS ILLEGIBLE AND CANNOT BE 6 VERIFIED IN SCORE;

7 (K) THE ENTRY IS A DUPLICATE OF A PREVIOUSLY ACCEPTED ENTRY ON THE 8 SAME PETITION; OR

THE PETITION WHERE AN ELECTOR MAY SIGN ONLY ONE PETITION FOR THE SAME OFFICE, THE ENTRY IS A DUPLICATE OF A 11 PREVIOUSLY ACCEPTED ENTRY ON ANOTHER PETITION FOR THE SAME 12 OFFICE.

13 15.8.5 SECRETARY OF STATE STAFF WILL ACCEPT THE ENTRY IF:

14 (A) THE NAME ON AN ENTRY MATCHES OR IS SUBSTANTIALLY SIMILAR TO THE INFORMATION IN SCORE, OR IF THE SIGNATURE ON AN ENTRY IS A COMMON 16 VARIANT OF THE NAME;

17 (B) A MIDDLE INITIAL OR MIDDLE NAME IS PRESENT ON THE ENTRY BUT NOT IN 18 SCORE, OR PRESENT IN SCORE BUT NOT ON THE ENTRY;

19 (C) A SUFFIX IS PRESENT ON THE ENTRY BUT NOT IN SCORE, OR PRESENT IN SCORE BUT NOT ON THE ENTRY; OR

21 (D) THE ADDRESS ON THE ENTRY IS MISSING AN APARTMENT LETTER OR 22 NUMBER OR A STREET DIRECTION.

23 17.4 Final Tally. After all of the sections have been checked, a final tally of all valid 24 signatures shall be prepared and the statement of sufficiency or insufficiency issued.

[Current Rule 19 is amended and moved to Rule 15.9. Amendments between the current and new 26 rule language are shown below.]

27 ~~19.1~~ 15.9 ~~Cure of petitions deemed insufficient.~~ CURING INSUFFICIENT PETITIONS.

28 ~~19.2~~ 15.9.1 If the PETITION proponents submit additional signatures within the permitted time, 29 all signatures submitted in the addendum shall be checked using the process delineated in

Rule 16 and Rule 17 SECRETARY OF STATE STAFF WILL VERIFY THE ADDITIONAL 31 SIGNATURES IN ACCORDANCE WITH THIS RULE 15.

32 ~~19.3~~ 15.9.2 If the number of ADDITIONAL valid signatures, in the addendum when added to the 33 number of valid signatures given in the statement of insufficiency, equals 110% or more 34 of the required signatures, THE SECRETARY OF STATE WILL ISSUE a statement of

1 sufficiency. ~~shall be issued.~~

2 ~~19.4~~ 15.9.3 If the number of ADDITIONAL valid signatures, ~~in the addendum~~ when added to the 3 number of valid signatures given in the statement of insufficiency, equals more than 90% 4 but less than 110% of the required signatures and IF the initial check was by random sample, ~~all of the previously submitted entries shall be checked~~ SECRETARY OF STATE 6 STAFF WILL VERIFY ALL PREVIOUSLY SUBMITTED SIGNATURES. STAFF WILL ADD the total 7 NUMBER of valid signatures in the original petition ~~shall then be added~~ to the number of 8 ADDITIONAL valid signatures submitted in the addendum.

9 ~~19.5~~ 15.9.4 If the initial check was of every ~~entry~~ SIGNATURE, then STAFF WILL ADD THE NUMBER OF ADDITIONAL VALID SIGNATURES TO DETERMINE SUFFICIENCY. ~~the total of valid~~ 11 ~~signatures shall be added to the number of valid signatures submitted in the addendum.~~

12 ~~19.6~~ 15.9.5 ~~The designated election official shall then~~ STAFF WILL issue a new statement of 13 insufficiency or sufficiency ~~which~~ THAT reports the total number of valid signatures 14 submitted.

[Current Rule 20 is amended and moved to new Rule 15.10. Amendments between the current 16 and new rule language are shown below.]

17 15.10 PETITION PROTESTS.

18 ~~20.1~~ 15.10.1 A PETITION protest ~~shall~~ MUST specifically state the reasons for ~~the~~ 19 ~~challenge to~~ CHALLENGING the determination of sufficiency or insufficiency.

~~20.1.1~~ (A) A protest ~~that alleges~~ ALLEGING THE VIOLATION OF A specific 21 ~~statutes or rules~~ STATUTE OR RULE ~~were improperly applied~~ shall clearly 22 ~~state the specific requirements that were improperly applied~~ MUST CITE 23 THE STATUTE OR RULE AND SPECIFICALLY STATE THE VIOLATION.

24 ~~20.1.2~~ (B) A protest ~~that alleges that entries were improperly accepted or~~ ~~rejected~~ shall clearly identify the specific individual entries at issue and 26 ~~the reason the entries were improperly accepted or rejected~~ ALLEGING THE 27 IMPROPER ACCEPTANCE OR REJECTION OF INDIVIDUAL ENTRIES MUST CITE 28 THE ENTRY AND PETITION SECTION NUMBER AND SPECIFICALLY STATE WHY 29 THE ENTRY SHOULD BE ACCEPTED OR REJECTED, AS APPLICABLE.

~~20.2~~ ~~The protest shall be deemed insufficient for each entry or class of entries~~ 31 challenged where the individual entry is not listed or the reason for the 32 ~~challenge is not given.~~

33 ~~20.3~~ ~~Where a petition verified by random sample is protested, proponents and~~ 34 ~~opponents may protest the process by which the numbers used in the~~ ~~calculations were generated.~~

36 ~~20.4~~ ~~Individual entries which were not checked by the Secretary of State may~~ 37 ~~not be challenged as sufficient or insufficient.~~

1 [*Current Rule 23 is amended and moved to new Rule 15.11. Amendments between the current 2 and new rule language are shown below.*]

3 15.11 REFERENDUM PETITIONS.

4 ~~23.1~~ 15.11.1 ~~Applicability.~~ This Rule 23 applies to statewide referendum petitions pursuant to UNDER article V, section 1 (3) of the Colorado Constitution.

6 ~~23.2 Relationship to statutory and constitutional provisions.~~

7 ~~23.2.1 The purpose of this Rule 23 is to administer and interpret, but not supersede, the 8 provisions of Article V, Section 1, Colorado Constitution, and Article 40 of 9 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 11 statutory or constitutional provision, then such statutory or constitutional 12 provision prevails.~~

13 ~~23.3 Applicability of initiative statutes.~~

14 ~~23.3.1~~ 15.11.2 Except where this Rule 23 STATES otherwise, ~~provides, or where the context otherwise requires,~~ any statutory or constitutional provision that applies 16 specifically to initiative petitions shall also apply APPLIES to referendum 17 petitions.

18 ~~23.3.2~~ 15.11.3 The following procedural steps that apply to initiative petitions do not 19 apply to referendum petitions:

(a) Review and comment by legislative staff on the text of proposed initiated 21 constitutional amendments and initiated laws, pursuant to Article V, Section 22 1 (5), Colorado Constitution, and section 1-40-105, C.R.S.

23 (b) Title-setting by the title setting review board established in section 1-40-24 106, C.R.S.

~~23.4 Approval of referendum petition form.~~

26 ~~23.4.1 No referendum petition shall be printed, published, or otherwise circulated 27 unless the form and the master original to be used for printing or reproduction 28 have been approved by the Secretary of State. Section 1-40-113(1), C.R.S.~~

29 ~~23.4.2~~ 15.11.4 PROPONENTS MAY SUBMIT a referendum petition ~~may be submitted~~ to the Secretary of State for approval at any time after the GENERAL ASSEMBLY HAS 31 PASSED THE bill. ~~has been presented to the governor for approval or disapproval.~~ 32 The Secretary of State shall WILL not issue final approval of the referendum 33 petition form until the bill has become law pursuant to article IV, section 11 of 34 the Colorado Constitution.

1 ~~23.4.3~~ 15.11.5 Each referendum petition section shall consist of the following, in the 2 order listed: ~~Sections~~
1-40-113(1), and 1-40-102(6), C.R.S.—

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

Referendum Petition,” followed by the demand upon the Secretary of State in substantially the following form, in which the
6 underlined material is only for example:

7 “To: The Honorable , Secretary of State of the State of 8 Colorado

9 We, the undersigned electors of the State of Colorado, do hereby respectfully petition, order, and demand
that Sections 1 to 12, inclusive 11 (being the entire Act), of House Bill No.
02-1010, by Representatives 12 Abel, Baker, and Cain, and Senators Smith,
Thomas, and Jones, entitled 13 “Concerning registration requirements for
motor vehicles, and, in 14 connection therewith, authorizing two-and five-year
registration periods and authorizing discretionary vehicle identification number
inspections, 16 and making an appropriation”, passed by the Sixty-third
General 17 Assembly of the State of Colorado, at its regular session in the year
18 2002, shall be submitted to the voters for their adoption or rejection at the 19
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:

21 I sign this petition in my own proper person only, and I am a registered 22 elector of the State of Colorado, my
residence address and the date of my 23 signing this petition are correctly written immediately after my name, and
24 I do hereby designate the following persons to represent me in all matters
affecting this petition:”

26 (c) The name and mailing address of two persons who are designated to 27 represent the signers thereof in all
matters. ~~affecting the same.—~~

28 (d) The ballot title and submission clause. ~~in the form required by this Rule-29 23.—~~

(e) The text of the Act, or the ~~item(s)-ITEM, section(s)-SECTION, or part(s)-31 PART~~ of the
Act, on which the referendum is demanded. ~~See sections 1-40-110; 1-40-102(6).—~~

33 (f) Succeeding pages that each contain the warning, the ballot title, and 34 submission clause, and ruled lines
numbered consecutively for ~~electors’~~
signatures.

36 (g) A final page that contains the circulator’s affidavit required by section 37 1-40-111(2), C.R.S.

1 ~~23.4.4~~ 15.11.6 ~~Each~~ A referendum petition section ~~shall~~ MUST include only the matters 2 required by Article 40, Title 1, C.R.S., and this Rule 23, and no extraneous 3 material. ~~Section 1-40-113(1), C.R.S.~~

4 ~~23.5~~ ~~Ballot Title and Submission Clause.~~

~~23.5.1~~ 15.11.7 The ballot title ~~shall~~ MUST consist of the title of the act on which the 6 referendum is demanded, followed by the bill number, in substantially the 7 following form, in which the underlined material is only for example:

8 “An Act concerning registration requirements for motor vehicles, and, in 9 connection therewith, authorizing two-and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making 11 an appropriation, being House Bill No. 02-1010.”

12 ~~23.5.2~~ 15.11.8 When referendum is demanded on less than an entire Act of the General 13 Assembly, the ballot title and submission clause shall consist of the ballot title 14 preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

16 “Shall Section 3 (concerning definition of terms) and Section 4 (eliminating 17 licensing requirements for motor vehicle dealers) of the following Act of the 18 General Assembly be approved:” The material in parentheses shall correctly and 19 fairly summarize the subject or the effect of the portion of the Act referenced.

~~23.6~~ 15.11.9 ~~Election.~~ If a referendum petition is timely filed with the Secretary of 21 State with a sufficient number of valid signatures, it ~~shall be voted upon~~ WILL 22 APPEAR ON THE BALLOT at the next general election that occurs at least three 23 months after the referendum petition is filed with the Secretary of State.

24 [Rules 15, 17, 19, 20, and 23 are amended and relocated to Rule 15.]

Rule 16. MILITARY AND OVERSEAS VOTERS (UOCAVA)

26 ~~25.1~~ 16.1 General rules concerning voting by military and overseas electors.

27 ~~25.1.1~~ 16.1.1 For the purposes of this Rule 25, elector means a covered voter as defined 28 in section 1-8.3-102(2), C.R.S.

In accordance with the Help America Vote Act of 2002 and this Rule 25, each county clerk and recorder office ~~shall~~ MUST have a dedicated fax machine 31 for the purpose of fax ballot transmission.

32 ~~25.1.3~~ 16.1.3 In accordance with section 1-8.3-109, C.R.S., a ~~mail in~~ ballot application 33 submitted by an elector ~~shall be~~ IS effective through the next regularly 34 scheduled General Election, unless the elector SPECIFIES OTHERWISE ~~makes an election specific or permanent mail in request.~~

1 ~~25.1.4~~ 16.1.4 ~~Mail in ballot application~~ APPLICATION and replacement ballot request 2 deadlines.

3 (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ELECTOR MAY 4 SUBMIT AN APPLICATION FOR REGISTRATION AND BALLOT REQUEST WITH HIS OR HER VOTED BALLOT AS LONG AS THE BALLOT IS TIMELY SUBMITTED 6 AND RECEIVED UNDER SECTIONS 1-8.3-111 AND 1-8.3-113, C.R.S., AND 7 RULE 25.1.6.

8 (B) ~~An application for a mail in ballot must be received no later than the close~~ 9 of business the ~~Friday immediately preceding the election, except that if the~~ AN elector WHO wishes to receive the A ballot by mail MUST SUBMIT A 11 REQUEST NO LATER THAN THE SEVENTH DAY BEFORE THE ELECTION ~~the~~ 12 application must be received no later than the ~~seventh day before the~~ 13 election.

~~replacement ballot must be received by 5:00 p.m. MT on election day. A request for replacement ballot includes a request for an~~ 16 electronically transmitted ballot by an elector who has already been issued ~~17 a ballot by regular mail.~~

18 ~~25.1.5~~ 16.1.5 Use of a Federal Write-in Absentee Ballot (FWAB) as an application for 19 registration or ballot request.

(a) In accordance with section 1-8.3-107, C.R.S. NOTWITHSTANDING ANY 21 OTHER PROVISION OF LAW, if an unregistered elector submits a FWAB by 22 the ~~close of registration~~ DEADLINE SET FORTH IN SECTIONS 1-8.3-111 AND 23 1-8.3-113, C.R.S., AND RULE 25.1.6., the FWAB ~~shall be considered a~~ IS A 24 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~~ 26 submits a FWAB ~~no later than the Friday before the election, the FWAB~~ 27 shall be considered a timely application for ~~mail in ballot.~~

28 ~~25.1.6~~ 16.1.6 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., all ballots 29 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 31 Secretary of State no later than the close of business on the eighth day after 32 election day.

33 ~~25.1.7~~ 16.1.7 Ballots received by the Secretary of State

f State timely receives a ballot ~~in accordance with this~~ UNDER SECTION 1-8.3-113, C.R.S., AND Rule 25, the Secretary of State will 36 immediately notify the appropriate county clerk and recorder and forward 37 the ballot by ~~overnight mail, fax, or courier~~ BY THE MOST EFFICIENT MEANS 38 AVAILABLE no later than the next business day.

1 (b) To ensure voter secrecy, any county notified that the Secretary of State has 2 received a ballot, shall-MUST retain a minimum of ten voted ballots to be 3 counted with the ballot received by the State.

~~25.1.8~~ 16.1.8 The county clerk and recorder shall-MUST send a minimum of one correspondence prior to-BEFORE the Primary Election to each elector whose 6 record is marked "Inactive" and whose ballot request has expired. Such shall-7 THE correspondence may be sent by email or mail and, at a minimum, shall-8 MUST notify the electors of:

- 9 (a) The status of the elector's record and ballot request;
- (b) The upcoming federal elections;
- 11 (c) How to update the elector's mailing information and request a ballot; and
- 12 (d) Any other information the county clerk and recorder deems appropriate.

13 ~~25.1.9~~ 16.1.9 ~~Reporting. No later than 60 days after a General Election, the county clerk-14 and recorder shall provide a must report to the Secretary of State in the approved format, which shall summarize in detail the ballots transmitted and-16 returned by military and overseas electors. NO LATER THAN 45 DAYS BEFORE AN 17 ELECTION, THE COUNTY CLERK AND RECORDER MUST REPORT TO THE SECRETARY 18 OF STATE THE NUMBER BALLOTS TRANSMITTED TO MILITARY AND OVERSEAS 19 ELECTORS BY THE 45-DAY DEADLINE.~~

~~25.2~~ 16.2 Electronic ballot transmission (receipt and return) of ballots to military and 21 overseas electors.

22 ~~25.2.2~~ 16.2.1 ~~Electronic Transmission (receipt and return) of ballots to military and-23 overseas electors (a)In accordance with sections 1-8.3-110 and 1-8.3-113, 24 C.R.S., an elector may request to receive and return his or her ballot by~~
electronic transmission.

26 (i) ~~Subject to the deadlines in Rule 25.1.4, a request for electronic ballot-27 transmission may be made on the federal postcard, state voter 28 registration, mail in ballot, online voter registration, or any other-29 application.~~

(ii) (A) An elector who requests fax transmission shall-MUST provide a fax 31 number, including the international country code and local area, province, 32 or city code (if applicable) where the ballot is to be faxed.

33 (iii) (B) An elector who requests email transmission shall-MUST provide a 34 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 36 disclose the email address to the public.

1 ~~(b)~~(C) An elector who chooses to receive his or her unvoted ballot by 2 online ballot delivery may return his or her ballot by fax or email.

3 ~~(e)~~(D) To return a voted ballot and self-affirmation by email, the elector 4 must scan and return the documents as an email attachment.

5 [Current Rule 25.2.1 is moved to Rule 1.]

6 ~~25.2.4~~ 16.2.2 The ballot packet sent by electronic transmission ~~shall~~ MUST be in text 7 format on 8 ½” x 11” white paper and ~~shall~~ MUST include:

8 (a) An electronic transmission coversheet to protect voter privacy;

9 (b) The blank ballot;

10 (c) The electronic transmission ballot instructions; and

11 (d) The self-affirmation required by section 1-8.3-114, C.R.S.

12 ~~25.2.5~~ 16.2.3 The electronic transmission ballot instructions ~~shall~~ MUST include:

13 (a) The county clerk and recorder’s contact information including mailing 14 address, email address, phone, and fax number;

15 (b) A notice that the ballot may not be duplicated for any other elector;

16 (c) Instructions for completing and returning the ballot;

17 (d) A notice regarding the ballot return deadline;

18 (e) Information regarding how the elector may verify that his or her ballot has 19 been received by the county clerk and recorder; and

20 (f) Any other information deemed necessary by the Secretary of State or the 21 ~~designated election official~~ COUNTY CLERK AND RECORDER.

22 ~~25.2.6~~ 16.2.4 The self-affirmation ~~shall~~ MUST include the standard oath required by the 23 Uniformed and Overseas Citizen Voting Act (42 U.S.C sec. 1973ff(b)(7) and 24 1(a)(5)), the elector’s name, date of birth, signature, and the following 25 statement: I also understand that by returning my voted ballot by electronic 26 transmission, I am voluntarily waiving my right to a secret ballot. (Section 127 8.3-114, C.R.S.)

28 ~~25.2.7~~ 16.2.5 Any ballot transmitted to an elector by electronic transmission ~~shall~~ MUST 29 contain a unique identification number for tracking and auditing purposes.

30 ~~25.2.8~~ 25.2.6 If the county clerk and recorder transmits a ballot packet to an elector by 31 fax and the transmission is unsuccessful, the county clerk and recorder shall 32 attempt to fax the ballot at least two more times.

1 ~~25.2.9~~ 16.2.7 The county clerk and recorder ~~shall~~ MUST maintain a log of each ballot 2 sent by electronic transmission. ~~, which the~~ THE county CLERK AND RECORDER 3 ~~shall~~ MUST maintain THE LOG as an election record along with any other email or 4 fax records. The log ~~shall~~ MUST include:

5 (a) The name of the elector;

6 (b) The fax number or email address to which the ballot packet was 7 transmitted (as applicable);

8 (c) The unique identification number of the ballot;

9 (d) The date the ballot packet was transmitted; and

10 (e) The initials of the employee transmitting the ballot.

11 ~~25.2.10~~ 16.2.8 Upon receipt of A voted ballot sent by electronic transmission, the 12 county clerk and recorder ~~shall~~ MUST verify the elector's signature in 13 accordance with Rule 29. ~~, and upon verification the ballot shall be duplicated~~ 14 ~~for counting.~~ AFTER THE AFFIDAVIT HAS BEEN VERIFIED, A BIPARTISAN TEAM OF 15 JUDGES MUST DUPLICATE THE BALLOT. DUPLICATING JUDGES MUST NOT REVEAL 16 HOW THE ELECTOR HAS CAST HIS OR HER BALLOT.

17 ~~13.20~~ 16.2.9 A military or overseas elector whose registration record is inactive ~~or~~ 18 ~~whose ballot request has lapsed~~ may download an application and ballot using 19 the electronic ballot delivery system.

20 ~~13.20.1~~ (A) The elector must submit the ballot and application in accordance 21 with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the 22 ballot to be counted.

23 ~~13.20.2~~ (B) Every county must use the approved electronic delivery system to 24 implement this rule, except that a county may obtain a waiver. The 25 Secretary will consider the following factors in approving or denying a 26 request for waiver:

27 ~~(a)~~ (I) Number of military or overseas electors registered to vote in the 28 county;

29 ~~(b)~~ (II) Historical data regarding the number of military and overseas 30 electors who have registered and voted in the county; and

31 ~~(c)~~ (III) Staff or other resource limitations.

1 [Current Rule 25 is amended and moved to new Rule 16. Current Rule 13.20 is amended and
2 moved to new Rule 16.2.9. Amendments between the current and new rule language are shown
3 above.]

4 **Rule 17. PROVISIONAL VOTING**

17.1 PROVISIONAL VOTING IN THE VOTER SERVICE AND POLLING CENTER

6 17.1.1 THE COUNTY CLERK AND RECORDER MUST USE THE APPROVED PROVISIONAL 7 BALLOT FORM.

8 17.1.2 IF A VOTER SERVICE AND POLLING CENTER LOSES CONNECTIVITY TO SCORE, THE 9 JUDGES MUST ISSUE
PROVISIONAL BALLOTS UNTIL THE COUNTY RESTORES CONNECTIVITY.

11 ~~26.3.3~~ 17.1.3 The word “provisional” ~~shall~~ MUST be marked on the provisional ballot 12 and on the pollbook or
signature card next to the elector’s name.

13 *[Current Rule 26.3.3 is amended and moved to new Rule 17.1.3. Amendments between 14 the current and new
rule language are shown above.]*

~~26.4~~ 17.2 Verification of Provisional Ballots

16 17.2.1 THE COUNTY CLERK AND RECORDER MUST PROCESS AND TABULATE ALL REGULAR 17 BALLOTS BEFORE
PROCESSING PROVISIONAL BALLOTS.

18 ~~26.12~~ 17.2.2 The county clerk and recorder must process all pollbooks or signature 19 cards in the statewide
voter registration ~~database~~-SYSTEM before processing
provisional ballots.

21 [Current Rule 26.12 is moved to new Rules 17.2.]

22 ~~26.4.2~~ 17.2.3 Verification of an elector’s eligibility to have his or her provisional ballot 23 counted ~~shall be~~-IS
limited to the following sources:

24 (a) Sources provided by the Secretary of State or law enforcement agencies
regarding felons who are serving a sentence of detention or confinement 26 or on
parole;

27 (b) The State of Colorado Statewide Voter Registration Database;

28 (c) The DMV Motor Voter database (Note: Possession of a driver’s license is 29 not conclusive proof of voter
registration; elector must have registered to
vote through the DMV); and

31 (d) The information provided on the provisional ballot envelope, including the 32 affidavit.

1 ~~26.4.3~~ 17.2.4 When verifying provisional ballots, the designated election official ~~shall~~ 2 MUST check the State of Colorado Statewide voter registration database to 3 determine whether the elector has already voted in the election.

4 [Current Rules 26.4.2 and 26.4.3 are amended and moved to new Rules 17.2.3 and

17.2.4. Amendments between the current and new rule language are shown above.]

6 ~~26.4.5~~ 17.2.5 If during verification it appears that the elector's record was cancelled or 7 consolidated as a duplicate in error, the ballot ~~shall~~ MUST be counted so long as 8 the elector has not cast a ballot in the election, the affidavit is complete, and the 9 elector is otherwise eligible. THE COUNTY CLERK AND RECORDER MUST REINSTATE OR UNCONSOLIDATE THE elector's record AND UPDATE THE ELECTOR'S RECORD 11 BEFORE MARKING THE ELECTOR'S PROVISIONAL BALLOT AS ACCEPTED OR REJECTED 12 IN THE STATEWIDE VOTER REGISTRATION SYSTEM AND BEFORE LINKING IT TO THE 13 ELECTOR'S RECORD ~~shall be reinstated or unconsolidated.~~

14 ~~26.4.6~~ 17.2.6 When the designated election official ~~has received~~ RECEIVES both a ~~mail in~~ MAIL ballot and a provisional ballot from an elector, but there is a discrepancy 16 between the signature on the returned ~~mail in~~ MAIL ballot envelope and the 17 elector's signature stored in the statewide voter registration system, the 18 discrepancy must be resolved. Before the provisional ballot may be ~~counted~~ 19 VERIFIED, the elector must affirm that the signature on the ~~mail in~~ MAIL ballot envelope is not his or her signature. Section 1-8.5-105(4) and (5), C.R.S.

21 [*Current Rules 26.4.5 and 26.4.6 are amended and moved to new Rules 17.2.5 and 22 17.2.6. Amendments between the current and new rule language are shown above.*]

23 ~~26.4.9~~ 17.2.7 If ~~An~~ AN elector whose voter registration record is tagged ID required 24 casts a provisional ballot without providing valid identification, the ballot ~~shall~~ MUST be verified and counted as follows:

26 (a) The COUNTY CLERK AND RECORDER MUST SEND THE elector ~~shall be sent~~ a 27 letter within three days after the ballot is cast, and no later than three days 28 after election day, explaining that he/she has not provided the required 29 identification. Nothing in this rule shall be construed to prohibit the ~~designated election official~~ PROHIBITS THE COUNTY CLERK from calling the 31 elector; however, a phone call ~~shall~~ DOES not substitute for notification to 32 the elector in writing.

33 (b) If the elector provides a copy of valid identification within eight days after 34 election day, the ballot ~~shall~~ MUST be counted so long as the elector has not cast another ballot in the election, the affidavit is complete, and the 36 elector is otherwise eligible.

37 [*Current Rule 26.4.9 is amended and moved to new Rule 17.2.7. Amendments between 38 the current and new rule language are shown above.*]

1 ~~26.5.1~~ 17.2.8 If the information contained in the provisional ballot envelope and 2 affidavit provides adequate criteria so that the designated election official is able 3 to confirm ~~under election Rule 26~~ that the elector is eligible to cast a ballot, the 4 provisional ballot ~~shall~~ MUST count.

[Current Rule 26.5.1 is amended and moved to new Rule 17.2.8. Amendments between 6 the current and new rule language are shown above.]

7 ~~26.5.3~~ 17.2.9 Acceptance Codes (~~Any provisional ballot given an acceptance code shall 8 have all~~ THE COUNTY CLERK AND RECORDER MUST COUNT ALL races counted 9 ~~unless otherwise indicated.~~)

AOK Reviewed and confirmed voter's eligibility.

11 ALC ELECTOR VOTED A PROVISIONAL BALLOT BECAUSE THE VOTER SERVICE 12 AND POLLING CENTER LOST CONNECTIVITY. ELECTOR'S ELIGIBILITY IS 13 CONFIRMED.

14 ~~26.5.4~~ 17.2.10 Rejection Codes (~~Any~~ THE COUNTY CLERK AND RECORDER MUST NOT COUNT A ballot given a rejection code ~~shall not be counted~~):

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

17 RIN (Rejection incomplete information provided) Required information is 18 incomplete and the designated election official is unable to confirm voter's 19 eligibility.

REE (Rejection envelope empty) Provisional ballot envelope is empty.

21 RAB (Rejection voter voted mail-in ballot) Designated election official has 22 confirmed that voter voted a ~~mail in~~ MAIL ballot.

23 RED (Rejection based upon ballot cast ~~on election day~~ IN PERSON) Voter voted 24 in a ~~polling place~~ VOTER SERVICE CENTER OR POLLING CENTER

RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.

26 RFE (Rejection felon not eligible to vote) Individual was convicted of a felony 27 and is either serving a sentence of confinement or detention or is on 28 parole.

29 RWC (Rejection elector not ~~registered in county or~~ A RESIDENT OF THE State of Colorado) ~~Non county or non state~~ VOTER IS NOT A STATE resident; 31 therefore voter not eligible to vote in the county where the provisional 32 ballot was voted.

33 RID (Rejection first time voter has not supplied identification upon registration 34 or thereafter prior to and during time voter voted) First Time Voter who 1 registered by mail or through a voter registration drive, is tagged as ~~id~~ ID 2 deficient, and did not provide ~~id~~ ID at the time of voting.

3 *[Current Rules 26.5.3 and 26.5.4 are amended and moved to new Rules 17.2.9 and*
4 *17.2.10. Amendments between the current and new rule language are shown above.]*

~~26.6~~ 17.3 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.

7 ~~26.7~~ 17.4 Recount procedures for provisional ballots ~~shall be~~ ARE the same as the recount 8 procedures for other ballots as directed by the Secretary of State.

9 *[Current Rules 26.6 and 26.7 are amended and moved to new Rules 26.3 and 26.4. Amendments between the current and new rule language are shown above.]*

11 ~~26.11~~ 17.5 Processing provisional ballot affidavits in the statewide voter registration 12 database. Before closing an election, the county clerk and recorder must:

13 ~~26.11.1~~ 17.5.1 Enter all provisional ballot affidavits into the provisional module of the 14 statewide voter registration database.

~~26.11.2~~ 17.5.2 PROCESS ALL VOTER REGISTRATION UPDATES. 16 17.5.3 Link all provisional ballot affidavits to the appropriate elector's record. 17 *[Current Rule 26.11 is amended and moved to new Rule 17.5.*

Amendments between the 18 *current and new rule language are shown above.]* 19 17.6 PUBLIC ACCESS TO PROVISIONAL BALLOT INFORMATION

17.6.1 THE LIST OF VOTERS WHO CAST A PROVISIONAL BALLOT AND THE ACCEPT/REJECT 21 CODE FOR THE BALLOT IS AVAILABLE FOR PUBLIC INSPECTION.

22 17.6.2 IN ACCORDANCE WITH SECTION 24-72-204(8), C.R.S., THE COUNTY CLERK AND 23 RECORDER MUST NOT RELEASE AN ORIGINAL OR COPY OF THE ELECTOR'S:

24 (A) MONTH AND DAY OF DATE OF BIRTH;

(B) DRIVER'S LICENSE OR DEPARTMENT OF REVENUE IDENTIFICATION NUMBER; 26 (C)

SOCIAL SECURITY NUMBER; OR 27 (D) SIGNATURE. 28 17.6.3 IF A VOTER HAS REQUESTED CONFIDENTIALITY UNDER SECTION 24-72-204(3.5), 29 C.R.S., THE COUNTY CLERK AND RECORDER MUST NOT RELEASE THE ELECTOR'S ADDRESS OR TELEPHONE NUMBER.

1 17.6.4 IF A VOTER HAS REQUESTED CONFIDENTIALITY UNDER SECTION 24-30-2101, 2 C.R.S., THE COUNTY CLERK AND RECORDER MUST NOT RELEASE THE 3 PROVISIONAL BALLOT AFFIDAVIT.

4 ~~26.13-17.7~~ Voter Access to Provisional Ballot Information

~~26.13-1~~ 17.7.1 The Secretary of State will provide a provisional ballot lookup on the 6 Secretary's website.

7 ~~26.13-2~~ 17.7.2 The county clerk and recorder must number the provisional ballot 8 envelope or affidavit stock using the standard numbering convention approved 9 by the Secretary of State.

~~26.13-3~~ 17.7.3 An elector may access the system during the 45 days following the 11 election.

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

13 [*Current Rule 26.13 is amended and moved to new Rule 17.7. Amendments between the 14 current and new rule language are shown above.*]

[Current Rule 26 is amended and moved to new Rule 17. Amendments between the current and 16 new rule language are shown below.]

17 Rule 18. UNIFORM BALLOT COUNTING STANDARDS

18 ~~27.2~~ 18.1 ~~Multiple Page Ballots~~. In any election where a multiple page printed ballot is 19 used, a voter must vote and return all pages of the ballot at the same time. Any voter who

~~has returned~~ RETURNS at least one page of a multiple page printed ballot will be 21 considered to have voted and the COUNTY CLERK AND RECORDER MUST COUNT THE votes 22 on the submitted PAGES ~~page(s) shall be counted. Any~~ THE COUNTY CLERK MUST NOT 23 COUNT VOTES ON additional ~~page~~ PAGES returned at a later time ~~shall not be counted. but~~ 24 ~~shall be~~ THE COUNTY CLERK MUST appropriately ~~marked~~ MARK, set aside, and ~~preserved~~

PRESERVE THE BALLOTS as ~~other election materials~~ RECORDS in accordance with section 126 7-802, C.R.S.

27 ~~27.3~~ 18.2 Uniform Counting Standards for hand-counted Paper Ballots

28 ~~27.3-1~~ 18.2.1 ~~Pursuant to~~ IN ACCORDANCE WITH section 1-7-309, C.R.S., AND RULE 29 ~~27.7~~, judges counting ballots on election day ~~shall~~ MUST ~~take into consideration~~ CONSIDER the intent of the voter ~~in accordance with Rule~~ 27.7.

31 ~~27.3-2~~ 18.2.2 If a RACE OR BALLOT MEASURE IS OVERVOTED ~~ballot contains markings for~~ 32 ~~more than the maximum votes allowed in a candidate race or for a ballot measure~~, 33 THE JUDGES MUST ~~no vote shall~~ count NO VOTE for that race or ballot measure.

34 ~~27.3-3~~ 18.2.3 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~~ BUT all other candidate 1 races or ballot measures properly marked by the voter on the ballot ~~shall~~ MUST be 2 counted.

3 ~~27.3.4~~ 18.2.4 A ballot which has no markings for any candidate races or ballot measures 4 ~~shall~~ MUST be tallied as a blank ballot, but the voter ~~shall~~ MUST be given credit for voting.

6 ~~27.4~~ 27.3 Uniform Counting Standards for Optical Scan Ballots

7 ~~27.4.1~~ 18.3.1 ~~Precinct~~ Optical Scan Procedures AT A VOTER SERVICE AND POLLING 8 CENTER

lots are rejected or sorted by ~~the precinct counter~~ A VOTER SERVICE AND POLLING CENTER SCANNER as a blank or overvoted 11 ballot ~~shall~~ MUST be given the opportunity to correct their ballot.

12 (b) Ballots sorted to a write-in bin ~~shall~~ MUST be tallied at the conclusion of 13 the voting and delivered to the central counting center in a secure 14 container.

~~27.4.2~~ 18.3.2 Central Count Optical Scan Procedures

16 (a) ~~A~~ JUDGES SHOULD COMPLETE A visual inspection of every ballot ~~should be~~ 17 ~~completed~~ for the limited purpose of separating damaged ballots into a 18 unique batch.

19 (b) JUDGES MUST RESOLVE, AND WHERE APPLICABLE, DUPLICATE, ~~Every~~ EVERY damaged ballot and all ballots sorted by the optical scan machine ~~shall be~~ 21 ~~resolved,~~ and where applicable duplicated, in accordance with this rule.

22 (c) A resolution board, consisting of a team(s) of one (1) Republican and one 23 (1) Democrat for partisan elections or two (2) qualified election judges for 24 nonpartisan elections, ~~shall~~ MUST resolve all ballots sorted by the central count optical scan equipment.

26 (1) The board ~~shall~~ MUST be observed by two (2) witnesses, who in 27 any partisan election shall be representatives of each major 28 political party, who may not handle or process ballots.

29 (2) All persons engaged in the counting and processing of ballots ~~shall~~ MUST be deputized or take an oath to faithfully perform their 31 duties.

32 (3) The resolution board ~~shall~~ MUST maintain a log for each step of 33 verification, duplication, and counting.

34 (d) Sequence of Resolution Procedures 1 (1) ~~A~~ THE RESOLUTION BOARD MUST RUN A zero tape, or similar report, 2 ~~shall be run~~ indicating no votes cast or counted before the counting 3 begins.

processed through THE BOARD MUST REVIEW ALL BALLOTS WITH OVERVOTES, BLANK BALLOTS, AND 6 WRITE-IN BALLOTS SORTED BY the optical scanner, with sorted 7 ~~overvotes, blank ballots, and write-in ballots viewed and resolved~~ 8 by the resolution board. Ballots sorted by the optical scan 9 equipment ~~shall be~~ ARE subject to review by the resolution board. If there are no legally qualified write-in candidates, the write-in 11 sort option ~~shall~~ MUST not be utilized.

12 (3) A voter's intent ~~shall~~ MUST be reviewed for every ballot that 13 requires resolution.

ted by the optical scanner and resolved by the resolution board by duplication are to be indicated as such 16 MUST BE MARKED AS DUPLICATED.

17 (5) The resolution board ~~shall~~ MUST maintain an official audit log for 18 all ballots resolved setting forth the precinct number, duplicate 19 ballot number (where applicable), reason (with specificity) that the ballot was resolved, date of resolution, and the initials of the 21 members of the duplication board responsible for resolving the 22 ballot.

23 (6) The precinct judge's ballot reconciliation form ~~is~~ MUST BE 24 compared to the number of scanned ballots for the precinct.

(7) After the final precinct has been tallied, the total write-in votes 26 ~~shall~~ MUST be indicated on the final summary along with the seal 27 numbers for each sealed box of scanned ballots.

28 (e) Resolution of damaged ballots

D MUST DUPLICATE ~~Damaged ballots~~ DAMAGED or defective ballots ~~shall be duplicated~~ utilizing the 31 ballot duplication procedures ~~as provided~~ in Rule 27.6 18.5

32 (2) THE RESOLUTION BOARD MUST EXAMINE ~~Blank~~ BLANK ballots ~~shall~~ 33 be examined by the resolution board to determine if the ballot is a 34 true blank ballot or one that has been marked with a non-detectable mark.

Resolution board members must make a duplicate copy of 36 the ballot which has been marked with a non-detectable mark 37 utilizing the ballot duplication procedures ~~as set forth~~ in Rule 27.6 38 18.5. If a ballot is truly blank, THE BOARD MUST SEND it ~~shall be~~

1 sent back for the resolution pass through the scanner, and the ballot 2 MUST BE tabulated with no races or ballot measures voted.

3 (3) THE RESOLUTION BOARD MUST INSPECT AND RESOLVE ~~Overvoted~~ 4 OVERVOTED ballots ~~shall be inspected by the resolution board and resolved~~ in accordance with Rule ~~27.7~~ 18.6.

6 (4) Write-in votes sorted by the optical scan equipment on election day 7 ~~shall~~ MUST be delivered to the assigned write-in board for hand 8 counting.

in order to be counted, the oval must be darkened or the arrow connected according to 11 the appropriate voting instructions. Only votes for legally 12 qualified write-in candidates ~~shall~~ MAY be counted.

13 (ii) If, following the initial count, the number of undervotes in 14 that race could change the outcome or force the election into

a mandatory recount if attributed to a legally qualified write¹⁶ in candidate, votes for that candidate ~~shall~~ MUST be counted 17 whether or not the target area designating the selection of a 18 write-in candidate has been marked, provided that the 19 number of candidates chosen does not exceed the number

permitted in that office.

21 (5) The resolution board ~~shall~~ MUST duplicate ballots by clearly 22 labeling the new duplicate ballot as a “DUPLICATE” and assign a 23 serial number which shall be recorded on both the original and 24 duplicate ballot. For example, the first ballot in Precinct # 1 to be

duplicated could be labeled as #1/001 with the duplicate labeled 26 D#1/001.

Original ballots ~~shall~~ MUST be separated from the 27 duplicate ballots and placed in a sealable container clearly marked 28 “ORIGINAL BALLOTS.” The duplicate ballots ~~shall~~ MUST be 29 counted in lieu of the original ballots.

(6) The resolution board ~~shall~~ MUST maintain an official audit log 31 setting forth the precinct number, duplicate ballot number, reason 32 (with specificity) that the ballot was duplicated, date of 33 duplication, and the initials of the members of the duplication 34 board responsible for duplicating the ballot.

(f) Recount Procedures for Optical Scan

36 (1) Optical scan equipment must be set to consistent sensitivity 37 standards for each system type, must be tested prior to the recount, 38 and shall be programmed to sort undervotes for the individual 39 race(s) or ballot measure(s) being recounted.

1 (2) The county will conduct a recount of a race with a write-in 2 candidate as outlined in Rule ~~27.7.4~~ 18.6.4..

3 ~~27.5~~ 18.4 Uniform Counting Standards for DREs. A vote that is properly recorded, as 4 specified by the voting instructions, on the voting device for an office or ballot measure ~~shall~~ MUST be counted.

6 ~~27.6~~ 18.5 Duplication of Ballots.

7 (a) Using the damaged ballot as the guide, THE DUPLICATING TEAM MUST MARK a 8 blank ballot ~~shall be marked by a duplicating team,~~ so that the votes recorded are 9 identical to those indicated on the damaged ballot. ~~and shall~~ THE DUPLICATION MUST be proofed to ensure it is marked properly and accurately.

11 (b) Every duplicated ballot ~~shall~~ MUST be subject to the process for determining voter 12 intent outlined in Rule ~~27.7~~ 27.6.

13 (c) A unique number ~~shall~~ MUST be assigned to both the original and duplicated 14 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 16 number and NNN are consecutive numbers starting with the number one.)

17 (d) The duplicated ballots ~~shall~~ MUST be counted in the same manner as all other 18 ballots to be counted.

19 (e) The damaged or unreadable original ballot ~~shall~~ MUST be marked “DUPLICATED” to indicate that the ballot has been duplicated and the 21 duplication is completed. All duplicated original ballots for a precinct along with 22 any applicable printed material ~~shall~~ MUST be placed in a sealable container and 23 clearly marked “ORIGINAL BALLOTS.”

24 ~~27.7~~ 18.6 Determination of Voter Intent

~~27.7.1~~ 18.6.1 If a voter uses a consistent alternate ballot marking method that deviates 26 from the method specified by the voting instructions (such as circling or placing a 27 check mark behind a candidate’s name or ballot response) and does not place an 28 “X”, check or other appropriate mark in the target ~~area(s)~~ AREA, the voter will be 29 considered to have voted for the appropriate candidates and or ballot responses and the ballot ~~shall~~ MUST be duplicated. ~~except that,~~ BUT if a voter marks any of 31 ~~his/her~~ HIS OR HER choices by placing an “X”, check or other appropriate mark in 32 any target area on the voter’s ballot, only those choices where the target area ~~has~~ ~~been~~ IS marked ~~shall~~ MAY be counted.

34 ~~27.7.2~~ 18.6.2 A ballot that has a mark correctly in the target area that partially extends into another target area ~~shall~~ MUST be counted as a vote for the candidate or ballot 36 response so marked.

1 ~~27.7.3~~ 18.6.3 When resolving an overvoted race, marks indicating the voter's intent 2 ~~shall include, but not be limited to,~~ circling the candidate's name and strike-outs 3 or corrections of choices.

4 ~~27.7.4~~ 18.6.4 Write-in votes

5 ~~27.7.4.1~~ (A) If a voter designates a vote for a named candidate on the ballot and 6 writes in the name of the same candidate in the write-in area, the vote 7 ~~shall~~ MUST be counted.

8 ~~27.7.4.2~~ (B) If a voter designates a named candidate on the ballot and writes in 9 the name of a different candidate in the write-in area, it ~~shall~~ MUST be 10 considered an overvote for that office if the number of chosen 11 candidates exceeds the number permitted to be voted for in that office 12 and no vote ~~shall~~ MAY be counted. 13 ~~27.7.4.3~~ (C)

During any recount of votes, if the number of undervotes in that 14 race could change the outcome if attributed to a legally qualified write 15 in candidate, votes for that candidate ~~shall~~ MUST be counted whether or 16 not the target area designating the selection of a write-in candidate has 17 been marked, provided that the number of candidates chosen does not 18 exceed the number permitted in that office. 19 **Rule 19. RESERVED** 20 **Rule 20. RESERVED** 21 **Rule 21.**

RESERVED 22 **Rule 22. RESERVED** 23 **Rule 23. RESERVED** 24 **Rule 24. RESERVED** 25 **Rule 25. RESERVED** 26

RULE 26. RESERVED 27 **Rule 27. RESERVED** 28 **Rule 28. RESERVED** 29 **Rule 29. RESERVED** 30 **Rule 30.**

RESERVED 31 **Rule 31. RESERVED**

1 **Rule 32. RESERVED**

2 **Rule 33. RESERVED**

3 **Rule 34. RESERVED**

4 **Rule 35. RESERVED**

5 **Rule 36. RESERVED**

6 **Rule 37. RESERVED**

7 **Rule 38. RESERVED**

8 **Rule 39. RESERVED**

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

10 40.1 Purpose and Definitions.

11 40.1.1 The Secretary of State recognizes that the oversight of elections is a profession 12 that requires thorough knowledge of complex state and federal election law and 13 election procedures. Considering the complexity of state and federal law, voting 14 equipment, and election procedures, extensive training is necessary. The 15 certification program standardizes election procedures and education. The 16 program also promotes Colorado voters' confidence in their election officials 17 and the election process.

18 40.1.2 "Local election official" means a county clerk and recorder. (Section 1-1-301(1), 19 C.R.S.)

20 40.1.3 "Persons required to complete certification" means:

21 (a) The county clerk and recorder; and

22 (b) Employees in the clerk and recorder's office who are directly responsible 23 for overseeing election activities, including but not limited to: voter 24 registration, candidate qualifications and ballot certification, poll worker 25 training, ballot design and setup, ballot counting, and canvassing.

26 (Section 1-1-302, C.R.S.)

27 40.2 Advisory Board.

28 40.2.1 The advisory board must meet at least twice each calendar year to approve the 29 curriculum and make necessary changes. The advisory board must also review 30 evaluations and recommend changes to the certification program.

31 40.2.2 The advisory board must review individual applications for certification and 1 must approve applications that are accurate and complete. The advisory board 2 may take into account special circumstances in reviewing and approving 3 applications.

4 40.2.3 The Secretary of State will appoint the following as board members:

(a) Four county clerks or designated staff members; 6 (b) Two Secretary of State Office representatives; and 7 (c) Any individual(s) whom the Secretary of State believes could make a 8 valuable contribution to the Board.

9 40.2.4 Board members serve at least a two-year term.

40.2.5 The Secretary of State may terminate board members without cause. Failure to 11 attend meetings or meaningfully contribute may result in termination.

12 40.3 Curriculum.

13 40.3.1 The Secretary of State will develop the core and elective curriculum offered for 14 certification and continuing elections education. The Secretary will post

curriculum information on the Secretary of State's website.

16 40.3.2 The Secretary of State will develop and administer all training outlined in this 17 Rule 40.

18 40.3.3 To obtain Colorado certification, a person must complete the following 19 minimum curriculum prescribed by the Secretary of State:

(a) Seven basic core courses; 21 (b) One core course relevant to primary job duty; and 22 (c)

Six electives. 23 40.3.4 To maintain Colorado certification, a person must complete at least five 24 Continuing Elections Education courses by July 31 of every even year.

40.4 Training Format.

26 40.4.1 Web-based training may be conducted live or by reviewing material previously 27 presented by the Secretary of State. In either case, participants must achieve a 28 satisfactory score on assessments before receiving credit for the course.

29 40.4.2 The Secretary of State will provide classroom training. For certification, a person must complete at least one course in-class.

31 40.5 Credit.

1 40.5.1 Individuals applying for certification must successfully complete the curriculum 2 prescribed by the Secretary of State. If an applicant submits duplicate 3 coursework, the advisory board may reject the application for certification.

4 40.5.2 Training assessment.

(a) To receive certification credit for any course presented by the Secretary of 6 State under this rule, a participant must successfully complete a training 7 assessment with a minimum score of 85%.

8 (b) A participant who fails to achieve a score of at least 85% may retake the 9 assessment.

(c) The Secretary of State may administer either paper or electronic 11 assessments.

12 40.5.3 Credit for Teaching Classes. A person who teaches or substantially assists with 13 preparation of a class offered for certification is excused from the assessment 14 requirement outlined in Rule 40.5.2 and will receive credit for the course.

40.5.4 No election official may receive credit toward his or her Colorado certification 16 for training offered by other agencies or organizations.

17 40.6 Application Review, Certification, and Maintenance of Records.

18 40.6.1 Once a person completes the required coursework, he or she must promptly 19 submit an application for certification or continuing certification to the Secretary of State's office on the form approved by the Secretary of State.

21 40.6.2 The Secretary of State must review the application with reference to the 22 Secretary of State records. If the application is complete and accurate, the 23 Secretary of State must forward it to the advisory board for its review and 24 approval. Upon approval by the advisory board, the Secretary of State must issue a certificate that the person is a Certified Colorado Election Official.

26 40.6.3 The Secretary of State must track attendance at all classes and keep records of 27 attendance, continuing elections education, and records of those persons who are 28 certified and persons who are in the certification process.

29 40.9 Decertification. A person who fails to satisfy continuing education requirements will lose certification.

31 **Rule 41. RESERVED**

32 **Rule 42. RESERVED**

33 Rule 43. County Security Procedures

1 43.1 Definitions.

2 43.1.1 “Chain-of-custody log” means a written record that shows that the equipment and 3 all associated data are secured according to these procedures and in the 4 documented control of an employee or deputized election judge through the entire time of ownership by the jurisdiction.

6 43.1.2 “DRE” means a direct recording electronic voting device. ~~A DRE is a voting 7 device that records votes by means of a ballot display provided with mechanical 8 or electro-optical components or an audio ballot that the voter can activate; that 9 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 11 tabulation of the voting data stored in a removable memory component and as 12 printed copy. The device may also provide a means for transmitting individual 13 ballots or vote totals to a central location for consolidating and reporting results 14 from remote sites to the central location.~~

~~38.1.3~~ 43.1.3 “Elector data” means voting information, including but not limited to, 16 voter registration, voting history, and voting tabulations.

17 ~~38.1.4~~ 43.1.4 “Electronic pollbook” is a list of eligible electors in electronic format who 18 are permitted to vote at a polling ~~place~~ LOCATION in an election conducted under 19 the Election Code, which shall be processed by a computer at a ~~Vote Center~~

VOTER SERVICE AND POLLING CENTER to be immediately accessible to all other 21 computers at all ~~Vote Centers~~ VOTER SERVICE AND POLLING CENTERS in the 22 county.

23 ~~43.1.3~~ 43.1.5 “Employee” means all full-time, part-time, permanent, and contract 24 employees of the county who ~~have had~~ PASSED a COLORADO BUREAU OF

INVESTIGATION (CBI) INTERNET criminal history check (IHC) conducted in 26 accordance with Rule 11.2 and are deputized by the county ~~clerk and recorder~~ to 27 prepare or maintain the voting system or election setup materials, staff the 28 counting center and who have ~~any~~ access to the electromechanical voting systems 29 or electronic vote tabulating equipment.

~~43.1.4~~ 43.1.6 “Removable card or cartridge” means any A programming card or 31 cartridge, except a voter activation card, that stores firmware, software, or data.

32 ~~43.1.5~~ 43.1.7 “Seal” means a serial-numbered tamper-evident device that ~~indicates a 33 seal is broken or removed~~, IF BROKEN OR MISSING, INDICATES THAT A DEVICE IS 34 NOT SECURE.

~~38.1.2~~ 43.1.8 “Teleprocessing lines” means secure, dedicated communication 36 transmission facilities used for the purpose of transferring elector data between 37 ~~Vote Centers~~ VOTER SERVICE AND POLLING CENTER and a centralized 38 computerized pollbook maintained by the county ~~clerk and recorder~~, to ensure the 39 security and integrity of voting information so that no deviation can go undetected.

1 ~~43.1.6~~ 43.1.9 “Trusted build” means the write-once installation disk or disks for 2 software and firmware for which the Secretary of State or his/her agent has 3 established the chain of evidence to the building of a the disk(s), which is then 4 used to establish and/or re-establish the ~~chain of custody~~ CHAIN-OF-CUSTODY of any component of a voting system that contains ~~newly installed~~ firmware or 6 software. The trusted build is the origin of the chain of evidence for any software 7 and firmware component of the voting system.

8 ~~43.1.7~~ 43.1.10 “Video security surveillance recording” means video monitoring by a 9 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 11 triggers continuous recording.

12 43.2 Annual security plan. In accordance with section 1-5-616(5), C.R.S., AND USING THE 13 FORM PRESCRIBED BY THE SECRETARY OF STATE, ~~each~~ A county must ANNUALLY submit a 14 security plan to the Secretary of State ~~annually and~~ no later than 60 days ~~prior to~~ BEFORE

the first election in which the COUNTY WILL IMPLEMENT THE security plan procedures. ~~are~~ 16 ~~used~~. ~~The plan must, at a minimum, include the following:~~

17 ~~43.2.1~~ 43.3 General requirements CONCERNING CHAIN-OF-CUSTODY.

18 ~~(a)~~ 43.3.1 The county clerk and recorder shall MUST maintain on file all 19 documentation of seals, chain of custody CHAIN-OF-CUSTODY, and other

documents related to the transfer of equipment between parties. These documents 21 are subject to inspection by the Secretary of State.

22 ~~(b)~~ 43.3.2 The county must maintain and document the ~~chain of custody~~ CHAIN-OF-23 CUSTODY for each voting device throughout the county’s ownership or leasing of 24 the device.

~~(c)~~ 43.3.3 Only deputized clerks, election judges, or canvass board members sworn 26 under oath are allowed to handle ballots, which include VVPAT records.

27 ~~(d)~~ 43.3.4 The county may install additional or modified software developed by the 28 vendor on any component of the voting system only if the software is specifically 29 listed on the Secretary of State’s certificate and verified against the state trusted

build. Nothing in this rule ~~shall preclude~~ PRECLUDES the use of commercial off-31 the-shelf software, provided that the software is included in the certified list of 32 services and executables for the certified voting systems.

33 ~~(e)~~ 43.3.5 Any form or log containing “date” means to note the month, calendar day, 34 year, hour, minute, and whether the time is a.m. or p.m.

~~43.3~~ 43.3.6 The county ~~shall~~ MUST submit ~~with the security plan~~ sample copies of all 36 referenced forms, schedules, logs, and checklists WITH THE SECURITY PLAN.

37 [Current Rule 43.3 is moved to Rule 43.3.6]

1 ~~43.2.2~~43.4 Physical locking mechanisms and seals. The county must record the serial number 2 of every seal on the appropriate chain-of-custody log. Two individuals must verify, and 3 indicate by signing and dating the log, that the seal serial numbers match the logged serial 4 numbers. If a seal is inaccessible and cannot be removed, then it is not necessary to verify that seal serial number.

6 ~~(a)~~43.4.1 DREs AND BALLOT MARKING DEVICES. ~~The county must seal DRE voting-7 devices as follows:-~~

8 ~~(1)~~(A) The county must place a seal over ~~any~~A removable card or cartridge that 9 is inserted into the unit, or over the slot or door covering the card or cartridge.

11 ~~(2)~~(B) The county must place a seal over any removable card slot or cartridge 12 slot when no card or cartridge is inserted into the unit.

13 ~~(3)~~(C) If the county cannot verify the firmware or software hash value (MD5 or 14 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 16 entry points such as screw access points.

17 ~~(4)~~(D) If the voting device contains one or more slots for a flash memory card, 18 the county ~~shall~~MUST affix a seal over each each flash card slot, door, or 19 access panel.

~~(5)~~(E) These same procedures also apply to the Judge's Booth Controller (JBC) 21 unit for the Hart InterCivic System.

22 ~~(6)~~(F) Two employees or election judges must verify, and indicate by signing 23 and dating the chain-of-custody log, that all seal serial numbers match the 24 logged serial numbers.

~~(b)~~43.4.2 VVPATs. Prior to attaching a VVPAT to a specific voting device, the 26 ~~judges~~ ~~shall~~COUNTY MUST seal the unit after verifying that no votes were cast. At 27 least two election judges must verify that seals are intact prior to the start of 28 voting, and at the close of voting. VVPAT records ~~shall~~MUST either remain in the 29 VVPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule ~~44~~ 43.2.10.

31 ~~(c)~~43.4.3 ~~Remote or central count optical scanners.~~Optical scanners. ~~used in a~~32 ~~remote or central tabulating location shall meet the following seal requirements:-~~

33 ~~(1)~~(A) The county must place a seal over each card or cartridge inserted into the 34 unit, or over any door or slot containing the card or cartridge.

~~(2)~~(B) The county must place a seal over each empty card or cartridge slot or 36 door covering the area where the card or cartridge is inserted.

1 ~~(3)~~(C) Prior to the start of voting and after the close of voting, two employees or 2 election judges must visually confirm that all seals are intact and that the 3 seal serial numbers match those logged in the chain-of-custody log.

4 ~~(d)~~ 43.4.4 Memory Cards/~~Cartridges~~-CARDS OR CARTRIDGES.

~~(1)~~(A) The county must assign and securely affix a permanent serial number to 6 each removable card or cartridge. The county may use the manufacturer 7 assigned serial number for this purpose.

8 ~~(2)~~(B) The county must handle removable memory cards and cartridges in a 9 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 11 secure container with at least one seal. Upon delivery and receipt, election 12 judges or county personnel must verify, and indicate by signing and dating 13 the chain-of custody log, that all seal serial numbers match those listed in 14 the log.

~~(3)~~(C) The county ~~clerk and recorder~~ must maintain a written or electronic log to 16 record card or cartridge seal serial numbers and track seals for each voting 17 unit. The county clerk and recorder must be notified if control of a 18 ~~card/cartridge or door or slot for a card/cartridge is breached before an~~ 19 election, ~~and he/she must follow the procedures specific to the incident outlined in Rule 43.2.11 .~~

21 ~~43.2.3~~ 43.5 Individuals with access to keys, door codes, and vault combinations.

22 ~~(a)~~ 43.5.1 For employees with access to areas addressed in Rule ~~43.2.3(e)~~ 43.5.3, the 23 county must state ~~the employees' titles~~ EACH EMPLOYEE'S TITLE and the dates of 24 ~~CBI background checks~~ THE ICHC. [Section 24-72-305.6, C.R.S.]

~~(b)~~ 43.5.2 The county must change all keypad door codes or locks, vault 26 combinations, computer and server passwords, encryption key codes, and 27 administrator passwords at least once per calendar year prior to the first election 28 of the year.

29 ~~(e)~~ 43.5.3 Employee access.

~~(1)~~The county may grant employees access to the codes, combinations, 31 passwords, and encryption keys described in this Rule ~~43.2.3~~ 43.5 in 32 accordance with the following limitations:

33 (A) Access to the code, combination, password, or encryption key for the 34 ~~storage area for voting equipment and the mail in ballot counting areas is~~ restricted to employees as defined in Rule 43.1.3.

36 ~~(B)~~(A) Access to the code, combination, password, or encryption key for the 37 ~~mail in~~ VOTING EQUIPMENT AND ballot storage ~~area~~ AREAS and counting 1 room or tabulation workstations is restricted to ~~ten~~ employees as defined 2 in Rule 43.1.3 WHO HAVE PASSED A COLORADO BUREAU OF INVESTIGATION 3 (CBI) INTERNET CRIMINAL HISTORY CHECK (ICHC).

emergency personnel, no other individuals ~~shall~~ MAY be present in these locations unless supervised by one or more employees as ~~defined 6 in Rule 43.1.3.~~

7 ~~(i)~~ Each individual who has access to the central election management 8 system or central tabulator ~~shall~~ MUST have their own unique 9 username and password. No individual ~~shall~~ MAY use any other ~~individuals~~ INDIVIDUAL'S username or password. Shared accounts 11 are prohibited.

12 ~~(ii)~~ The county ~~shall maintain a log of each person who enters the~~ 13 ballot storage room, including the person's name, signature, and 14 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 16 capable of producing a printed paper log including the person's 17 name and date and time of entry, such a log shall meet the 18 requirements of this rule.

19 *[Current Rule 43.2.3 (c)(1)(C)(ii) is amended and relocated to New Rule 43.8.]*

21 ~~(2)~~ (C) In extreme circumstance, the county may request and the Secretary of 22 State may grant exemption from the requirements outlined in Rule 23 ~~43.2.3(e)(1)~~ 43.5.3.

24 ~~(d)~~ 43.5.4 ~~Computer room~~ Access TO WHERE ELECTION MANAGEMENT SOFTWARE IS USED is limited to authorized employees and election judges only. Messengers or 26 runners delivering ballots between the preparation room and computer room ~~shall~~ 27 MUST wear distinguishing identification. ~~This rule does not supersede access by~~ 28 ~~watchers, official observers, and media observers in accordance with Rule 8.~~

29 [Current Rule 43.2.9 is amended and relocated to New Rule 43.6 as follows:]

~~43.2.9~~ 43.6 Internal Controls for the Voting System

31 ~~(a)~~ 43.6.1 The County must enable, create, and use passwords.

32 ~~(b)~~ 43.6.2 In addition to the access controls discussed in Rule ~~43.2.3(e)~~ 43.5, the 33 county ~~shall~~ MUST change all passwords and limit access to the following areas:

the county ~~shall~~ MUST change all software passwords once per calendar year prior to the first election. This includes any boot or startup 36 passwords in use, as well as any administrator and user passwords and 37 remote device passwords.

1 ~~(2)~~(B) Hardware. The county ~~shall~~MUST change all hardware passwords once per 2 calendar year prior to the first election. This includes any encryption keys, 3 key card tools, supervisor codes, poll worker passwords on smart cards, 4 USB keys, tokens, and voting devices themselves as it applies to the specific system.

6 ~~(3)~~(C) Password Management. The county ~~shall~~MUST limit access to the 7 administrative passwords to the election management software to two 8 employees. The county ~~shall~~MUST limit access to passwords for all 9 components of the election software and hardware to two employees. The county may provide an additional ten employees with access to the 11 administrative passwords for the software components, and an additional 12 ten employees with access to the administrative passwords for the 13 hardware components of the voting system. THE VOTING SYSTEM 14 PROVIDER MAY NOT HAVE AN ADMINISTRATIVE OR APPLICATION USER/OPERATOR ACCOUNT, OR ADMINISTRATIVE ACCOUNT ACCESS TO THE 16 ACCOUNTS.

17 *[Language from current Rule 45.5.2.6.1(a)(vi) is amended and relocated 18 to Rule 43.6.2]*

19 (4)(D) Internet Access. The county must never connect or allow a connection of any voting system component to the Internet.

21 ~~(5)~~(E) Modem Transmission. The county must never connect any component of 22 the voting system to another device by modem except for the vote tally 23 software ~~as allowable by the certification of the specific device.~~

VOTER SERVICE AND POLLING CENTERS. AT REMOTE VOTER SERVICE AND POLLING CENTERS, THE COUNTY may use modem functions of 26 optical scanners and DREs only for the purpose of transmitting unofficial 27 results, ~~as permitted by the Secretary of State's certification documents for 28 the specific systems. A county using modem devices to transmit results 29 shall meet the following requirements:~~

~~(A) A county may use a modem device only after all steps to close the 31 polls are complete and summary tapes are printed, and may only 32 use the device to transmit test data or unofficial results.~~

33 ~~(B) The county shall not use a modem for any programming, setup, or 34 individual ballot casting transmissions.~~

~~(C) The county shall change the receiving telephone number for the 36 modem transmission at least once per calendar year prior to the 37 first election.~~

38 (D) The county may provide the telephone number of the modem 39 ~~receiving the transmission to no more than six employees. The~~

~~1 county shall not publish or print the receiving modem telephone 2 number for any election judge. To the extent possible, the county 3 shall program the telephone number into the device and use the 4 device in a way that hides the display of the number from the view of election judges and voters at all times.~~

6 ~~(7)~~(G) Authorized Employees. The county ~~shall~~ MUST include in their security 7 plan ~~the employees' titles~~ EACH EMPLOYEE'S TITLE and the ~~dates~~ DATE of 8 ~~CBI background checks~~ ICHC for employees with access to any of the 9 areas or equipment set forth in this Rule. Each county ~~shall~~ MUST maintain a storage facility access log that details employee name, date, and time of 11 access to the storage facility in which the software, hardware, or 12 components of any voting system are maintained. If access to the storage 13 facility is controlled by use of key card or similar door access system that 14 is capable of producing a printed paper log including the person's name and date and time of entry, such a log ~~shall~~ MUST meet the requirements of 16 this rule. [Section 24-72-305.6, C.R.S.]

17 ~~43.2.4~~ 43.7 Temperature-controlled storage. The county must maintain all components of 18 the voting system and ballots in a temperature-controlled STORAGE environment. The 19 county ~~shall~~ MUST attest to the temperature-control settings used with the following

components of a voting system. Information submitted to the Secretary of State ~~shall~~ 21 MUST indicate the specifics for each type of component, as well as the specific 22 environment used, which may include, but is not limited to controlled offices, controlled 23 vaults, and controlled warehouses. The county must maintain the following required 24 temperature settings:

~~(a)~~ 43.7.1 Servers and workstations. The county shall maintain the temperature so 26 that the maximum temperature at no time exceeds 90 degrees Fahrenheit.

27 ~~(b)~~ 43.7.2 DREs. The county ~~shall~~ MUST maintain the temperature at a minimum of 28 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.

29 ~~(c)~~ 43.7.3 Optical scanners. The county ~~shall~~ MUST maintain the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.

31 ~~(d)~~ 43.7.4 VVPAT records, PAPER BALLOTS, AND VIDEO DATA RECORDS. In addition 32 to the requirements set forth in Rule 11, the county ~~shall~~ MUST maintain A DRY 33 ENVIRONMENT AND A ~~the~~ temperature at a minimum of 50 degrees Fahrenheit and 34 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 36 a period of 25 months following the election. ~~The humidity of the environment 37 shall not exceed 80% humidity for a period of more than 24 hours. The county 38 shall store V VPAT records in a manner that prevents exposure to light, except as 39 necessary during recounts and audits.~~

1 (e) Paper Ballots. The county shall maintain paper ballots in a dry, humidity² controlled environment. The humidity of the environment shall not exceed 80% ³ humidity for a period of more than 24 hours. The county shall store paper ballots ⁴ at least four inches above the finished floor, for a period of 25 months following the election.

6 (f) Video Data Records. The county shall maintain video data records in a dry, ⁷ temperature controlled environment. The humidity of the environment shall not ⁸ exceed 80% humidity for a period of more than 24 hours. The county shall ⁹ 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 ¹¹ inches above the finished floor, for a period of 25 months following the election.

12 ~~43.2.5~~ 43.8 Security cameras or other surveillance.

13 ~~43.2.3(c)(1)(C)(ii)~~ 43.8.1 The county shall ~~MUST~~ maintain a log of each person who ¹⁴ enters the ballot storage room-SPECIFIED AREAS, including the person's name, signature, and date and time of entry. If access to the ballot storage room ¹⁶ SPECIFIED AREAS is controlled by use of key card or similar door access system ¹⁷ that is capable of producing a printed paper log including the person's name and ¹⁸ date and time of entry, such a log shall meet the requirements of this rule

unless otherwise instructed, the county shall ~~MUST~~ make video security surveillance recordings of specified areas beginning at least 60 days prior to the ²¹ election and continuing through at least 30 days after the election, ~~unless there is a~~ ²² recount or contest. IF A RECOUNT OR CONTEST OCCURS, THE RECORDING MUST ²³ CONTINUE THROUGH THE CONCLUSION OF ALL SUCH ACTIVITY. The recording ²⁴ system shall ~~MUST~~ ensure that records are not written over when the system is full. The recording system shall ~~MUST~~ provide a method to transfer the video records to ²⁶ a different recording device or to replace the recording media. If replaceable ²⁷ media is used then the county shall ~~MUST~~ provide a process that ensures that the ²⁸ media is replaced often enough to prevent periods when recording is not ²⁹ available. ~~If a recount or contest occurs, the recording shall continue through the conclusion of all such activity.~~

31 43.8.3 The following are the specific minimum requirements:

32 ~~(1)~~-(A) If the county has 50,000 or more registered voters, then the county shall ³³ MUST MAINTAIN A LOG AND make video security surveillance recordings of ³⁴ the following areas, excluding voting booths:

~~(A)~~ (1) All areas in which election management software is used, ³⁶ including but not limited to programming, downloading memory ³⁷ cards, uploading memory cards, tallying results, and results ³⁸ reporting.

39 ~~(B)~~-(2) All areas used for processing ~~mail-in~~ ballots, including but not limited to areas used for Signature Verification, tabulation, or

1 storage of voted ballots beginning at least 35 days prior to the 2 election and continuing through at least 30 days after the election, 3 unless there is a recount or contest. If a recount or contest occurs, 4 the recording ~~shall~~-MUST continue through the conclusion of all such activity.

6 ~~(C)~~(3) The storage area for all voting equipment.

7 ~~(2)~~(B) If the county has fewer than 50,000 registered voters then the county ~~shall~~-8 MUST MAINTAIN A LOG AND make video security surveillance recordings of 9 all areas, ~~excluding voting booths,~~ in which election management software is used, including but not limited to programming, downloading memory 11 cards, uploading memory cards, tallying results, and results reporting.

12 ~~(b)~~(C) The county must adequately ~~and continuously~~ light the area(s) subject to 13 video surveillance to provide visibility for video recording.

14 43.9 Equipment maintenance procedures. In addition to the requirements for voting systems INVENTORY specified in Rule 11.4, the county ~~shall~~-MUST adhere to the following 16 minimum standards:

17 ~~(a)~~ 43.9.1 The county ~~shall~~-MUST store all equipment throughout the year with seals 18 over the memory card slots for each device. The county ~~shall~~-MUST maintain a log 19 of the seals used for each device consistent to the logs used for tracking Election Day seals.

21 ~~(b)~~ 43.9.2 For equipment being sent to the vendor for offsite repairs/replacements, 22 the county must keep a maintenance log for the device that ~~shall~~-MUST contain the 23 following: the model number, serial number, and the type of device; the firmware 24 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.

26 ~~(c)~~ 43.9.3 When a vendor provides on-site maintenance of equipment, vendor 27 ~~personnel shall~~ annually provide to the county a CBI or equivalent background-28 check for all vendor personnel that will have access to any component of the 29 voting system. The county must keep current CBI or equivalent background-check information on file. Additionally, an AN employee shall escort the vendor's 31 representative at all times while on-site. At no time shall the voting system vendor 32 have access to any component of the voting system without supervision by an 33 employee. [Section 24-72-305.6, C.R.S.]

Upon completion of any maintenance, the county ~~shall~~-MUST verify or reinstate the trusted build and conduct a full acceptance test of equipment that 36 ~~shall~~-MUST, at a minimum, include the hardware diagnostics test, as indicated in 37 Rule 11, and conduct a mock election in which an employee(s) ~~shall~~-MUST cast a 38 minimum of five ballots on the device to ensure tabulation of votes is working 39 correctly. The county ~~shall~~-MUST maintain all documentation of the results of the acceptance testing on file with the specific device.

1 ~~(e)~~ 43.9.5 The Secretary of State will annually inspect county maintenance records 2 on a randomly selected basis.

3 ~~43.2.7~~ 43.10 Transportation of equipment, memory cards, ballot boxes, and ballots.

The county ~~shall~~ MUST submit detailed plans to the Secretary of State prior to an election regarding the transportation of equipment and ballots both to remote 6 voting sites and back to the central elections office or storage facility. IF THERE IS 7 ANY EVIDENCE OF POSSIBLE TAMPERING WITH A SEAL, OR IF THE SERIAL NUMBERS 8 DO NOT MATCH THOSE LISTED IN THE CHAIN-OF-CUSTODY LOG, THE COUNTY CLERK 9 MUST BE IMMEDIATELY NOTIFIED AND MUST FOLLOW THE PROCEDURES SPECIFIC TO THE INCIDENT AS DESCRIBED IN RULE 43.15.1. While the method of transportation 11 of equipment may vary, the following ~~standards shall apply when transporting~~ 12 ~~voting equipment to the voting location~~ APPLY:

13 ~~(1)~~ (A) Transportation by county personnel. County personnel ~~shall~~ MUST at all 14 times display a badge or other identification provided by the County. Two EMPLOYEE signatures and date of employees are required at the departure 16 location verifying that the equipment, including memory card or cartridge, 17 is sealed to prevent tampering. Upon delivery of equipment, at least two 18 employees or election judges ~~shall~~ MUST verify, and indicate by signing 19 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 21 any evidence of possible tampering with a seal, or if the serial numbers do 22 not match those listed in the chain of custody log, they shall immediately 23 notify the county clerk and recorder who shall follow the procedures 24 specific to the incident as described in Rule 43.2.11.~~

~~(2)~~ (B) Transportation by election judges. Election judges that are receiving 26 equipment from county personnel ~~shall~~ MUST inspect all components of 27 voting devices and verify the specific numbers by signature and date on 28 the chain-of-custody log for the device. ~~The election judge receiving the 29 equipment shall request two election judges at the voting location to inspect the devices and to sign and date the chain-of-custody log 31 indicating that all seals are intact and that the serial numbers on the seals 32 match with those on the seal tracking log. If there is any evidence of 33 possible tampering with a seal, or if the serial numbers do not match those 34 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 36 as described in Rule 43.2.11.~~

37 ~~(3)~~ (C) Transportation by contract. A county electing to contract the delivery of 38 equipment to remote voting locations ~~shall~~ MUST perform AN ~~CBI~~ 39 ~~background checks~~ ICHC on EACH OF the specific individuals who will be delivering the equipment. Two employees or election judges ~~shall~~ MUST 41 verify, sign, and date the chain-of-custody log upon release of the 42 equipment to the individual(s) delivering the equipment. ~~Two other~~

~~1 employees or election judges shall verify, sign, and date the chain of 2 custody log after delivery of the equipment, and prior to the opening of the 3 polls. If there is any evidence of possible tampering with a seal, or if the 4 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 6 the procedures specific to the incident as described in Rule 43.2.11. 7 [Section 24-72-305.6, C.R.S.]~~

8 ~~(b)~~ 43.10.2 Standards for transporting voting equipment to and from the voting 9 location:

~~(1)~~ (A) Required procedures if memory cards or cartridges are removed from 11 voting devices at remote voting locations:

12 ~~(A)~~ (1) Before removing a memory card or cartridge, two election judges 13 ~~shall~~ MUST inspect and verify that all seals on the device are intact 14 and that the serial numbers on the seals match those listed on the chain-of-custody log. Both election judges ~~shall~~ MUST sign and 16 date the chain-of-custody log prior to breaking the seal. ~~If there is 17 any evidence of possible tampering with a seal, or if the serial 18 numbers do not match those listed in the chain of custody log, they 19 shall immediately notify the county clerk and recorder who shall~~ follow the procedures specific to the incident as described in Rule 21 43.2.11.

22 ~~(B)~~ (2) Election judges ~~shall~~ MUST place the memory cards or cartridges in 23 a sealable transfer case and must seal the case ~~with at least one 24 seal~~. The election judges ~~shall~~ MUST maintain a chain-of-custody log for the transfer case of the memory cards or cartridges.

26 ~~(C)~~ (3) Election judges ~~shall~~ MUST place new seals over the empty 27 memory card/cartridge slot and/or door and document the seal 28 numbers used.

29 ~~(D)~~ (4) At least two county personnel or election judges ~~shall~~ MUST accompany the transfer case ~~containing the memory 31 cards/cartridges to the drop-off~~ PROCESSING location. The election 32 judges who receive the equipment must verify, and indicate by 33 signing and dating the chain-of-custody log, that the seals are 34 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 36 numbers do not match those listed in the chain of custody log, the 37 county personnel or election judges shall immediately notify the 38 county clerk and recorder who shall follow the procedures specific 39 to the incident as described in Rule 43.2.11.

1 ~~(E)~~(5) County personnel or election judges transporting secured voting 2 equipment must maintain chain-of-custody logs. ~~If there is any 3 evidence of possible tampering with a seal, or if the serial numbers 4 do not match those listed in the chain of custody log, they shall immediately notify the county clerk and recorder who shall follow 6 the procedures specific to the incident as described in Rule~~

7 ~~43.2.11.~~

8 ~~(2)~~(B) Required procedures if devices are delivered with memory 9 cards/cartridges intact:

~~(A)~~(1) Two county personnel or election judges ~~shall~~MUST verify that all 11 seals are intact at the close of polls. Election judges ~~shall~~MUST 12 sign and date the chain-of-custody log with such indication. ~~If 13 there is any evidence of possible tampering with a seal, or if the 14 serial numbers do not match those listed in the chain of custody log, they shall immediately notify the county clerk and recorder 16 who shall follow the procedures specific to the incident as 17 described in Rule-~~
43.2.11.

18 ~~(B)~~(2) At least two county personnel or election judges ~~shall~~MUST 19 accompany the secured equipment to the drop-off location. ~~Seals-~~

~~will be verified, and logs will be signed and dated by the county 21 election official receiving the equipment. If there is any evidence 22 of possible tampering with a seal, or if the serial numbers do not 23 match those listed in the chain-of-custody log, they shall 24 immediately notify the county clerk and recorder who shall follow-~~

~~the procedures specific to the incident as described in Rule 26 43.2.11.~~THE PERSON RECEIVING THE EQUIPMENT MUST VERIFY THE 27 SEALS AND SIGN AND DATE THE LOGS.

28 ~~(C)~~(3) Upon confirmation that the seals are intact and bear the correct 29 numbers, election judges OR THE COUNTY ~~shall~~MUST remove and

upload the memory cards/cartridges into the central count system.

31 ~~(D)~~(4) To secure the equipment, election judges ~~shall~~MUST place a 32 tamper-evident seal over the memory card slot and update the 33 chain-of-custody log to reflect the new seal number(s).

34 ~~(e)~~43.10.3 Required procedures for transportation of ballot boxes:

~~(1)~~(A) Election judges ~~shall~~MUST seal all ballot boxes that contain voted ballots 36 so that no person can access the ballots without breaking a seal. The 37 election judges ~~shall~~MUST record all seals in the chain-of-custody log and 38 two election judges ~~shall~~MUST verify, and indicate by signing and dating 39 the log, that the required seals are intact.

1 ~~(2)~~(B) Two county personnel or election judges shall MUST accompany all ballot 2 boxes that contain voted ballots at all times, except when the ballot box is 3 located in a vault or secure physical location.

4 ~~(3)~~(C) 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.

6 43.11 ELECTRONIC POLLBOOKS.

7 ~~38.3.143.11.1~~ The ~~designated election official shall~~ COUNTY MUST establish written 8 security procedures covering, WHICH COVER:

9 (A) The transference of ~~Vote Center~~ VOTER SERVICE AND POLLING CENTER teleprocessing information;

11 ~~38.3.2~~(B) ~~Such procedures shall include security covering~~ The transmission 12 of elector data processed through the electronic pollbook; and

13 (C) Reconciliation of the registration and history of voters casting ballots at a 14 ~~Vote Center~~ VOTER SERVICE AND POLLING CENTER.

~~38.5.3~~ 43.11.2 The county shall MUST submit ~~in the security plan~~ the system data transfer 16 requirements to completely process a single voter record. This shall MUST include 17 at a minimum the following:

18 a.(A) The data stream information on both send and receiving data for all points 19 of the transaction until the transaction is complete;

b.(B) Information on all points where the connection is closed and the data 21 stream released between the remote computer and the server; and

22 e.(C) The proposed method of securing transmissions across public networks.

23 ~~38.5.4~~ 43.11.3 The county shall MUST submit ~~in the security plan~~ a detailed list of all ~~vote~~ 24 ~~centers~~ VOTER SERVICE AND POLLING CENTERS, with a proposed number of workstations connecting to the database and the proposed connection (including 26 bandwidth and security) for each location.

27 [Current Rule 43.2.8 is amended, including amended current Rules 38.3.3-38.3.5, as follows]

28 ~~43.2.8~~ 43.12 Contingency plans.

29 (a) ~~43.12.1 Emergency~~ THE COUNTY MUST DEVELOP EMERGENCY contingency plans for voting equipment and voting locations IN ACCORDANCE WITH RULE 45.

31 ~~(1) All remote devices used in an election shall have sufficient battery backup 32 for at least two hours of use. If this requirement is met by reliance on the 33 internal battery of the voting device, then the county clerk and recorder 1 shall verify that all batteries are fully charged and in working order prior 2 to the opening of polls at the voting location. The use of third party battery 3 backup systems also meets this requirement.~~

4 ~~(2)~~ 43.12.2 In the event of a serious or catastrophic equipment failure, or when 5 equipment is removed from service at one or more polling locations, or there is 6 not adequate backup equipment to meet the requirements of section 1-5-501, 7 C.R.S., the county clerk and recorder shall ~~shall~~ MUST notify the Secretary of State that 8 the county is using provisional ballots or mail-in ballots as an emergency voting 9 method.

10 (b) ~~A security plan must contain a section entitled “contingency plan” that includes~~ 11 ~~the following:—~~

12 (1) Evacuation procedures for emergency situations including fire, bomb 13 ~~threat, civil unrest, and any other emergency situations identified by the~~ 14 ~~designated election official;—~~

15 ~~(2)~~ 43.12.3 Back up plans for THE COUNTY CONTINGENCY PLANS AND 16 EVACUATION PROCEDURES MUST ADDRESS emergency situations including 17 fire, severe weather, bomb threat, civil unrest, electrical blackout, 18 equipment failure, and any other emergency situations identified by the 19 designated election official;

20 ~~(3) An emergency checklist for election judges; and—~~

21 ~~(4) A list of emergency contact numbers provided to election judges.—~~

22 ~~38.3.3~~ 43.12.4 ~~Such procedures shall include contingency procedures for network~~ 23 ~~and power failure. Such procedures shall at a minimum include procedures~~ 24 THE COUNTY MUST DEVELOP PROCEDURES to address all single point 25 failures OF SCORE CONTINUITY, including: WHICH INCLUDES

26 a. network failure,

27 b. power failure that lasts less than one ~~(1)~~ hour, and

28 c. Power failure that lasts more than one ~~(1)~~ hour.

29 ~~38.3.4 Acceptable alternatives for addressing such failures include either:—~~

30 a. A paper backup of the pollbook with the minimum information 31 ~~required to verify a voter’s eligibility; or—~~

32 b. A sufficient number of computers per vote center to ensure that the 33 ~~voter check in continues in an efficient manner. The computers~~ 34 ~~shall have the ability to function on batteries or an external power~~ 35 ~~source for up to two (2) hours. In addition, each computer shall~~ 1 have an electrotnic backup of the current pollbook in one (1) of the 2 following formats:—

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

7 ~~38.3.5~~ 43.12.5 ~~In addition to acceptable backup pollbook procedures, the security~~ 8 ~~procedures shall address contingency procedures~~ PROCEDURES to protect 9 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.

11 [Current Rule 43.2.9 is amended and relocated to New Rule 43.6]

12 ~~41.6~~ 43.13 Procedures for ~~Voter Verifiable Paper Audit Trail (VVPAT)~~ VOTER VERIFIABLE 13 PAPER RECORD (VVPAT). THE FOLLOWING REQUIREMENTS APPLY ONLY TO DRES WITH A 14 VVPAT.

~~41.6.1~~ 43.13.1 Security. ~~41.6.1.1~~ The ~~VVPAT~~ VVPAT record is considered an 16 official record of the election, ~~pursuant to~~ IN ACCORDANCE WITH section 1-5-802, 17 C.R.S. All security procedures related to election ballots ~~shall~~ MUST apply to ~~V~~ 18 ~~VPAT~~ VVPAT records.

19 ~~41.6.1.2~~ (A) The housing unit for any ~~VVPAT~~ VVPAT record to be used in the election ~~shall~~ MUST be sealed and secured prior to any votes being cast for 21 the election. ~~Documentation of the seal number(s) must be maintained and~~ 22 ~~noted prior to voting, and at the conclusion of voting.~~ (a) Election 23 judges ~~shall~~ MUST attest to the ~~VVPAT~~ VVPAT record having no votes 24 included on the paper record prior to the start of voting, and prior to the installation or replacement of a new ~~VVPAT~~ VVPAT record. 26 DOCUMENTATION OF THE SEAL NUMBER(S) MUST BE MAINTAINED AND 27 NOTED PRIOR TO VOTING, AND AT THE CONCLUSION OF VOTING.

28 ~~41.6.1.3~~ (B) If a DRE with ~~VVPAT~~ VVPAT is used during early voting, the 29 seal number(s) must be recorded at the beginning and end of each voting day.

31 ~~41.6.1.4~~ (C) At the close of the polls, the ~~VVPAT~~ VVPAT records will be 32 transferred to the ~~central~~ ELECTION office in the same manner as any paper 33 ballots. In the absence of paper ballots, the ~~VVPAT~~ VVPAT records will 34 be transferred to the ~~central~~ ELECTION office in the same manner as ~~any~~ memory cards ~~containing electronic ballots~~.

36 ~~41.6.2~~ 43.13.2 Anonymity. ~~41.6.2.1~~ The ~~Election Official~~ DESIGNATED ELECTION 37 OFFICIAL ~~shall put~~ MUST IMPLEMENT measures in place to protect the anonymity of 1 voters choosing to vote on DREs ~~during the voting periods. These measures shall~~ 2 include:—

3 (A) MEASURES TO PROTECT THE ANONYMITY MAY INCLUDE:

4 (a) Encouraging poll workers to personally vote on DREs when possible to ensure more than one vote will be cast on the device.

6 (b)(1) Appropriate marking in Poll Book-POLLBOOK or other voting list 7 indicating voters-VOTER’S choice to vote on DRE with the words: 8 “Voted DRE”, or similar in place of paper ballot information. No 9 record shall-MAY be kept indicating the order in which people voted on the DRE, or which V-VPAT VVPAT record is associated 11 with the voter.

12 (e) (2) When more than one DRE is available at a voting location, the 13 voter shall-MUST be given the choice as to which DRE they would 14 like to vote on, to the extent practical.

(d) Encouraging or allowing any and all voters the opportunity to vote 16 on a DRE if desired.

17 11.6.2.2 (B) Any report or export (electronic or paper based) generated from an 18 electronic pollbook shall-MUST remove the date/time stamp from the 19 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 21 randomly assigned.

22 11.6.2.3 Any Pollbook, electronic, paper or otherwise shall not be exposed 23 to the same people at the same place who have exposure to the V-VPAT 24 VVPAT records.

(C) ELECTION JUDGES MAY NOT ACCESS VVPAT RECORDS AT THE TIME OF 26 VOTING.

27 11.6.2.4 The Examination of the V-VPAT VVPAT record shall always be 28 done-PERFORMED by at least two witnesses-ELECTION JUDGES.

29 11.6.3 43.13.3 Storage.11.6.3.1 The storage of the V-VPAT-VVPAT records must be consistent with storage of paper ballots pursuant to section 1-7-802, C.R.S.

31 11.6.3.2 (A) Individual spools containing V-VPAT-VVPAT records must 32 contain the following catalog information affixed to the spool:

33 (a) (1) Date and name of election;

34 (b)(2) Name of voting location;

- 1 ~~(e)~~(3) Date(s) and time(s) of voting;
- 2 ~~(d)~~(4) Machine serial number of DRE associated with the record; and
- 3 ~~(e)~~(5) Number of spools associated with this machine for this election 4 (i.e. “Spool 1 of 1”, or “Spool 1 of 2”, etc.).

~~11.6.3.3~~ (B) Light sensitive storage containers ~~shall~~MUST be used for the 25 6 month storage period to ensure the integrity of the ~~V-VPAT-VVPAT~~ 7 paper record. Containers ~~shall~~MUST be sealed, with record of the seal 8 numbers maintained on file and signed by two elections ~~officials~~JUDGES.

~~11.6.3.4~~ (C) A master catalog ~~shall~~MUST be maintained for the election containing the complete total number of ~~V-VPAT VVPAT~~ spools used in 11 the election.

12 *[Current Rule 11.6 is amended and relocated to New Rule 43.13. Amendments are shown 13 above.]*

14 ~~43.2.10~~ 43.14 Security training for election judges. ~~(a)~~The county ~~shall~~MUST include in their security plan the details of their security training ~~for their election judges~~ IN 16 ACCORDANCE WITH RULE XX. The county must address the anticipated time of training, 17 location of training, and number of election judges receiving the security training, as it 18 applies to the following requirements:

19 ~~(4)~~ (A) The county ~~shall~~MUST conduct a separate training module for field technicians and election judges responsible for overseeing the transportation and use of the 21 voting systems, picking up supplies, and troubleshooting device problems 22 throughout the Election Day.

23 ~~(2)~~ (B) Security training ~~shall~~MUST include the following components:

24 ~~(A)~~(1) Proper application and verification of seals and chain-of-custody logs;

~~(B)~~(2) How to detect tampering with voting equipment, memory cards/cartridges, 26 or election data on the part of anyone coming in contact with voting 27 equipment, including employees, other election judges, vendor personnel, 28 or voters;

29 ~~(C)~~(3) Ensuring privacy in voting booths;

 (D) The nature of and reasons for the steps taken to mitigate the security 31 ~~vulnerabilities of voting systems;~~

32 ~~(E)~~(4) ~~V-VPAT-VVPAT~~ requirements;

33 ~~(F)~~(5) Chain-of-custody requirements for voting equipment, memory 34 cards/cartridges, and other election materials;

- 1 ~~(G)~~(6) Ballot security;
- 2 ~~(H)~~(7) Voter anonymity; and
- 3 ~~(I)~~(8) Recognition and reporting of security incidents.
- 4 ~~43.2.11~~ 43.15 Remedies.

~~(a)~~ 43.15.1 If a seal is broken, or if there is a discrepancy in a chain-of-custody log, 6 OR OTHER DISCREPANCY, the election judges shall JUDGE MUST immediately notify 7 the county clerk and recorder, who shall MUST investigate, complete and submit to 8 the Secretary of State an internal incident report, and follow the appropriate 9 remedy as indicated in this rule or as directed by the Secretary of State. REMEDY THE DISCREPANCY AS FOLLOWS:

11 ~~(b)~~ If the county clerk and recorder conducts an investigation in accordance with Rule 12 43.2.11(a) and is unable to determine why a seal was broken or why a discrepancy 13 exists in a chain of custody log, then the county clerk and recorder shall file an 14 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 16 the reinstatement or verification of the trusted build, in accordance with State 17 instructions. The following remedial actions are required if a device was tampered 18 with (the county clerk and recorder may determine additional requirements based 19 on the details of the incident report):-

~~(1)~~(A) THE COUNTY OR SECRETARY OF STATE MUST REINSTATE OR VERIFY THE 21 TRUSTED BUILD. For instances where the county can display, verify, or 22 print the trusted build-hash value (MD5 or SHA-1) of the firmware or 23 software, the election official shall MUST document and verify that the 24 hash value matches the documented number ALPHANUMERIC STRING associated with the trusted build for the software or firmware of that 26 device.

27 ~~(2)~~(B) If the evidence indicates that the tampering-DISCREPANCY occurred prior to 28 BEFORE the start of voting:

29 ~~(A)~~(1) The election judges shall MUST seal the device and securely deliver it to the county clerk and recorder.

31 ~~(B)~~(2) The county clerk and recorder or his or her designee shall remove 32 and secure the memory card following the procedures in Rule 33 43.2.2(d). The county clerk and recorder or his or her designee 34 shall follow the State instructions for installing/verifying the

trusted build for the specific device. The county clerk and recorder 36 or his or her designee shall OR THE SECRETARY OF STATE MUST 37 install a new, secure memory card into the device, conduct a 38 hardware diagnostics test as prescribed in Rule 11, and proceed to 39 conduct a logic and accuracy-AN ACCEPTANCE test on the machine 1 in full election mode, casting at least 25 ballots on the device. The 2 county shall MUST maintain on file all documentation of testing and 3 chain of custody-CHAIN-OF-CUSTODY for each specific device.

ST complete the necessary seal process and documentation to re-establish the ~~chain of custody~~ CHAIN-OF6 CUSTODY for the device and new memory card.

7 ~~(D)~~(4) The county ~~shall~~ MUST set the machine to election mode ready for 8 a zero report.

9 ~~(E)~~ Repealed.

~~(3)~~(C) If the evidence indicates that the ~~tampering~~ DISCREPANCY occurred after 11 votes were cast on the device ~~but before the close of polls~~:

12 ~~(H)~~(1) THE COUNTY MAY NOT CONTINUE TO USE THE MACHINE UNTIL 13 VERIFICATION OR REINSTALLATION OF TRUSTED BUILD AND 14 ACCEPTANCE TESTING IS COMPLETE. The county ~~shall~~ MUST set the machine to election mode ready for a zero report BEFORE 16 RESUMING VOTING ON THE DEVICE.

17 ~~(A)~~(2) The election judges ~~shall~~ MUST seal the device and securely deliver 18 it to the county ~~clerk and recorder~~.

19 ~~(B)~~(3) The county ~~clerk and recorder or his or her designee shall~~ MUST close the election on that device, and perform a complete manual 21 verification of the paper ballots (or VVPAT records) to the 22 summary tape printed on the device that represents the record of 23 votes on the memory card.

24 ~~(C)~~(4) 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~~ MUST re-seal and secure the device and 27 immediately report the discrepancy to the Secretary of State. The 28 county must not use the device for the remainder of the election 29 unless the trusted build is ~~reinstalled~~ REINSTATED.

~~(D)~~(5) If the totals match, the county may upload the memory card into 31 the tally software at the close of polls.

32 ~~(E)~~(6) After verifying the totals, the county ~~shall~~ MUST secure the paper 33 records and memory card with seals and a chain-of-custody log.

34 (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~~ 36 follow the State instructions for installing/verifying the trusted 37 build for the specific device. ~~The county clerk and recorder or his~~ or her designee shall conduct a hardware diagnostics test as 2 prescribed in Rule 11. The county shall maintain on file all 3 documentation of testing and chain of custody for the device.

ST complete the necessary seal process and documentation to establish the chain of custody CHAIN-OF6 CUSTODY for the device and memory card.

7 ~~(H) The county shall set the machine to election mode ready for a zero-8 report.~~

9 [Current Rule 43.2.11(a)(3)(H) is amended and moved to 43.15(c)(1) above]

11 ~~(H)(8) At the conclusion of the election~~ PRIOR TO CERTIFYING ELECTION 12 RESULTS, the county shall MUST conduct a full (all races) post13 election audit on the device and report results to the Secretary of 14 State as required by Rule 11. This requirement is in addition to the random selection conducted by the Secretary of State.

16 ~~(J) Repealed.~~

17 ~~(4) If the evidence indicates that the tampering occurred after the close of-18 polls:~~

19 ~~(A) The election judges shall seal the device and securely deliver it to the county clerk and recorder.~~

21 ~~(B) The county clerk and recorder or his or her designee shall perform-22 a complete manual verification of the paper ballots (or V VPAT-23 records) to the summary tape printed on the device that represents-24 the record of votes on the memory card.~~

(C) If the totals do not match then only the paper record will be 26 accepted as the official results for that device. The county clerk-27 and recorder shall re seal and secure the device and immediately 28 report the discrepancy to the Secretary of State. The county must-29 not use the device for the remainder of the election unless trusted build is reinstalled.

31 ~~(D) If the totals match, the county may upload the memory card into-32 the tally software at the close of polls.~~

33 ~~(E) After verifying the totals, the county shall secure the paper records-34 and memory card with seals and a chain of custody log.~~

~~(F) The county clerk and recorder or his or he designee shall follow-36 the State instructions for installing/verifying the trusted build for-1 the specific device and complete the necessary seal process and-2 documentation to establish the chain of custody for the device.~~

3 ~~(G) During the canvass process, the county shall conduct a full (all 4 races) post election audit on the device and report results to the Secretary of State as required by Rule 11. This requirement is in 6 addition to the random selection conducted by the Secretary of 7 State.~~

8 ~~(H) Repealed.~~

The county shall MUST make all documentation related to the voting system and for every device used in the election available for Secretary of State 11 inspection.

12 43.2.12 The county shall MUST submit any additional physical security procedures not 13 ~~discussed in this rule to the Secretary of State for approval prior to the election.~~

14 43.3 ~~— The county shall submit with the security plan sample copies of all referenced forms, schedules, logs, and checklists.~~

16 [Current Rule 43.3 is moved to Rule 43.3.6]

17 43.4 43.16 Amendments and review of security plans.

18 43.4.1 43.16.1 If no changes have occurred since the last security plan was filed, THEN the 19 county shall MUST file a statement to that effect.

43.4.2 43.16.2 The county shall MUST clearly identify and describe any revisions to a 21 previously filed security plan.

22 43.4.3 43.16.3 The county may change the security plan within 60 days of an election as 23 a result of an emergency situation or other unforeseen circumstance. The county 24 must document the changes and file the revisions with the Secretary of State within five days of the change.

26 43.4.4 If, under section 1-5-616(5)(b), C.R.S., the Secretary of State is unable to 27 ~~complete its review, the Secretary will notify the county that the security plan or 28 revisions are temporarily approved until the review is complete.~~

29 43.5 43.17 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, 31 special district or other local jurisdiction.

32 43.5.2 43.17.1 A county ~~clerk who~~ THAT chooses to lease, loan, or rent any certified 33 election equipment to a municipality, special district, or other local jurisdiction 34 for use in their elections shall MUST follow at least one of the following ~~procedures in order to maintain or reestablish an acceptable chain of custody~~

1 CHAIN-OF-CUSTODY and appropriate documentation in accordance with Rule
2 43.2.1-43.3.

3 ~~43.5.3-43.17.2~~ Upon return of the ~~certified~~ voting equipment to the county clerk ~~and~~ 4 ~~recorder~~, the
county clerk is required to verify the ~~trusted build~~, in accordance with State instructions, if the
documentation and ~~chain-of-custody~~ CHAIN-OF-6 CUSTODY does not support the proper maintenance of
the trusted build software 7 ~~and chain-of-custody~~ THEN THE COUNTY MUST REINSTATE OR VERIFY THE
TRUSTED 8 BUILD BEFORE USING THE EQUIPMENT.

After the local jurisdiction returns the certified equipment to the county clerk, the county clerk must reinstate or verify the
trusted build in accordance-11 with Rule 43 before the equipment is used in any primary, general, congressional-12
vacancy, statewide ballot issue (including recall), or special election conducted by-13 the county clerk. To
REINSTATE OR VERIFY THE TRUSTED BUILD, THE COUNTY MUST 14 IMPLEMENT ONE OF THE FOLLOWING
PROCEDURES:

(b)(A) The county clerk ~~or their deputized representative shall~~ MUST:

16 (1) Deliver the ~~certified~~ equipment to the jurisdiction;

17 (2) Witness and document the installation of the memory card(s) or 18 cartridge(s) used by the jurisdiction;

19 (3) Place one or more secure and numbered seals on the voting
equipment in accordance with Rule ~~43.2.2-43.4~~. If during the 21 course of the
jurisdiction's election, the designated election official 22 requires removal of a memory card or cartridge as a
function of the 23 election process, the county clerk ~~or their deputized representative-24 shall~~ MUST witness and
document the removal and proper resealing
of the memory card or cartridge; and

26 (4) Upon return of the equipment to the county clerk ~~and recorder~~, the 27 county clerk ~~shall~~ MUST verify, and
indicate by signing and dating 28 the chain-of-custody log, that all seals are intact. If any seal is 29 damaged or
removed, the county clerk ~~shall~~ MUST
REINSTATE or verify the trusted build in accordance with this Rule-31 43.

32 (e)(B) The county clerk ~~and recorder shall~~ MUST designate and station deputized 33 county staff with the loaned
~~certified~~ equipment at all times while the 34 equipment is under control of the designated election official. The
deputized county staff must maintain physical custody of the ~~certified~~ 36 equipment at
all times to ensure that no unauthorized access occurs.

37 (d)(C) In accordance with section 1-5-605.5, C.R.S., the county clerk ~~shall~~ MUST 38 appoint the designated
election official as a deputy for the purposes of 1 supervising the ~~certified~~ voting equipment. The designated election
2 official ~~shall~~ MUST:

3 (1) Sign and submit to the county clerk and recorder an affirmation 4 that he/she will ensure the security and integrity of the ~~certified~~ voting equipment at all times;

6 (2) Affirm that the use of the ~~certified~~ voting equipment is conducted 7 in accordance with THIS Rule 43 and the specific Conditions for 8 Use of the ~~certified~~ voting equipment; and

9 (3) Agree to maintain all chain-of-custody logs for the voting device(s).

11 ~~43.5.3 Upon return of the certified voting equipment to the county clerk and recorder, the 12 county clerk is required to verify the trusted build, in accordance with State 13 instructions, if the documentation and chain of custody does not support the 14 proper maintenance of the trusted build software and chain of custody.~~

[Current Rule 43.5.3 is amended and moved to New Rule 43.18.2]

16 43.18 BALLOT ON DEMAND 17 43.18.1 THE COUNTY MUST USE THE LAPTOP FOR BALLOT ON DEMAND PURPOSES
18 ONLY. 19 43.18.2 SOFTWARE ACCESS, SECURITY, AND STORAGE.

(A) THE COUNTY MUST CHANGE ALL WINDOWS AND BALLOT ON DEMAND 21 APPLICATION
PASSWORDS AT LEAST ONCE PER CALENDAR YEAR.

22 (B) ONLY THE COUNTY, ELECTION JUDGES, SECRETARY OF STATE STAFF, OR 23 AUTHORIZED VENDOR
REPRESENTATIVES MAY OPERATE THE BALLOT ON 24 DEMAND SYSTEM.

(C) THE COUNTY MAY CONNECT THE BALLOT ON DEMAND LAPTOP TO AN 26 EXTERNAL
NETWORK FOR THE PURPOSE OF CONNECTING TO SCORE ONLY 27 IF THE COUNTY MAINTAINS CURRENT VIRUS
PROTECTION AND IMPLEMENTS 28 FIREWALLS TO PREVENT UNAUTHORIZED ACCESS.

29 (D) THE COUNTY MUST STORE THE LAPTOP(S) AND UNUSED PAPER BALLOT STOCK IN A
LOCKED STORAGE AREA WHEN THE PRINTER IS NOT IN USE.

31 43.18.3 BALLOT RECONCILIATION.

32 (A) THE COUNTY MUST RECONCILE BALLOTS PRINTED ON DEMAND IN 33 ACCORDANCE WITH RULES 41.4 AND
41.5.

1 (B) THE COUNTY MUST MAINTAIN DAMAGED, MISPRINTED, OR UNUSABLE 2 BALLOTS AS ELECTION RECORDS.

3 **Rule 44. RESERVED**

4 Rule 45. ~~Rules Concerning Voting System Standards for Certification~~

5 45.1 Definitions. The following definitions apply to their use in this rule only, unless 6 otherwise stated.

7 45.1.1 “Audio ballot” means a voter interface containing the list of all candidates, ballot 8 issues, and ballot questions upon which an eligible elector is entitled to vote in an 9 election. It also provides the voter with audio stimuli and allows the voter to 10 communicate voting intent to the voting system through vocalization or physical 11 actions.

12 45.1.2 “Audit log” means a system-generated record, in printed ~~and/or~~ electronic format, 13 providing a record of activities and events relevant to initializing election 14 software and hardware, the identification of files containing election parameters, 15 initializing the tabulation process, processing voted ballots and terminating the 16 tabulation process.

17 45.1.3 “Ballot image” means a corresponding representation in electronic form of the 18 marks or vote positions of a cast ballot that are captured by a ~~direct recording-19 electronic voting device-DRE~~.

20 45.1.4 “BALLOT MARKING DEVICE” OR “BMD” MEANS A DEVICE THAT USES ELECTRONIC 21 TECHNOLOGY TO:

22 (A) MARK AN OPTICAL SCAN BALLOT AT VOTER DIRECTION,

23 (B) INTERPRET THE BALLOT SELECTIONS,

24 (C) COMMUNICATE THE INTERPRETATION FOR VOTER VERIFICATION, AND THEN

25 (D) PRINT A VOTER-VERIFIED BALLOT.

26 A BMD INTEGRATES COMPONENTS SUCH AS AN OPTICAL SCANNER, PRINTER, 27 TOUCH-SCREEN MONITOR, AND A NAVIGATIONAL KEYPAD.

28 ~~45.1.4~~45.1.5 “Ballot style” means a specific ballot layout or content for an election. The 29 ballot style is the presentation of the unique combination of contests and 30 candidates for which the voter is eligible to vote. It includes the order of contests 31 and candidates, the list of ballot positions for each contest, and the binding of 32 candidate names to ballot positions within the presentation. Multiple precincts 33 may use a single ballot style. Multiple styles may appear in a single precinct 34 where voters are split between two or more districts or other categories defining 35 voter eligibility for particular contests and candidates.

1 45.1.5-45.1.6 “Closed network” means a network structure in which devices are not 2 connected to the internet or other office automation networks, except as allowable 3 under THIS Rule 45.5.2.7 45.

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~~ 6 tabulation data between components or to another data processing system, 7 ~~printing system or display device.~~

8 45.1.7 “DRE” means a direct recording electronic voting device. A DRE is a voting 9 device that records votes by means of a ballot display OR AN AUDIO BALLOT provided with mechanical or electro-optical components ~~or an audio ballot that~~ 11 ~~can be activated by the voter~~, processes data by means of a ~~computer~~ SOFTWARE 12 program and records voting data and ballot images in memory components or 13 other media. The device may produce a tabulation of the voting data stored in a 14 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 16 consolidating and reporting results from remote sites to the central location.

17 45.1.8 “EAC” means the United States Election Assistance Commission.

18 45.1.9 “Election management system” includes, but is not limited to, the ballot 19 definition subsystem and the election reporting subsystem. The election

management system may provide utilities for other election administration tasks, 21 including maintaining equipment inventories, estimating ballot printing needs and 22 maintaining information on ~~polling places~~ VOTER SERVICE AND POLLING CENTERS.

23 45.1.10 “Election media” means any device including a cartridge, card, memory 24 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 26 vote tabulating equipment or any other data storage required by the voting system 27 for a particular election function. The election management system typically 28 downloads ballot style information to the election media and uploads results and 29 ballot images from the election media.

45.1.11 “Equipment” or “device” means a complete, ~~AND~~ inclusive term to 31 represent all items submitted for certification by the voting system provider. This 32 can include, but is not limited to, any voting device, accessory to voting device, 33 DRE, touch screen voting device, card programming device, software and 34 hardware. “Equipment” may also mean a complete end to end voting system solution.

36 45.1.12 “MODIFICATION” MEANS A REVISION OR A NEW RELEASE OF AN ELECTRONIC 37 OR ELECTROMECHANICAL VOTING SYSTEM.

38 ~~45.1.12~~ 45.1.13 “Remote site” means any physical location identified by a 39 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,

1 locations such as ~~precinct polling places, vote centers, early voting sites and mail~~2 in ballot counting sites-VOTER SERVICE AND POLLING CENTERS.

3 ~~45.1.13~~ 45.1.14 “Removable Storage Media”“REMOVABLE STORAGE MEDIA” means 4 storage devices that can be removed from the system and transported to another location for readout and report generation. Examples of removable storage media 6 include, but are not limited to, programmable read-only memory (PROM), 7 random access memory (RAM) with battery backup, thumb drives, magnetic 8 media and optical media.

~~45.1.14~~ 45.1.15 “Secretary of State” ~~within the context of this rule,~~ means the Colorado Secretary of State and his or her ~~designated~~ agents including employees, 11 contractors and volunteers.

12 ~~45.1.15~~ 45.1.16 “Security” means the ability of a voting system to protect election 13 information and election system resources with respect to confidentiality, integrity 14 and availability.

~~45.1.16~~ 45.1.17 “Split Precinct”“SPLIT PRECINCT” means a precinct that has a 16 geographical divide between one or more political jurisdictions which results in 17 each jurisdiction within the precinct to be assigned different ballot styles for a 18 specific election.

19 ~~45.1.17~~ 45.1.18 “Test Log” or “Test Records”“TEST LOG” OR “TEST RECORDS” means the documentation of certification testing and processes. This 21 documentation may include, but is not limited to, certification testing reports, test 22 plans, requirements matrices, photographs, written notes, video and/or audio 23 recordings.

24 ~~45.1.18~~ 45.1.19 “Trusted Build”“TRUSTED BUILD” means the write-once installation disk or disks for software and firmware for which the Secretary of 26 State or his/her agent has established the chain of evidence to the building of a 27 disk, which is then used to establish and/or re-establish the ~~chain of custody~~28 CHAIN-OF-CUSTODY of any component of the voting system which contains 29 firmware or software. The trusted build is the origin of the chain of evidence for any software and firmware component of the voting system.

31 45.1.20 “VOTING SYSTEM” MEANS:

32 (A) THE TOTAL COMBINATION OF MECHANICAL, ELECTROMECHANICAL, OR 33 ELECTRONIC EQUIPMENT (INCLUDING THE SOFTWARE, FIRMWARE, AND 34 DOCUMENTATION REQUIRED TO PROGRAM, CONTROL, AND SUPPORT THE

EQUIPMENT) THAT IS USED TO:

36 (1) DEFINE BALLOTS;

37 (2) CAST AND COUNT VOTES; 1 (3) REPORT OR DISPLAY ELECTION RESULTS; AND

2 (4) MAINTAIN AND PRODUCE ANY AUDIT TRAIL INFORMATION; AND

3 (B) THE PRACTICES AND ASSOCIATED DOCUMENTATION USED TO:

4 (1) IDENTIFY SYSTEM COMPONENTS AND VERSIONS OF SUCH
5 COMPONENTS;

6 (2) TEST THE SYSTEM DURING ITS DEVELOPMENT AND MAINTENANCE;

7 (3) MAINTAIN RECORDS OF SYSTEM ERRORS AND DEFECTS;

8 (4) DETERMINE SPECIFIC SYSTEM CHANGES TO BE MADE TO A SYSTEM

9 AFTER THE INITIAL QUALIFICATION OF THE SYSTEM; AND 10 (5) MAKE AVAILABLE ANY MATERIALS TO THE
VOTER (SUCH AS 11 NOTICES, INSTRUCTIONS, FORMS, OR PAPER BALLOTS). 12 ~~45.1.19-45.1.21 “Voting System
Test Laboratory” or “VSTL” means a “Federally-13 Accredited Laboratory”~~ “VOTING SYSTEM TEST LABORATORY”
OR “VSTL” MEANS 14 A “FEDERALLY ACCREDITED LABORATORY”, as defined in section 1-1-104(16.5), 15 C.R.S.,
which is accredited by the EAC to conduct certification testing for voting 16 systems.

17 ~~45.5.2.9.1 45.1.22 V VPAT shall refer to a Voter-verified~~ “VOTER-VERIFIED PAPER 18 AUDIT TRAIL” OR
“VVPAT” MEANS A DEVICE CAPABLE OF PRODUCING A VOTER 19 VERIFIED paper record as defined in section
1-1-104(50.6)(a), C.R.S.

20 45.2 Introduction

21 ~~45.2.1 Definition of voting system for certification purposes~~

22 ~~45.2.1.1 45.2.1~~ The definition of a voting system for the purposes of this rule shall be as 23 the term is defined in
~~HAVA Section 301(b)~~. For Colorado purposes, no single 24 component of a voting system, or device, meets the
definition of a voting system 25 except that nothing in this rule shall be interpreted to require the testing of an 26
entire modified system if the Secretary of State determines pursuant to 27 ACCORDANCE WITH section 1-5-618,
C.R.S., that a modification to any certified 28 voting system requires testing for security and accuracy. ~~only~~ ONLY
the 29 modification shall be required to be tested to ensure compliance with this Rule 45.

30 ~~45.2.1.2 45.2.2~~ Sufficient components shall be assembled to create a configuration 31 that allows the system or
modification as a whole to meet the requirements as 32 described for a voting system in this rule.

33 45.2.3 THE CERTIFICATION OF A VOTING SYSTEM SHALL NOT BE INTERPRETED AS A 34 REQUIREMENT THAT A
COUNTY PURCHASE OR LEASE ALL OF THE COMPONENTS OF 1 THE VOTING SYSTEM. COUNTIES MAY CHOOSE TO
CONFIGURE AND USE A SUBSET OF 2 THE CERTIFIED VOTING SYSTEM AND MAY USE THE SERVICES OF A VENDOR OR
3 THIRD PARTY TO PROVIDE BALLOT DEFINITION AND ELECTION PROGRAMMING OF 4 MEMORY CARDS. COUNTIES
ARE NOT REQUIRED TO USE A PAPER BALLOT 5 TABULATION DEVICE IF THEY CHOOSE TO MANUALLY TABULATE
THE ELECTION 6 RESULTS.

7 ~~45.2.2 Authority~~

8 ~~45.2.2.1 Pursuant to Articles 5 and 7 of Title 1, C.R.S., the Secretary of 9 State is expressly authorized to adopt this rule.~~

10 ~~45.2.3 Documents Incorporated by Reference~~

11 ~~45.2.3.1 All documents incorporated by reference in this Rule 45 do not 12 include any later amendments or editions of those documents.~~

13 ~~45.2.3.2 All documents incorporated by reference in this Rule 45 may be 14 viewed on the “Voting Systems” page of the “Elections Center” on the 15 Secretary of State’s website at www.sos.state.co.us, or by contacting the 16 Secretary of State Voting Equipment Certification Program/1700 17 Broadway—Suite 200/Denver, CO 80290.~~

18 ~~45.3 Certification Process Overview and Timeline~~

19 ~~45.3.1 The voting system shall be considered as a unit, and all components of such 20 system shall be tested at once, unless the circumstances necessitate otherwise. 21 Any change made to individual components of a voting system shall require the 22 entire voting system TO be recertified in accordance with this rule unless the 23 change is a modification that can be approved under the provisions of section 1-524 618(1.5), C.R.S.~~

25 ~~45.3.2 For a voting system to be certified, the voting system provider shall successfully 26 complete all phases of the certification process, to include submitting a complete 27 application, a review of the documentation to evaluate whether the system meets 28 the requirements of this rule, a public demonstration of the system, functional 29 testing of the voting system to demonstrate substantial compliance with the 30 requirements of this rule and Colorado Election Code as well as any additional 31 testing that is deemed necessary by the Secretary of State. THE CERTIFICATION 32 PROCESS INCLUDES: SUBMISSION OF A COMPLETE APPLICATION, A DOCUMENTATION 33 REVIEW, A PUBLIC DEMONSTRATION OF THE SYSTEM, AND FUNCTIONAL TESTING.~~

34 ~~45.3.3 The flow of each phase of certification is as follows:~~

35 (a) ~~Phase I – Voting~~ THE VOTING system provider ~~submits~~ MUST SUBMIT an 36 application and all documentation required in Rule 45.4. The Secretary of 37 State ~~reviews~~ WILL REVIEW the ~~application~~ APPLICATION and ~~informs~~ 38 INFORM the voting system provider whether or not the application is

1 complete. ~~If the application is complete, the Secretary of State makes 2 arrangements with the voting system provider for a public demonstration.~~ 3 If the application is incomplete, the Secretary of State shall WILL identify 4 the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete. WHEN THE 6 APPLICATION IS COMPLETE, THE SECRETARY OF STATE WILL MAKE 7 ARRANGEMENTS WITH THE VOTING SYSTEM PROVIDER FOR A PUBLIC 8 DEMONSTRATION.

secretary of State ~~reviews~~ WILL REVIEW the submitted documentation, ~~conducts the review of~~ VSTL REPORTS FROM PREVIOUS 11 TESTING, AND or evaluations provided by ~~another State under Rule 12 45.5.1.3,~~ prepares a certification test plan for the system and ~~presents the~~ 13 test plan to the voting system provider OTHER STATES.

14 (C) PHASE III – THE SECRETARY OF STATE WILL PREPARE A CERTIFICATION

TEST PLAN. IF A VSTL IS CONTRACTED TO TEST THE VOTING SYSTEM, THE 16 VSTL WILL WORK WITH THE SECRETARY OF STATE TO PREPARE A 17 CERTIFICATION TEST PLAN. THE CERTIFICATION TEST PLAN WILL BE 18 PRESENTED TO THE VOTING SYSTEM PROVIDER FOR REVIEW PRIOR TO THE 19 START OF FUNCTIONAL TESTING.

(e) (D) Phase ~~III~~ IV – Upon receipt of the voting system provider’s agreement to 21 the CERTIFICATION test plan, the Secretary of State ~~performs~~ OR THE VSTL 22 WILL PERFORM the functional tests.

23 ~~(d)~~ (E) Phase IV V – The Secretary of State ~~reviews~~ WILL REVIEW the results of 24 the functional tests and ~~decides~~ DETERMINE whether ~~to certify or not to~~ certify the voting system SUBSTANTIALLY MEETS THE REQUIREMENTS FOR 26 CERTIFICATION. Within 30 days of ~~the~~ THIS decision to certify or not 27 ~~certify the voting system,~~ the certification test report for the voting system 28 shall be posted on the Secretary of State’s website.

29 ~~45.6.3~~ 45.3.4 The Secretary of State shall certify voting systems that substantially comply with the requirements in this Rule 45, Colorado Election Code, and any 31 additional testing that is deemed necessary by the Secretary of State.

32 45.4 Application Procedure

33 45.4.1 Any voting system provider may apply to the Secretary of State for certification at 34 any time.

45.4.2 A voting system provider that ~~submits~~ DESIRES TO SUBMIT a voting system for 36 certification shall complete the Secretary of State’s “Application for Certification 37 of Voting System” WHICH IS AVAILABLE ON THE SECRETARY OF STATE’S WEBSITE.

38 45.4.3 The Secretary of State, in accordance with section 24-21-104(1)(a), C.R.S., shall 39 charge the voting system provider all direct and indirect costs associated with the

1 testing of a voting system submitted for certification. The Secretary of State shall 2 provide, ~~upon request,~~ an estimate of costs for certification testing ~~at the 3 conclusion of Phase II evaluation.~~ PRIOR TO THE COMMENCEMENT OF FUNCTIONAL 4 TESTING. IN ORDER TO BEGIN FUNCTIONAL TESTING, THE VOTING SYSTEM PROVIDER SHALL PROVIDE A WRITTEN APPROVAL OF THE COST ESTIMATE. All costs shall be 6 paid in full prior to the issuance of a final determination by the Secretary of State.

7 45.4.4 Along with the application, the voting system provider shall submit all 8 documentation required in this Rule 45 IN ELECTRONIC FORMAT. ~~The requirements-9 include documentation necessary for the identification of the full system configuration submitted for certification. Documentation shall include 11 information that defines the voting system design, method of operation and 12 related resources. It shall also include a system overview and documentation of 13 the voting system's functionality, accessibility, hardware, software, security, test-14 and verification specifications, operations procedures, maintenance- procedures and personnel deployment and training requirements. In addition, the 16 documentation- submitted shall include the voting system provider's configuration-17 management plan and quality- assurance program.~~

18 45.4.5 ~~Electronic copies of documentation are preferred and shall be submitted in lieu of-19 a hard copy when possible.~~

45.4.6 45.4.5 The vendor shall identify any material it asserts is exempt from public 21 disclosure under the Colorado Open Records Act, section 24-72-204, et. seq., 22 C.R.S., together with a citation to the specific grounds for exemption. The request 23 shall be made prior to the start of Phase ~~III~~ IV of the certification process.

24 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-26 provider shall execute and submit to the EAC any necessary releases for the EAC-27 to provide the same and provide the Secretary of State with a copy of such 28 executed releases. The voting system provider shall pay directly to the EAC any-29 cost associated with same. In addition, the voting system provider shall submit all- documentation and instructions necessary for the creation and guided installation-31 of files contained in the trusted build which will be created at the start of 32 functional testing and will be the model tested. The Secretary of State reserves the-33 right to add additional instructions or guidance for the use of the trusted build 34 when initiating the chain of custody process for a jurisdiction using the specified- equipment.~~

36 45.4.8 ~~45.4.6 If the EAC does not have a trusted build for the voting system submitted-37 for certification, the THE voting system provider shall coordinate with the 38 Secretary of State for the establishment of the trusted build. THE VOTING SYSTEM 39 PROVIDER SHALL SUBMIT ALL DOCUMENTATION AND INSTRUCTIONS NECESSARY FOR THE CREATION AND GUIDED INSTALLATION OF FILES CONTAINED IN THE 41 TRUSTED BUILD WHICH WILL BE CREATED AT THE START OF FUNCTIONAL TESTING 42 AND WILL BE THE MODEL TESTED. At a minimum, ~~this~~ THE TRUSTED BUILD shall~~

1 include a compilation of files placed on write-once media for which the Secretary-2 of State has observed the chain of evidence from the time of source code 3 ~~compilation through delivery~~, and an established hash file distributed from a 4 VSTL or the National Software Reference Library to compare federally certified versions. ~~All or any part of the~~ THE trusted build disks ~~may be encrypted. If 6 applicable, they should all be~~ labeled as proprietary information and with 7 identification of the voting system provider's name and release version ~~based on 8 the voting system provider's release instructions.~~

~~45.4.9~~ 45.4.7 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 25-11 months after the last election in which the system is used with the~~ exception of-12 any equipment provided by the voting system provider for the purposes of 13 ~~testing.~~ AS FOLLOWS:

14 (A) FOR CERTIFIED SYSTEMS, UNTIL THE CERTIFICATION IS PERMANENTLY REVOKED, OR UNTIL NO COMPONENTS OF THE CERTIFIED SYSTEM ARE USED 16 IN THE STATE OF COLORADO; AND

17 (B) FOR SYSTEMS THAT ARE NOT CERTIFIED, A PERIOD OF 25 MONTHS.

18 ~~45.4.10~~ 45.4.8 ~~In addition to the application and the documentation specified above, the~~ 19 THE Secretary of State may request additional information from the applicant, as deemed necessary.

21 45.5 Voting System Standards

22 ~~45.5.1 Federal Standards~~

23 ~~45.5.1.1~~ 45.5.1 All voting systems shall meet the ~~voting systems standards~~ 24 pursuant to section 1-5-601.5, C.R.S., and Secretary of State Rule 37.3 2002
VOTING SYSTEM STANDARDS.

26 ~~45.5.1.2~~ 45.5.2 All voting system software, hardware and firmware shall meet all 27 requirements of federal law that address accessibility for the voter interface of the 28 voting system. These laws include, but are not limited to, (a) the Help America 29 Vote Act, (b) the Americans with Disabilities Act and (c) the Federal Rehabilitation Act. The voting system provider shall explicitly acknowledge that 31 their proposed software, hardware and firmware are all in compliance with the 32 relevant accessibility portions of these laws.

33 ~~45.5.1.3~~ The Secretary of State may use and rely upon the testing of a 34 ~~voting system performed by a VSTL or by another state upon satisfaction~~
of the following conditions:-

36 (a) ~~The Secretary of State has complete access to any documentation,~~ 37 data, reports or similar information upon which the VSTL or 38 ~~another state relied in performing its tests and will make such~~ 1 information available to the public subject to any redaction 2 ~~required by law; and~~

~~3 (b) The Secretary of State makes written findings and certifies that he 4 or she has reviewed such information and determines that the tests were conducted in accordance with appropriate engineering 6 standards in use when the tests were conducted and the extent to 7 which the tests satisfy the requirements of sections 1 5 615 and 18 5 616, C.R.S., and all rules promulgated under those sections.~~

9 [Current rule 45.5.1.3 is mended and moved to Rule 45.5.12(a).]

[Rule 45.5.2.4.3 is amended and moved to New Rule 45.5.3(a). (Modifications to Rule 45.5.2.4.3 11 are shown below).]

12 ~~45.5.2 State Standards~~

13 45.5.3 INDEPENDENT ANALYSIS

14 ~~45.5.2.4.3~~ (A) Prior to completion of functional testing, all voting system
providers submitting a voting system shall have completed an independent 16 analysis
of the system, WHICH SHALL INCLUDE:

17 (a) ~~The independent analysis shall include:~~

18 ~~(i)~~ (1) An application penetration test conducted to analyze the system for 19 any potential vulnerabilities that
may result from poor or improper
system configuration, known and/or unknown hardware or software 21 flaws, or
operational weaknesses in process or technical 22 countermeasures. The test shall involve active exploitation of 23
security vulnerabilities of the voting system, whether or not the 24 vulnerabilities can be mitigated through
compensating controls.

~~(ii)~~ (2) A source code evaluation conducted pursuant to the
~~requirements 26 identified in Rule 45.5.2.6.1(f), requiring compliance with the 2002 27 voting~~
~~system standards~~ IN ACCORDANCE WITH SOFTWARE DESIGN 28 AND CODING STANDARDS OF THE
2002 VOTING SYSTEM STANDARD 29 OR THE MOST CURRENT VERSION OF THE VOLUNTARY
VOTING SYSTEM GUIDELINES THAT HAS BEEN APPROVED AFTER JANUARY 1, 31 2008.

32 ~~(b)~~ (3) A complete report detailing all findings and recommended 33 compensating controls for vulnerabilities
and deficiencies identified.

34 ~~(e)~~ (4) The ~~vendor~~ VOTING SYSTEM PROVIDER shall use an EAC
~~approved VSTL~~ AT LEAST ONE OF THE FOLLOWING to perform the 36
independent analysis, ~~or submit the results of testing conducted in 1 another state, or some combination of such~~
~~VSTL and state testing 2 that meets the requirements of this rule.:~~

3 ~~(H)~~(A) AN EAC APPROVED VSTL;

4 ~~(H)~~(B) TESTING CONDUCTED IN ANOTHER STATE;

5 ~~(H)~~(C) SOME COMBINATION OF SUCH VSTL AND STATE TESTING THAT 6 MEETS THE REQUIREMENTS OF THIS RULE.

7 ~~(d)~~(5) The Secretary of State OR VSTL shall conduct a quality
8 review of all work under this section. The review may include an
9 examination of the testing records, interviews of the individuals who 10 performed the work, or both. Review of
testing records may be 11 conducted at the VSTL, the state in which the testing was conducted, 12 or at the site of
any contractor or subcontractor utilized by another 13 state to conduct the testing.

14 ~~(e)~~ (6) ~~When an analysis performed by another state is used, the~~ 15 THE Secretary of State has the right to reject
any evaluation if not 16 satisfied with the work product and to require additional analysis to 17 meet the
requirements of section 1-5-608.5, C.R.S., and this Rule.

18 *[Rule 45.5.2.1 is amended and moved to New Rule 45.5.4. (Modifications to Rule 45.5.2.1 are 19 shown
below).]*

20 ~~45.5.2.1~~ 45.5.4 Functional ~~requirements~~ REQUIREMENTS

21 ~~45.5.2.1.1~~(A) Functional requirements shall address any and all detailed 22 operations of the voting system
related to the management and controls 23 required to successfully conduct an election ~~on the voting system.~~

24 ~~45.5.2.1.2~~ (B) The voting system shall provide for appropriately authorized users 25 to:

26 ~~(a) Prepare the system for an election;~~

27 ~~(b)~~(1) ~~Setup~~ SET UP and prepare ballots for an election;

28 ~~(c)~~(2) Lock and unlock system to prevent or allow changes to ballot 29 design;

30 ~~(d)~~(3) Conduct hardware ~~and~~ diagnostic testing ~~as required herein;~~

31 ~~(e)~~(4) Conduct logic and accuracy testing ~~as required herein;~~

32 ~~(f)~~(5) Conduct an election and meet ~~additional~~ requirements as identified 33 in this ~~section~~ RULE 45 for
procedures for voting, auditing 1 information, inventory control, counting ballots, opening and 2 closing polls,
recounts, reporting and accumulating results as 3 ~~required herein;~~

4 ~~(g)~~(6) Conduct the post election audit as required herein; and

~~(h)~~(7) Preserve the system for future election use.

6 ~~45.5.2.1.3~~(C) The voting system shall integrate ~~Election Day~~ ELECTION DAY 7 voting results with mail-in, early voting and provisional ballot results.

8 ~~45.5.2.1.4~~ The voting system shall be able to count all of an elector's 9 votes on a provisional ballot or only federal and statewide offices and statewide ballot issues and questions, as provided under 11 ~~section 1-8.5-108(2), C.R.S.~~

12 ~~45.5.2.1.5~~ The voting system shall provide for the tabulation of votes 13 cast in split precincts where all voters residing in one precinct are 14 not voting the same ballot style.

~~45.5.2.1.6~~ (D) The voting system shall provide for the tabulation of votes cast in 16 combined precincts at remote sites, where more than one precinct is voting 17 at the same location, on either the same ballot style or ON a different ballot 18 style.

19 ~~45.5.2.1.7~~ (E) The voting system application-ELECTION MANAGEMENT SYSTEM

shall provide authorized users with the capability to produce electronic 21 files including election results in either ASCII (both comma-delimited and 22 fixed-width) or web-based format that shall contain (a) all data or (b) any 23 user selected data elements from the database. The software shall provide 24 authorized users with the ability to generate these files on an "on-demand"

basis. After creating such files, the authorized users shall, at their 26 discretion, have the capability to copy the files to diskette, tape, CD-ROM 27 or to transmit the files to another information system OTHER MEDIA TYPE.

28 ~~(a)~~(1) Exports necessary for the Secretary of State shall conform to a 29 format agreed upon by the Secretary of State and the voting system

provider. If the voting system provider and the Secretary of State 31 have not previously agreed upon a format, the voting system 32 provider shall provide the Secretary of State with specifications for 33 all available export file formats. As part of the certification test, the 34 voting system provider will demonstrate that preliminary and

~~canvassing level election result data, using one or more of the 36 provided formats, can be imported to a commercially available 37 data management program such as a spreadsheet, database, or 38 report generator which can accept that format and which is used 39 and selected by the Secretary of State's office. Using the imported~~

data, the Secretary of State's test team shall confirm that the 1 election results data may be consolidated with results from one or 2 more additional election jurisdictions, searched, selected, sorted, 3 generate totals from selected subsets of the data, and formatted for 4 reporting.

~~(b) Export files shall be generated so that election results can be 6 communicated to the Secretary of State on election night both 7 during the accumulation of results and after all results have been 8 accumulated.~~

9 [Current Rule 45.2.1.7(b) is amended and moved to Rule 11]

(2) THE VOTING SYSTEM PROVIDER SHALL DEMONSTRATE THAT 11 PRELIMINARY AND CANVASSING LEVEL ELECTION RESULT DATA CAN 12 BE IMPORTED TO A COMMERCIALY AVAILABLE DATA MANAGEMENT 13 PROGRAM SUCH AS A SPREADSHEET, DATABASE, OR REPORT 14 GENERATOR.

~~45.5.2.1.8~~ (F) The voting system shall include hardware and software to enable 16 the closing of the remote voting location and disabling the acceptance of 17 ballots on all vote tabulation devices to allow for the following:

18 ~~(a)-(1) Machine generated paper record~~ PRINTOUT of the time the voting 19 system was closed.

~~(b)-(2) Readings~~ PRINTOUT of the public counter and protective counter 21 shall become a part of the paper audit record upon disabling the 22 voting system to prevent further voting.

23 ~~(c)-(3) Ability to print an abstract of the count of votes~~ A REPORT which 24 shall contain:

~~(i)-(A)~~ Names of the offices;

26 ~~(ii)-(B)~~ Names of the candidates and party, when applicable;

27 ~~(iii)-(C)~~ A tabulation of votes from ballots of different 28 political parties at the same voting location in a primary 29 election;

~~(iv)-(D)~~ Ballot titles;

31 ~~(v)-(E)~~ Submission clauses of all initiated, referred or other ballot 32 issues or questions; and

33 ~~(vi)-(F)~~ The number of votes counted for or against each candidate 34 or ballot issue.

1 ~~(d) Abstract shall include an election judge's certificate and statement 2 that contains:—~~

3 ~~(i)-(G) Date of election (day, month and year);~~

4 ~~(ii)-(H) Precinct Number-NUMBER (ten digit format);~~

5 ~~(iii)-(I) County or Jurisdiction Name-JURISDICTION NAME;~~

6 ~~(iv)-(J) State of Colorado-AREA FOR "STATE OF COLORADO";~~

7 ~~(v)-(K) Count of votes as indicated in this section FOR EACH 8 CONTEST; and~~

9 ~~(vi)-(L)Area-AN ELECTION JUDGE'S CERTIFICATE WITH AN AREA for 10 judges' signatures with the words similar to: "Certified by 11 us" , and "Election Judges" . Space should allow for a 12 minimum of two signatures.~~

13 ~~(e)-(4) Votes counted by a summary of the voting location and by 14 individual precincts.~~

15 ~~(f)-(5) Ability to produce multiple copies of the unofficial results at the 16 close of the election.~~

17 ~~(g) Ability to accommodate a two page ballot (races on four faces) is 18 required.—~~

19 [Current Rule 45.5.2.1.8(g) is amended and moved to new Rule 45.5.6(c).]

20 45.5.2.1.9 Voters voting on a DRE shall be able to navigate through the 21 screens without the use of page scrolling. Features such as next or 22 ~~previous page options shall be used.—~~

23 ~~45.5.2.1.10 (G)The voting system application-ELECTION MANAGEMENT SYSTEM 24 shall ensure that an election setup may not be changed once ballots are 25 printed and/or election media devices are downloaded for votes to be 26 conducted—without proper authorization and acknowledgement by the 27 application administrative account. The application and database audit 28 transaction logs shall accurately reflect the name of the system operator 29 making the change(s), the date and time of the change(s), and the "old" 30 and "new" values of the change(s).~~

31 ~~45.5.2.1.11 The voting system shall ensure that all tabulated results will be 32 accurately captured, interpreted, and reported to the level of accuracy 33 required in the 2002 Voting System Standards.—~~

1 ~~45.5.2.3.13~~ (H) All DRE OR BMD voting devices shall use touch screen 2 technology or other technology providing visual ballot display and 3 selection.

~~45.5.2.3.14~~ (I) All electronic voting devices supplied by the voting system provider AND USED AT VOTER SERVICE AND POLLING CENTERS shall have 6 the capability to continue ALL NORMAL VOTING operations and provide 7 continuous device availability during a 2-HOUR period of electrical outage 8 without any loss of election data.

9 ~~45.5.2.3.16~~ (J) The voting system shall provide capabilities to protect the confidentiality of voters' ballot choices.

11 ~~(a)~~-(1) All optical scan devices, associated ballot boxes and V-VPAT 12 storage devices shall provide physical locks and procedures to 13 prevent disclosure of voters' confidential ballot choices during and 14 after the vote casting operation.

~~(b)~~-(2) All DRE devices shall provide randomization of all voter choices 16 and stored electronic ballot information, ~~regardless of format~~, to 17 prevent disclosure of voters' confidential ballot choices during and 18 after storage of the voters' ballot selections.

19 45.5.2.2 Performance Level

~~45.5.2.2.1 Performance Level shall refer to any operation related to 21 the speed and efficiency required from the voting system to 22 accomplish the successful conduct of an election on the voting 23 system.~~

24 ~~45.5.2.2.2 The voting system shall meet the requirements for casting ballots as detailed in the vendor documentation required for 26 certification.~~

27

28 ~~45.5.2.2.3 The voting system provider shall publish and specify 29 processing standards for each component of the voting system as part of the documentation required for certification.~~

31 *[Current Rule 45.5.2.2.3 is amended and moved to new Rule 45.5.12(l)]*

32 ~~45.5.2.2.4 For the purpose of evaluating software, the voting system 33 provider shall be required to provide detailed information as to the 34 type of hardware required to execute the software.~~

1 [Current Rule 45.5.2.2.4 is amended and moved to new Rule 45.5.12(m)]

~~2 45.5.2.2.5 At no time shall third party hardware or software have a 3 negative effect on performance levels of the voting system 4 application, unless, through documentation, a voting system provider specifically details the specific hardware or software, the 6 performance effect and a workaround for the end user to overcome 7 the issue.~~

8 ~~45.5.2.3~~ 45.5.5 Physical and ~~Design Characteristics~~-DESIGN CHARACTERISTICS

cal and design characteristics shall address any and all external or internal construction of the physical environment of the voting 11 system or the internal workings of the software necessary for the voting 12 system to function. The voting system shall substantially comply with 13 these requirements to be considered successful in the conduct of an 14 election on the voting system.

~~45.5.2.3.2 The voting system shall meet the following environmental controls 16 allowing for storage and operation in the following physical ranges:-~~

17 (a) Operating Temperature – Maximum 95 Degrees Fahrenheit; 18 Minimum 50 Degrees Fahrenheit, with maximum humidity of 19 ~~90%, normal or minimum operating humidity of 15%.~~

~~(b) Non Operating Temperature – Maximum 140 Degrees Fahrenheit; 21 Minimum minus 4 Degrees Fahrenheit. Non operating humidity 22 ranges from 5% to 90% for various intervals throughout the day.~~

23 ~~The documentation supplied by the voting system provider shall include a 24 statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other 26 facility or resource required for the installation, operation and storage of 27 the voting system.~~

28 [Part of current Rule 45.5.2.3.2 is relocated to new Rule 45.5.12(n)]

29 ~~45.5.2.3.17~~(B)The voting system provider shall submit drawings, photographs and any related brochures or documents to assist with the evaluation of the 31 physical design of the use of the voting system.

32 45.5.6 BALLOT DEFINITION SUBSYSTEM

33 ~~45.5.2.3.3~~(A) The ballot definition subsystem of the voting system application 34 consists of hardware and software required to accomplish the functions

~~outlined in this Rule 45.5.2.3 45.5.6. System databases contained in the 36 ballot definition subsystem may be constructed individually or they may 37 be integrated into one database. These databases are treated as separate 1 databases to identify the necessary types of data to be handled and to 2 specify, where appropriate, those attributes that can be measured or 3 assessed for determining compliance with the requirements of this 4 standard.~~

45.5.2.3.4 The ballot definition subsystem shall be capable of formatting 6 ballot styles in English and any alternate languages as are necessary to 7 comply with The "Voting Rights Act of 1965" 42 U.S.C. § 1973c et seq. 8 (1965).

9

~~45.5.2.3.5 The voting system application shall allow the operator to generate and maintain an administrative database containing the definitions and 11 descriptions of political subdivisions and offices within the jurisdiction.~~

12 ~~45.5.2.3.6 The ballot definition subsystem shall provide for the definition of 13 political and administrative subdivisions where the list of candidates or 14 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 16 voter to vote may vary by reason of place of residence or other such 17 administrative or geographical criteria. This database shall be used by the 18 system with the administrative database to format ballots or edit formatted 19 ballots within the jurisdiction.~~

~~45.5.2.3.7 For each election, the subsystem shall allow the user to generate 21 and maintain a candidate and contest database and provide for the 22 production and/or definition of properly formatted ballots and software.~~

23 ~~45.5.2.3.8 (B) The ballot definition subsystem shall be capable of handling at 24 least 500-200 potentially active voting positions, arranged to identify party affiliations in a primary election, offices with their associated labels and 26 instructions, candidate names with their associated labels and instructions 27 and ballot issues or questions with their associated text and instructions.~~

28 ~~45.5.2.3.9 The ballot display may consist of a matrix of rows or columns 29 assigned to political parties or non partisan candidates and columns or rows assigned to offices and contests. The display may consist of a 31 contiguous matrix of the entire ballot or it may be segmented to present 32 portions of the ballot in succession.~~

33 ~~45.5.2.1.8(g) (C) Ability to THE VOTING SYSTEM MUST accommodate a 34 SINGLE PAGE BALLOTS (RACES ON ONE FACE OR BOTH FACES) AND two page ballot-PAPER BALLOTS (races on THREE OR four faces) is required.~~

36 ~~45.5.2.3.10 (D)The voting system application shall BALLOT DEFINITION 37 SUBSYSTEM MUST:~~

38 (1) ~~provide PROVIDE a facility for the definition of the ballot, including 39 the definition of the number of allowable choices for each office 1 and contest and for special voting options such as write-in 2 candidates. It shall provide for all voting options and specifications 3 as provided for in Articles 5 and 7, Title 1, C.R.S.;~~

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 ELECTION MANAGEMENT SOFTWARE. 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.

45.5.7 TRUSTED BUILD

ed 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;~~

[Current Rule 45.5.2.3.13 is amended and moved to new Rule 45.5.4(h). Current Rule 45.5.2.3.13(a)-(b) are amended and moved to new Rule 45.5.12(c).]

~~(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.~~

1 *[Current Rule 45.5.2.3.13(d) amended and moved to new Rule*
2 *45.5.12(o).]*

3 ~~45.5.2.3.14 All electronic voting devices supplied by the voting system~~ 4 provider shall have the capability to
continue operations and ~~provide continuous device availability during a period of electrical~~ 6 ~~outage without any loss~~
~~of election data.~~

7 *[Current Rule 45.5.2.3.14 amended and moved to new Rule 45.5.4(i)]*

8 (a) ~~For optical scan devices, this capability shall include, at a~~ 9 ~~minimum, for a period of not less than two hours~~
~~the ability to:~~

- 11 (i) ~~Continue to scan or image voters' ballots;~~
- 12 (ii) ~~Accurately tabulate voters' choices from the ballots;~~
- 13 (iii) ~~Accurately store voters' ballot choices; and~~
- 14 (iv) ~~Transmit required results files accurately if power failure~~
~~occurs during transmittal of results.~~

16 (b) For DRE devices, this capability shall include, at a 17 ~~minimum, for a period of not less than two hours~~ the
ability 18 ~~to:~~

- 19 (i) ~~Continue to present ballots accurately to voters;~~
 - (ii) ~~Accept voters' choices accurately on the devices;~~
- 21 (iii) ~~Tabulate voters' choices accurately;~~
- 22 (iv) ~~Store voters' choices accurately in all storage~~ 23 ~~locations on the device; and~~
- 24 (v) ~~Transmit required results files accurately if power failure is~~
~~experienced during transmittal of results.~~

26 (c) ~~For V VPAT devices connected to DREs, this capability~~ 27 ~~shall include, at a minimum, for a period of not~~
~~less than~~ 28 ~~two hours the ability to:~~

- 29 (i) ~~Continue to print voters' choices on the DRE~~
~~accurately and in a manner that is identical to the~~ 31 ~~manner of~~
~~the printers' operations during a period~~ 32 ~~of normal electrical operations; and~~

1 (ii) Continue to store the printed ballots in a secure 2 manner that is identical to the manner of the 3 printers' operations during a period of normal 4 electrical operations.—

~~(d) The voting system provider shall deliver to the Secretary of 6 State documentation detailing estimated time of battery 7 operation for each type of optical scanner, ballot imager, 8 DRE and V VPAT they provide, assuming continuous use 9 of the devices by voters during an interruption of normal electrical power.—~~

11 ~~(e) The voting system provider shall deliver to the Secretary of 12 State documentation specifying the steps and times 13 required for charging batteries for each type of optical 14 scanner, ballot imager, DRE and V VPAT they provide.—~~

[Current 45.5.2.3.14 (d) and (e) are amended and moved to new rule 16 45.5.12(e) and (p) and (q).]

17 ~~45.5.2.3.15 The voting system provider's software application shall be 18 able to recover operations after a power outage or other abnormal 19 shutdown of the system on which that application and database are operating without loss of more than the current transaction data 21 record on which the administrative account or authorized operator 22 account is currently working.—~~

23 *[Current 45.5.2.3.15 is amended and moved to new Rule 45.5.4(j)]*

24 ~~45.5.2.3.16 The voting system shall provide capabilities to protect the confidentiality of voters' ballot choices.—~~

26 ~~(a) All optical scan devices, associated ballot boxes and V 27 VPAT storage devices shall provide physical locks and 28 procedures to prevent disclosure of voters' confidential 29 ballot choices during and after the vote casting operation.—~~

~~(b) All DRE devices shall provide randomization of all voter 31 choices and stored electronic ballot information, regardless 32 of format, to prevent disclosure of voters' confidential 33 ballot choices during and after storage of the voters' ballot 34 selections.—~~

[Current 45.5.2.3.16 is amended and moved to new Rule 45.5.4(j)]

36 ~~45.5.2.3.17 The voting system provider shall submit drawings, 37 photographs and any related brochures or documents to assist with 1 the evaluation of the physical design of the use of the voting 2 system.—~~

3 *[Current 45.5.2.3.17 is moved to new Rule 45.5.5(b).]*

4 45.5.2.4 Documentation Requirements

45.5.2.4.1 In addition to other documentation requirements in this 6 rule, the voting system provider shall provide the following 7 documents:–

8 ~~(a) Standard Issue Users/Operator Manual;–~~

9 ~~(b) System Administrator’s/Application Administration Manual;–~~

11 ~~(c) Training Manual and related materials;–~~

12 ~~(d) Systems Programming and Diagnostics Manuals; and–~~

13 ~~(e) A list of minimum services needed for the successful, 14 secure and hardened operation of all components of voting system.–~~

16 *[Current Rule 45.5.2.4 amended and moved to new rule 45.5.12.]*

17 45.5.2.4.2 For the review of VSTL or other state testing in Rule 18 45.5.1.3 copies of all VSTL or state qualification reports, test logs 19 and technical data packages shall be provided to the Secretary of State.–

21 ~~(a) The voting system provider shall execute and submit any 22 necessary releases for the applicable VSTL, state and/or 23 EAC to discuss any and all procedures and findings 24 relevant to the voting system submitted for certification–~~

~~with the Secretary of State and allow the review by the 26 Secretary of State of any documentation, data, reports or 27 similar information upon which the VSTL or other state 28 relied in performing its testing. The voting system provider 29 shall provide a copy of the same to the Secretary of State.–~~

~~(b) The voting system provider, the VSTL, the state and/or the 31 EAC will identify to the Secretary of State any specific 32 sections of documents for which they assert a legal 33 requirement for redaction.–~~

1 [Current Rule 45.5.2.4.2 amended and moved to new rule 45.5.12(d).]

2 ~~45.5.2.4.3 Prior to completion of functional testing, all voting system~~ 3 providers submitting a voting system shall
have completed an 4 ~~independent analysis of the system.~~

(a) ~~The independent analysis shall include:~~

6 (i) ~~An application penetration test conducted to analyze~~ 7 ~~the system for any potential vulnerabilities that~~
~~may~~ 8 ~~result from poor or improper system configuration,~~ 9 ~~known and/or unknown hardware or software~~
~~flaws,~~ or operational weaknesses in process or technical 11 countermeasures. The test shall involve active 12
exploitation of security vulnerabilities of the voting 13 system, whether or not the vulnerabilities can be 14
mitigated through compensating controls.

(ii) ~~A source code evaluation conducted pursuant to the~~ 16
requirements identified in Rule 45.5.2.6.1(f), 17 ~~requiring compliance with the 2002 voting system~~ 18 ~~standards.~~

~~findings and recommended compensating controls for vulnerabilities and deficiencies~~ 21 ~~identified.~~

22 (c) ~~The vendor shall use an EAC approved VSTL to perform~~ 23 ~~the independent analysis, or submit the results of~~
~~testing~~ 24 ~~conducted in another state, or some combination of such VSTL and state testing that meets the~~
requirements of this 26 rule.

27 (d) ~~The Secretary of State shall conduct a quality review of all~~ 28 work under this section. The
review may include an 29 examination of the testing records, interviews of the ~~individuals who~~
~~performed the work, or both. Review of~~ 31 ~~testing records may be conducted at the VSTL, the state in~~
32 which the testing was conducted, or at the site of any 33 contractor or subcontractor utilized by
another state to 34 ~~conduct the testing.~~

(e) ~~When an analysis performed by another state is used, the~~ 36 ~~Secretary of~~
~~State has the right to reject any evaluation if~~ 37 ~~not satisfied with the work product and to require~~ 38 ~~additional~~
~~analysis to meet the requirements of section 1-539 608.5, C.R.S., and this Rule.~~

1 [Current Rule 45.5.2.4.3 amended and moved to New Rule 45.5.3.]

2 ~~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.~~

[Current Rule 45.5.2.4.4 amended and moved to new rule 45.5.12(f)]

6 ~~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.~~

[Current Rule 45.5.2.4.5 amended and moved to new rule 11]

11 ~~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.~~

14 [Current Rule 45.5.2.4.6 amended and moved to new rule 45.5.12 (g)]

~~45.5.2.5~~ 45.5.8 Audit capacity CAPACITY

16 ~~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:~~

23 ~~(a) Operating Systems (workstation, server and/or DRE);~~

24 ~~(b) Election Programming Software;~~

~~(c) Election Tabulation Devices—optical scan and DRE; and (d) Election Reporting Subsystem.~~ 27 [Current Rule 45.5.2.5.2 amended and moved to new rule 45.5.12 (h)] 28 ~~45.5.2.5.3~~(A) The

voting system shall track and maintain audit information of the 29 following ~~voting system application~~ ELECTION MANAGEMENT SYSTEM events: 31 ~~(a)~~ (1) Log on and log off activity; 32 ~~(b)~~ (2) Application start and stop;

1 (e)-(3) Printing activity, where applicable;

2 ~~(d)~~(4) Election events – setup, set for election, unset for election, open 3 polls, close polls, end
election, upload devices, download devices, 4 create ballots, create precincts, create districts, create
~~poll places (or Vote Centers)~~ VOTER SERVICE AND POLLING CENTERS, initialize 6 devices, backup
devices and voting activity; and

7 ~~(e)~~(5) Hardware events – add hardware, remove hardware, initialize 8 hardware and change hardware properties.

9 45.5.2.5.4 (B) All tabulation devices shall display the unit serial number(s) both
physically and within any applicable software, logs or reports.

11 ~~45.5.2.5.5~~ (C) Vote tabulation devices shall allow for an alternate method of 12 transfer of audit records if the
device or a memory storage device is 13 damaged or destroyed.

14 45.5.2.5.6 (D) All transaction audit records of the ~~voting system application~~
ELECTION MANAGEMENT SYSTEM database shall be maintained in a file 16 outside of
or separate from the database IN A READ-ONLY FORMAT, ~~which is~~ 17 ~~not accessible by user/operator accounts.~~

18 ~~45.5.2.6~~ 45.5.9 Security Requirements REQUIREMENTS

19 ~~45.5.2.6.1~~ (A) All voting systems ~~submitted for certification~~ shall meet the following minimum system security
requirements:

21 ~~(a)~~(1) The voting system shall MEET THE FOLLOWING REQUIREMENTS TO 22 accommodate a general system of
access by least privilege and ~~role~~ 23 ~~based~~ ROLE-BASED access control. ~~The following requirements~~ 24 ~~shall apply:~~

(i) ~~(A) The operating~~ OPERATING system administrative account 26
ACCOUNTS shall not have access to read or write data to the 27 database ~~and shall not have the ability or knowledge~~
~~of the~~ 28 ~~database administrator password;~~

29 (ii) ~~The operating system administrative account shall not be~~
~~required to use any function of the voting system during~~ 31 ~~normal~~
~~operations;~~

32 (iii) (B) ~~A unique~~ OPERATING system user/operator account 33 ACCOUNTS shall be ABLE TO BE created for
~~operating system~~ 34 ~~use that is~~ ARE restricted from the following aspects of the operating system:

36 a-(1) No access to system root directory;

- 1 ~~b-~~(II) No access to operating system specific folders;
2 ~~e-~~(III) No access to install or remove programs; and
3 ~~d-~~(IV) No access to modify other user accounts on the 4 system.

~~(iv)-(C) A unique application APPLICATION administrative account—6~~
ACCOUNTS shall ~~be created which has~~ HAVE full access and 7 rights to the application and database;

8 ~~(v)-(D) A unique application APPLICATION user/operator account—9~~ ACCOUNTS shall ~~be created with~~
HAVE limited rights specifically designed to perform functional operation 11 within the scope of the
application. This user/operator shall 12 be restricted in the creation or modification of any 13
user/operator accounts.; ~~and—~~

14 ~~(vi) ————— The voting system provider shall not have an administrative account or~~
~~administrative account access.—~~

16 *[Current Rule 45.5.2.6.1(a)(vi) mMoved to Rule 43]*

17 ~~(b)-(2)~~ The voting system shall meet the following requirements for 18 network security:

19 ~~(i)-(A)~~ All components of the voting system shall have the ability
to operate on a closed network dedicated to the voting 21 system;

22 ~~(ii)-(B)~~ All components of the voting system shall include the 23 limited use of non-routable IP address
configurations for 24 any device connected to the closed network. For the
purposes of this requirement, non-routable IP addresses are 26 those
defined in the RFC 1918 Address base; and

27 ~~(iii)-(C)~~ The voting system shall be tested to contain 28 provisions for updating security patches, software and/or
29 service packs without access to the open network.

~~(e)-(3)~~ All voting systems submitted for certification THAT USE 31 DATABASES shall
meet the following requirements for database 32 ~~security:—~~

33 ~~(i) All voting systems submitted for certification shall have~~ 34 databases hardened to specifications developed by
the

voting system provider. Documentation included with the 36
application shall provide a detailed ~~prescription~~ PROCEDURE 1 for hardening ~~and the procedure used to harden the~~
~~system.~~ 2 Any government or industry guidelines adopted in whole, 3 or in part, are to be identified in the
documentation.

4 ~~(d)~~-(4) The voting system shall meet the following requirements for operating system security:

6 ~~(i)~~-(A) All voting systems ~~submitted for certification~~ shall have all 7 operating systems hardened to specifications developed by 8 the voting system provider. Documentation included with 9 the application shall provide a detailed ~~prescription~~ PROCEDURE for hardening ~~and the procedure used to harden~~ 11 the system. Any government or industry guidelines adopted 12 in whole, or in part, are to be identified in the 13 documentation.

submit documentation containing a list of minimum services and executables 16 ~~required to run the voting system application.~~

17 *[Current Rule 45.5.2.6.1(d)(ii) is amended and moved to new Rule 45.5.12 18 (r)]*

shall configure the voting system operating system of the workstation and/or 21 server used for the election management software to the 22 following requirements:

23 ~~a~~-(I) The ability for the system to take an action upon 24 inserting a removable media (~~Auto~~-AUTO run) shall be disabled; and

26 ~~b~~-(II) The ~~voting~~-OPERATING system shall only boot from 27 the drive or device identified as the primary drive. 28 The voting system shall not boot from any 29 ~~alternative device.~~

~~(iv)~~-(C)The voting system provider shall use a virus 31 protection/prevention application on the election 32 management server(s)/workstations which shall be capable 33 of manual updates without the use of DIRECT CONNECTION 34 TO the internet.

~~(e)~~-(5) The voting system shall meet the following requirements for 36 password security:

37 ~~(i)~~-(D)-All passwords shall be stored and used in a non-reversible 38 format;

1 ~~(ii)~~(E) Passwords to THE database shall not be stored in THE 2 database;

3 ~~(iii)~~(F) Password to THE database shall be owned and only known 4 by the application;

(iv) (G) The application's database management system 6 shall require separate passwords for the administrative 7 account and each operator account ~~with access to the~~ 8 application;

d in such a way to ensure THAT the use of the administrative account password ~~shall~~ IS not 11 ~~be~~ required for normal operating functions ~~at any remote~~ 12 location;

13 ~~(vi)~~(I) The system shall be designed in such a way to facilitate the 14 ~~changing of passwords for each election cycle;~~

~~(vii)~~(J) The use of blank or empty passwords shall not be permitted 16 at any time with the exception of a limited one-time use 17 startup password which requires a new password to be 18 assigned before the system can be used; and

19 ~~(viii)~~(K) All voting systems ~~submitted for certification~~ shall have all components of THE voting system capable of 21 supporting passwords of a minimum of eight characters, 22 ~~which~~ AND shall be capable of including numeric, alpha and 23 special characters in upper case or lower case used in any 24 combination.

~~(f) All voting system software submitted for certification shall be in~~ 26 compliance with the Software Design and Coding Standards of the 27 Voting System Standards adopted in Rule 37.3.

28 ~~(g)~~(6) All modules of the system shall meet the ~~following~~ 2002 VOTING 29 SYSTEM STANDARDS requirements for installation of software,

including hardware with embedded firmware:-

31 (i) ~~If software is resident in the system as firmware, the voting~~ 32 system provider shall provide documentation that describes 33 how devices may be retested to validate each ROM prior to 34 the start of elections operations.

~~(ii) No software shall be permanently installed or resident in~~ 36 the voting system unless the system documentation states 37 that the jurisdiction shall provide a secure physical and procedural environment for the storage, handling, 2 preparation and transportation of the system hardware.

3 (iii) ~~The voting system bootstrap, monitor and device controller~~ 4 software may be resident permanently as firmware, provided that this firmware has been shown to be 6 ~~inaccessible to activation or control by any means other~~ 7 ~~than by the authorized initiation and execution of the vote~~ 8 ~~counting program and its associated exception handlers.~~

9 (iv) ~~The election specific programming may be installed and~~ resident as firmware, provided that such firmware is 11 ~~installed on a component (such as a computer chip) other~~ 12 ~~than the component on which the operating system resides.~~

13 (v) ~~After initiation of Election Day testing under Rule 11.5.3,~~ 14 ~~no source code, compilers or assemblers shall be resident or~~
accessible.

16 (vi) (A) Where the system includes a feature to interpret and 17 control execution using data from a script, code tokens, or 18 other form of control data file separate from the source 19 code, the human-readable source information shall be made
available as part of ~~the~~ A source code review and ~~the data~~ 21 files used shall be defined and controlled as part of the 22 ~~Trusted Build~~ as if it were part of the executable code.

23 (vii) (B) Security features and procedures shall be defined 24 and implemented to prevent any changes of interpreted data
files after the initial election testing of the final election 26 definition and only allow authorized replacement 27 ~~REPLACEMENT~~ of the data files with tested and approved 28 files from the ~~Trusted Build~~ TRUSTED BUILD SHALL BE by 29 authorized personnel before the election definition is finalized for an election.

31 (viii) (C) The introduction of interpreted data during 32 execution shall not be permitted unless defined as a ~~pre~~ 33 ~~defined~~ PREDEFINED set of commands or actions subject to 34 security review and the interpretation function provides
security edits on input to prevent the introduction of other 36 commands or the modification or replacement of existing 37 code.

38 (ix) ~~Independent analysis will test for the following conditions~~ 39 ~~and report on absence or presence of the following input~~
validations in accordance with Rule 45.5.2.4.3: -

1 a. Path manipulation; 2 b. Cross Site Scripting; 3 c. Resource Injection; 4 d. OS Command Injection (also called “Shell Injection”); and

6 e. SQL Injection.

~~7 (x) Independent analysis will test for the following conditions 8 and report on their absence or presence of the following 9 range errors in accordance with Rule 45.5.2.4.3:—~~

a. Stack Overflow; 11 b. Heap

Overflow;

12 c. Format string vulnerability; and

13 d. Improper Null Termination.

~~or the following conditions and report on their absence or presence of the following 16 Application Programming Interface (API) abuses in 17 accordance with Rule 45.5.2.4.3:—~~

18 a. Heap Inspection; and 19 b. String Management/Manipulation.

~~(xii) Independent analysis will test for the following conditions 21 and report on the absence or presence of the following time 22 and state conditions in accordance with Rule 45.5.2.4.3:—~~

23 a. Time-of-check/Time-of-use race condition; and

24 b. Unchecked Error Condition.

~~(xiii) Independent analysis will test for the following conditions 26 and report on the absence or presence of the following code 27 quality conditions accordance with Rule 45.5.2.4.3:—~~

28 a. Memory Leaks;

29 b. Unrestricted Critical Resource Lock;

c. Double Free;

1 d Use After Free; 2 e. Uninitialized variable; 3 f. Unintentional pointer scaling; 4 g. Improper pointer subtraction; and

h. Null Dereference.

6 ~~(xiv) Independent analysis will test for the following conditions-7 and report on the absence or presence of the following-8 encapsulation conditions in accordance with Rule 9 45.5.2.4.3:-~~

a. Private Array-Typed Field Returned from a Public 11 ~~Method:-~~

12 b. Public Data Assigned to Private Array-Typed Field; 13 c. Overflow of static internal buffer; and 14 d. Leftover Debug Code.

~~(xv)-(D) The application shall not open database tables for 16 direct editing.~~

17 (h) All voting systems ~~submitted for certification-~~ shall meet the 18 following minimum requirements for removable storage media 19 with data controls:

(i) All voting data stored that includes vote records, ballot 21 images, tally data and cast ~~votes-VOTE RECORDS~~ shall be 22 authenticated and validated.

23 (ii) All non-voting data stored shall be authenticated, 24 encrypted, and validated.

(iii) All removable media, upon insertion ~~of media or media-26 device-~~ on server and/or workstations hosting the elections 27 management software, shall AUTOMATICALLY be scanned 28 by antivirus software.

~~g system provider shall provide documentation detailing voting system security in the areas listed below. The system shall contain-31 documented configurations, properties and procedures to prevent, detect-32 and log changes to system capabilities for:-~~

33 ~~(a) Defining ballot formats;-~~

1 (b) Casting and recording votes; 2 (c) Calculating vote totals consistent with defined ballot formats; 3 (d) Reporting vote totals; 4 (e) Altering of voting system audit records;—

(f) Changing or preventing the recording of a vote; 6 (g) Introducing data for a vote not cast by a registered voter; 7 (h) Changing calculated vote totals; 8 (i) Preventing access to vote data, including individual votes and vote 9 totals, to unauthorized individuals; and—

(j) Preventing access to voter identification data and data for votes 11 cast by the voter such that an individual can determine the content 12 of specific votes cast by the voter.—

13 *[Current Rule 45.5.2.6.2 amended and moved to new Rule 45.5.12(i)]*

14 ~~45.5.2.6.3 The voting system provider shall submit to the Secretary of State its recommended policies or guidelines governing:—~~

16 (a) Software access controls;—

17 (b) Hardware access controls;—

18 (c) Data communications; 19 (d) Effective password management;—

(e) Protection abilities of a particular operating system;—

21 (f) General characteristics of supervisory access privileges;—

22 (g) Segregation of duties; and—

23 (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, 26 devices that act as connectors (upload, download, and other programming 27 devices) and any security measures the voting system provider 28 recommends to the jurisdictions that purchase the voting system.—~~

1 *[Current Rule 45.5.2.6.4 amended and moved to New Rule 45.5.12(j).]*

2 ~~45.5.2.7~~ 45.5.10 Telecommunications ~~Requirements~~ REQUIREMENTS

3 ~~45.5.2.7.1~~ (A) Telecommunications includes all components of the system that 4 transmit data outside of the closed network as defined in this Rule 45.

~~45.5.2.7.2~~ (B) All electronic transmissions from a voting system shall meet the 6 ~~following minimum standards~~ 2002 VOTING SYSTEM STANDARDS.

7 ~~(a)~~ (C) Modems from remote devices shall be PROGRAMMED TO BE “dial only” 8 and ~~cannot be programmed to~~ NOT receive a call;

9 (b) ~~Use an encryption standard currently documented and validated for use by an agency of the United States Federal Government; and~~

11 (c) Provide a means to detect the presence of an intrusive process, 12 ~~such as an Intrusion Detection System.~~

13 ~~45.5.2.7.3~~ (D) Any modem ~~in any component failing~~ THAT FAILS to meet these 14 ~~criteria~~ THE REQUIREMENTS OF THIS RULE shall not be used by any voting system.

16 ~~45.5.2.7.4~~ (E) ~~All wireless components in voting systems shall be disabled with~~ 17 ~~the exception of line~~ LINE of sight infrared technology SHALL ONLY BE 18 used in a closed environment where the transmission and reception is 19 shielded from external infrared signals and can only accept infrared signals generated from within the system.

21 ~~45.5.2.7.5~~ (F) All systems that transmit data over public telecommunications 22 networks shall maintain a clear audit trail ~~that can be provided to the~~ 23 ~~Secretary of State~~ when election results are transmitted ~~by telephone,~~ 24 ~~microwave or other type of electronic communication.~~

~~45.5.2.7.6~~ Systems designed for transmission of voter information over public 26 networks shall meet security standards that address the security risks 27 ~~attendant with the casting of ballots at remote sites controlled by election~~ 28 ~~officials using the voting system configured and installed by election~~ 29 ~~officials and/or their voting system provider or contractor, and using in person authentication of individual voters.~~

31 ~~45.5.2.7.7~~ Any voting system provider of systems that cast individual ballots 32 over a public telecommunications network shall provide detailed 33 ~~descriptions of:~~

34 (a) ~~All activities mandatory to ensure effective system security to be performed in setting up the system for operation, including testing~~ 36 ~~security before an election.~~

~~1 (b) All activities that should be prohibited during system setup and 2 during the time frame for voting operations, including the hours 3 when polls are open and when polls are closed.~~

~~45.5.2.7.8 (G) In any situation in which the voting system provider's system transmits VOTING SYSTEMS THAT TRANSMIT data through any 6 telecommunications medium, the system shall be able to recover, either 7 automatically or with manual intervention, from incomplete or failed 8 transmission sessions and resume transmissions automatically when 9 telecommunications are re-established REESTABLISHED.~~

~~(a) (1) Recovery of transmissions shall include notations of the 11 interrupted transmission session and the resumed transmission 12 session in the system and application transaction logs.~~

~~13 (b) (2) Failure and recovery of transmissions shall not cause any error in 14 data transmitted from the polling place VOTER SERVICE AND~~

~~POLLING CENTERS to the central election site during a recovered 16 transmission session.~~

~~17 45.5.2.7.9 Voting systems that use public telecommunications networks shall 18 provide system documentation that clearly identifies all COTS hardware 19 and software products and communications services used in the development and/or operation of the voting system, including operating 21 systems, communications routers, modem drivers and dial up networking 22 software. Documentation shall identify the name, voting system provider 23 and version used for each such component.~~

~~24 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. 26 This documentation shall provide a detailed description, including 27 scheduling information, of the procedures the voting system provider will 28 use to:~~

~~29 (a) Monitor threats, such as through the review of assessments, advisories and alerts for COTS components;~~

~~31 (b) Evaluate the threats and, if any, proposed responses;~~

~~32 (c) Develop responsive updates to the system and/or corrective 33 procedures; and~~

~~34 (d) As part of the certification requirements of the proposed system, provide assistance to customers, either directly or through detailed 36 written procedures, how to update their systems and/or to 37 implement the corrective procedures within the timeframe 38 established by the Secretary of State.~~

1 45.5.2.8 Repealed.

2 ~~45.5.2.9~~ 45.5.11 ~~Voter Verifiable Paper Record Requirements (V VPAT)~~ VOTER3 VERIFIABLE PAPER
RECORD REQUIREMENTS

4 45.5.2.9.1 ~~V VPAT shall refer to a Voter verified paper record as defined in
section 1-104(50.6)(a), C.R.S.~~

6 *[Current Rule 45.5.2.9.1 is amended and moved to New Rule 45.1.22.]*

7 ~~45.5.2.9.2~~(A) Existing systems that are retrofitted to comply with ~~this law~~ SECTION 1-5-802(1),
C.R.S., shall be examined for certification by the 9 Secretary of State. Any retrofitted voting system
shall comply with the process and application for certification as identified by this Rule 45.

11 ~~45.5.2.9.3~~ (B) The ~~V VPAT~~VVPAT shall consist of the following ~~minimum~~ 12 components:

13 (a) (1) ~~The voting device shall contain a~~ A paper audit trail writer or 14 printer that shall be attached, built into or
used in conjunction with
the DRE, ~~The printer~~ AND shall duplicate a voter's selections from 16 the
DRE onto a paper record;

17 (b) (2) ~~The unit or device shall have a~~ A paper record display unit or area 18 that shall allow a voter to view his
or her paper record; AND

19 (c) (3) ~~The V VPAT unit shall contain a~~ A paper record storage unit that shall store cast and spoiled paper record
copies securely; ~~and~~

21 (d) ~~These devices may be integrated as appropriate to their operation.~~

22 ~~45.5.2.9.4~~ V VPAT devices shall allow voters to verify his or her selections 23 on a paper record prior to casting
ballots. The voter shall either accept or 24 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 26 cast.

27 ~~45.5.2.9.5~~ The ~~V VPAT printer connection may be any standard, publicly~~ 28 documented printer port (or the
equivalent) using a standard 29 ~~communication protocol.~~

(C) THE VVPAT SHALL MEET THE FOLLOWING FUNCTIONAL REQUIREMENTS:

31 ~~45.5.2.9.6~~ (1) The printer shall not be permitted to MAY ONLY 32 communicate with ~~any device other than~~ the
voting device to 33 which it is connected;:

1 ~~45.5.2.9.7~~ (2) The printer ~~shall only be able to~~ MAY ONLY function as a 2 printer, and not perform any other non-printer related services-;

3 ~~45.5.2.9.8~~ (3) ~~Every electronic voting record shall have a corresponding~~ 4 paper record. PRODUCE A PAPER RECORD FOR EVERY CORRESPONDING ELECTRONIC VOTING RECORD;

6 ~~45.5.2.9.9~~ The paper record ~~shall be considered an official record of~~ 7 the election available for recounts, and shall be sturdy, clean, and 8 of sufficient durability to be used for this purpose.-

~~45.5.2.9.16~~ (4) ~~The V-VPAT unit shall provide~~ PROVIDE a “low supply” warning to the election judge to add paper, ink, toner, 11 ribbon or other like supplies. In the event that an election judge is 12 required to change supplies during the process of voting, the voter 13 shall be allowed to reprint and review the paper ~~audit trail~~ RECORD 14 without having to ~~re-mark~~ MARK his or her ballot, ~~and the~~. THE device shall prevent the election judge from seeing ~~any voters’~~ 16 ballots-A VOTER’S BALLOT.

17 ~~45.5.2.9.17~~ (5) ~~All voting systems submitted for certification shall stop the~~ 18 V-VPAT printer of all forward operations of the DRE STOP ALL 19 OPERATIONS if the printer is not working ~~due to paper jams, out of~~ other consumables or any other issue which may cause the correct 21 readable printing of information on the V-VPAT record as 22 designed.

23 ~~45.5.2.9.20~~ (6) ~~The V-VPAT shall allow~~ ALLOW a voter to spoil his or her 24 paper record no more than two times. Upon spoiling, the voter shall be able to modify and verify selections on the DRE without 26 having to reselect all of his or her choices.

27 ~~45.5.2.9.21~~ (7) Before the voter causes a third and final record to be 28 printed, ~~the voter shall be presented~~ THE VVPAT MUST PRESENT 29 THE VOTER with a warning notice that the selections made on screen shall be final and the voter shall see and verify a printout of 31 his or her vote, but shall not be given additional opportunities to 32 change their vote.

33 ~~45.5.2.9.22~~ (8) When ~~V-VPAT~~ VVPAT components are integrated into A 34 PREVIOUSLY CERTIFIED voting systems-SYSTEM the new configuration of the VOTING system must comply with existing 36 state testing and auditing requirements.

37 ~~45.5.2.9.23~~ (9) ~~The V-VPAT component should print~~ PRINT a barcode with 38 each record that contains the human readable contents of the paper 39 record ~~and digital signature information~~. The voting system provider shall include documentation of the barcode type, protocol,

1 and/or description of barcode and the method of reading the 2 barcode as applicable to the voting system.

3 ~~45.5.2.9.25~~(10) If used for provisional ballots, the ~~V-VPAT system~~4 VVPAT shall be able to mark paper records as a provisional ballot through the use of human readable text and optionally printing 6 barcode and/or serial number information which shall provide for 7 mapping the record back to the electronic record and the 8 provisional voter for processing after verification in accordance 9 with Article 8.5 of Title 1, C.R.S.

(D) THE VVPAT SHALL MEET THE FOLLOWING DESIGN REQUIREMENTS:

11 ~~45.5.2.9.10~~ (1)~~The V-VPAT device shall be designed to allow~~ALLOW 12 every voter to review and accept or reject his/her paper record in as 13 private and independent manner as possible ~~for both disabled and~~14 ~~non disabled voters~~REGARDLESS OF WHETHER THE VOTER HAS
DISABILITY.

16 ~~45.5.2.9.11~~ The V-VPAT system shall be designed in conjunction with-17 state law to ensure the secrecy of votes so that it is not possible to-18 determine which voter cast which paper record.-

19 ~~45.5.2.9.12~~ (2)~~The V-VPAT printer shall print~~PRINT at a font size no less
than ~~ten point~~-14-POINT SANS-SERIF ARIAL for ease of readability.-21 Any protective covering intended to be transparent shall be in such-22 condition that it can be made transparent by ordinary cleaning of-23 its exposed surface.

24 ~~45.5.2.9.13~~ (3)~~The V-VPAT system shall be designed to allow~~ALLOW
each voter to verify his or her vote on a paper record in the same 26 language
THAT they voted in on the DRE.

27 ~~45.5.2.9.14~~ (4)~~The V-VPAT system shall be designed to prevent~~PREVENT 28 tampering with unique keys and/or seals for the compartment that 29 stores the paper record as well as meet the security requirements of-
this rule. Additional security measures may be in place on the-31 printer to prevent tampering with the device.

32 ~~45.5.2.9.15~~ (5)~~The V-VPAT system shall be capable of printing and~~33 ~~storing~~-PRINT AND STORE paper record copies for at least 75 ballots 34 cast without requiring the paper supply source, ink or toner supply,
or any other similar consumable supply to be changed, assuming a 36 fully printed double sided 18 inch ballot with a minimum of 20 37 contests.

38 ~~45.5.2.9.16~~ The V-VPAT unit shall provide a “low supply” 39 warning to the election judge to add paper, ink, toner,

~~1 ribbon or other like supplies. In the event that an election judge is 2 required to change supplies during the process of voting, the voter 3 shall be allowed to reprint and review the paper audit trail without 4 having to re-mark his or her ballot, and the device shall prevent the election judge from seeing any voters' ballots.~~

6 [Current Rule 45.5.2.9.16 is amended and moved to New Rule
7 45.5.11(c)(4).]

~~8 45.5.2.9.17 All voting systems submitted for certification shall stop the 9 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 11 other issue which may cause the correct readable printing of 12 information on the V VPAT record as designed.~~

13 [*Current Rule 45.5.2.9.17 amended and moved to New Rule* 14 *45.5.11(c)(5).*]

~~45.5.2.9.18 The voting system provider shall provide procedures and 16 documentation for the use of the V VPAT device.~~

17 [Current Rule 45.5.2.9.18 amended and moved to New Rule 45.5.12(k).]

18 ~~45.5.2.9.19~~ (6) The printed information on the ~~printed ballot or verification 19 portion of the V VPAT device~~ PAPER RECORD shall contain at least

the following items:

21 ~~(a)~~ (A) Name or header information of race, question or issue;

22 ~~(b)~~ (B) Voter's selections for the race information;

23 ~~(c)~~ (C) Write-in candidate's names if selected;

24 ~~(d)~~ (D) Undervote or overvote information – this is in addition to ~~the information on the review screen of the DRE;~~

26 ~~(e)~~ (E) Ability to optionally produce a unique serial number 27 (randomized to protect privacy); and

28 ~~(f)~~ (F) Identification that the ballot was cancelled or cast.

29 ~~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 31 able to modify and verify selections on the DRE without having to 32 reselect all of his or her choices.~~

1 [Current Rule 45.5.2.9.20 amended and moved to New Rule
2 45.5.11(c)(6).]

3 45.5.2.9.21 Before the voter causes a third and final record to be 4 ~~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~~ 6 verify a printout of his or her vote, but shall not be given additional 7 opportunities to
change their vote.—

8 [Current Rule 45.5.2.9.21 amended and moved to New Rule
9 45.5.11(c)(7).]

45.5.2.9.22 When V-VPAT components are integrated into voting 11 ~~systems the new~~
~~configuration of the system must comply with~~ 12 existing state testing and auditing requirements.—

13 [*Current Rule 45.5.2.9.22 amended and moved to New Rule* 14 45.5.11(c)(8).]

45.5.2.9.23 ~~The V-VPAT component should print a barcode with each~~ 16
~~record that contains the human readable contents of the paper~~ 17 record and digital signature information.
The voting system 18 ~~provider shall include documentation of the barcode type, protocol,~~ 19 and/or
description of barcode and the method of reading the barcode as applicable to the voting system.—

21 [*Current Rule 45.5.2.9.23 amended and moved to New Rule* 22 45.5.11(c)(9).]

23 45.5.2.9.24 (7) ~~The V-VPAT component shall be designed such that a~~ 24 voter shall not be able to leave
PROHIBIT THE VOTER FROM LEAVING
the voting area with the paper record.

26 45.5.2.9.25 If used for provisional ballots, the V-VPAT system shall be 27 able to mark paper records as a
provisional ballot through the use 28 of human readable text and optionally printing barcode and/or 29 serial number
information which shall provide for mapping the
record back to the electronic record and the provisional voter for 31 processing
after verification in accordance with Article 8.5 of Title 32 1, C.R.S.—

33 [*Current Rule 45.5.2.9.25 amended and moved to New Rule* 34 45.5.11(c)(10).]

45.5.2.9.26 (8) The voting system provider shall provide ~~procedures to the~~ 36
Secretary of State with the application for certification which 37 ~~describe~~ DOCUMENTATION DESCRIBING how to
investigate and 38 resolve malfunctions including, but not limited to the following: 1 ~~misreporting votes, unreadable~~
~~paper records, paper jams, low ink,~~ 2 ~~misfeeds, preventing the V-VPAT from being a single point of~~ 3 failure,
recovering votes in the case of malfunction and power 4 failures.—

5 (A) MISREPORTING VOTES;

6 (B) UNREADABLE PAPER RECORDS;

7 (C) PAPER JAMS;

8 (D) LOW-INK;

9 (E) MISFEEDS;

10 (F) LOST VOTES; AND

11 (G) POWER FAILURES.

12 ~~45.5.2.4~~ 45.5.12 Documentation Requirements REQUIREMENTS

13 ~~45.5.1.3~~ (A) The Secretary of State may use and rely upon the testing of a 14 voting system performed by a VSTL or by another state upon satisfaction 15 of the following conditions:

16 ~~(a)~~ (1) The Secretary of State has ~~complete~~ access to any 17 documentation, data, reports or similar information upon 18 which the VSTL or another state relied in performing its 19 tests and will make such information available to the public 20 subject to any redaction required by law; and

21 ~~(b)~~ (2) The Secretary of State ~~makes written findings and certifies~~ 22 that he or she has reviewed such information and 23 ~~determines~~ HAS DETERMINED that the tests were conducted 24 in accordance with appropriate engineering standards in use 25 when the tests were conducted, and the extent to which the 26 tests satisfy the requirements of sections 1-5-615 and 27 1-5-616, C.R.S., and all rules promulgated under those 28 sections.

29 ~~45.5.2.4.1~~ (B) In addition to other documentation requirements in this rule, the 30 voting system provider shall provide the following documents:

31 ~~(a)~~ (1) Standard Issue Users/Operator Manual ISSUE 32 USERS/OPERATOR MANUAL;

1 ~~(b)~~(2) System Administrator's/Application Administration—2 Manual—ADMINISTRATOR'S/APPLICATION ADMINISTRATION 3 MANUAL;

4 ~~(c)~~(3) Training Manual—MANUAL and related materials;

~~(d)~~(4) Systems Programming—PROGRAMMING and Diagnostics—6 Manuals DIAGNOSTICS MANUALS; and

7 ~~(e)~~(5) A list of minimum services needed for the successful, 8 secure and hardened operation of all components of THE 9 voting system.

45.4.2.13 (C) The voting system provider shall provide documentation 11 concerning the use of touch screen or other display and selection 12 technology including, but not limited to:

13 ~~(a)~~ (1) Technical documentation describing the nature and 14 sensitivity of the tactile device (if the system uses touch screen technology);

16 ~~(b)~~(2) Technical documentation describing the nature and 17 sensitivity of any other technology used to display and 18 select offices, candidates or issues;

19 45.5.2.4.2 (D) For the review of VSTL or other state testing in Rule 45.5.1.3—
45.5.12(A) copies of all VSTL or state qualification reports, test logs and 21 technical data packages shall be provided to the Secretary of State.

22 ~~(a)~~ (1) The voting system provider shall execute and submit any 23 necessary releases for the applicable VSTL, state and/or 24 EAC to discuss any and all procedures and findings relevant to the voting system submitted for certification—26 with the Secretary of State and allow the review by the 27 Secretary of State of any documentation, data, reports or 28 similar information upon which the VSTL or other state 29 relied in performing its testing. The voting system provider shall provide a copy of the same to the Secretary of State.

31 ~~(b)~~(2) The voting system provider, the VSTL, the state and/or the 32 EAC will identify to the Secretary of State any specific 33 sections of documents for which they assert a legal 34 requirement for redaction.

45.5.2.3.14(d) (E) The voting system provider shall deliver to the Secretary of—36 State documentation detailing estimated time of battery operation for each—37 type of optical scanner, ballot imager, DRE and V VPAT they provide,—1 assuming continuous use of the devices by voters during an interruption of—2 normal electrical power.—

3 45.5.2.3.14(e) ~~The voting system provider shall deliver~~ PROVIDE to the 4 Secretary of State documentation specifying the steps and times required for charging batteries, AND THE TIME OF BATTERY OPERATION for each type 6 of ~~optical scanner, ballot imager, DRE and V VPAT DEVICE~~ they provide, 7 ASSUMING CONTINUOUS USE OF THE DEVICES BY VOTERS DURING AN 8 INTERRUPTION OF NORMAL ELECTRICAL POWER.

45.5.2.4.4 (F) ~~Documentation submitted to the~~ THE Secretary of State shall ~~be reviewed~~ REVIEW SUBMITTED DOCUMENTATION to determine the extent to 11 which the voting system has been tested to federal standards.

12 45.5.2.4.6 (G) Failure by the voting system provider to provide any 13 documentation ~~with their application for certification~~ will delay processing 14 the application ~~until the documentation is provided~~ AND MAY BE CAUSE FOR DENIAL OF CERTIFICATION.

16 45.5.2.5.2 (H) The voting system shall include detailed documentation, WHICH 17 INCLUDES ~~as to~~ the level, location and ~~programming~~ A DESCRIPTION OF THE 18 CONTENT of THE of audit trail information throughout the system. The 19 audit information shall apply to:

~~(a)~~ (1) Operating Systems (workstation, server, OPTICAL SCANNER, 21 BDM, and/or DRE);

22 ~~(b)~~ (2) Election Programming Software-MANAGEMENT SYSTEM; 23 AND

24 ~~(c)~~ (3) Election Tabulation Devices – optical scan and DRE.; ~~and~~

~~(d)~~ Election Reporting Subsystem.–

26 45.5.2.6.2 (I) The voting system provider shall provide documentation detailing 27 voting system security in the areas listed below. The ~~system~~ 28 DOCUMENTATION shall contain ~~documented~~ configurations, properties and 29 procedures to prevent, detect and log changes to system capabilities for:

~~(a)~~ (1) Defining ballot formats;

31 ~~(b)~~ (2) Casting and recording votes;

32 ~~(c)~~ (3) Calculating vote totals consistent with defined ballot 33 formats;

34 ~~(d)~~ (4) Reporting vote totals;

1 ~~(e)~~(5) 2 ~~(f)~~(6) 3 ~~(g)~~(7) 4 ~~(h)~~(8) ~~(i)~~(9)

6

Altering of voting system audit records; Changing or preventing the recording of a vote; Introducing data for a vote not cast by a registered voter; Changing calculated vote totals; Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and

7 ~~(j)~~(10) Preventing access to voter identification data and data for 8 votes cast by the voter such that an individual can 9 determine the content of specific votes cast by the voter.

~~45.5.2.6.4 (J) The voting system PROVIDER shall include detailed PROVIDE 11 documentation regarding DETAILING the security measures it has in place 12 for all systems, applicable software, devices that act as connectors 13 (upload, download, and other programming devices) and any 14 RECOMMENDED security measures the voting system provider recommends to the jurisdictions that purchase the voting system.~~

16 ~~45.5.2.9.18 (K)The voting system provider shall provide procedures and 17 documentation for the use of the V VPAT device VVPAT.~~

18 ~~45.5.2.2.3 (L) The voting system provider shall publish and specify processing 19 standards for each component of the voting system as part of the~~
documentation required for certification.

21 ~~45.5.2.2.4 (M) For the purpose of evaluating software, the voting system provider 22 shall be required to provide detailed information as to the type of hardware 23 required to execute the software.~~

24 ~~45.5.2.3.2 (N) The documentation supplied by the voting system provider shall~~
include a statement of all requirements and restrictions regarding 26 environmental protection, electrical service, telecommunications service 27 and any other facility or resource required for the installation, operation 28 and storage of the voting system.

29 ~~45.5.2.3.13(d) (O) Any~~ THE VOTING SYSTEM PROVIDER SHALL PROVIDE ANY
available data on problems caused for persons who experience epileptic 31 seizures due to the DRE voting device's screen refresh rate.

32 ~~45.5.2.3.14(d) (P) The voting system provider shall deliver to the Secretary of 33 State documentation detailing estimated time of battery operation for each 34 type of optical scanner, ballot imager, DRE and V VPAT they provide~~

DEVICE SUBMITTED FOR CERTIFICATION, assuming continuous use of the 36 devices by voters during an interruption of normal electrical power.

1 ~~45.5.2.3.14(e)~~(Q) The voting system provider shall deliver to the Secretary of State documentation specifying the steps and times required for charging 3 batteries for each type of ~~optical scanner, ballot imager, DRE and V4 VPAT they provide~~ DEVICE SUBMITTED FOR CERTIFICATION.

~~45.5.2.6.1(d)(ii)~~(R) The voting system provider shall submit documentation 6 containing a list of minimum services and executables required to run the 7 ~~voting system application~~ ELECTION MANAGEMENT SYSTEM.

8 45.6 Testing PREPARATION PROCEDURES

9 45.6.1 Voting ~~System Provider Demonstration~~ SYSTEM PROVIDER DEMONSTRATION

~~45.6.1.1~~ (A) The voting system provider shall demonstrate the ~~exact proposed~~ 11 SUBMITTED voting system to the Secretary of State prior to any functional 12 testing.

13 ~~45.6.1.2~~ (B) The demonstration period does not have a ~~pre-determined~~ 14 PREDETERMINED agenda for the voting system provider to follow;

however, presentations should be prepared to address and demonstrate, 16 ~~within the specific system~~, the following items as they pertain to each area 17 and use within the voting system, IF APPLICABLE:

18 ~~(a)~~ (1) System overview;

19 ~~(b)~~ (2) Verification of complete system matching EAC certification;

~~(c)~~ (3) Ballot definition creation; 21 ~~(d)~~ (4) Printing ballots on demand; 22 ~~(e)~~ (5)

Hardware ~~diagnostics~~ DIAGNOSTIC testing; 23 ~~(f)~~ (6) Programming election media devices for various ~~count~~ COUNTING 24 methods INCLUDING:

~~(i)~~ (A) Mail-in ~~Ballots~~ BALLOTS; 26 ~~(ii)~~ (B)

Early ~~Voting~~ VOTING; 27 ~~(iii)~~ (C) ~~Precinct/Poll Place~~; 28 ~~(iv)~~ (E) Provisional; and

29 ~~(v)~~ (F) Vote ~~Center~~ CENTER.

~~(g)~~ (7) Sealing and securing system devices; 31 ~~(h)~~ (8)

Logic and accuracy testing; 1 ~~(i)~~ (9) Processing ballots;

2 ~~(j)~~(10) Accessible use;

3 ~~(k)~~(11) Accumulating results;

4 ~~(l)~~(12) Post-election audit;

5 ~~(m)~~(13) Canvass process handling;

6 ~~(n)~~(14) Audit steps and procedures throughout all processes;

7 ~~(o)~~(15) Certification of results; and

8 ~~(p)~~(16) Troubleshooting.

9 ~~45.6.1.3~~ (C) The voting system provider shall have access to the demonstration 10 room for one day prior to the start of the demonstration to provide time for 11 setup of the voting system.

12 ~~45.6.1.4~~ (D) A maximum of one business day is normally allowed for the 13 demonstration. If the voting system provider requests more time for the 14 demonstration or, if the Secretary of State finds that the complexity of the 15 system is such that more time is needed for a demonstration, more time 16 may be granted.

17 ~~45.6.1.5~~ (E) The demonstration shall be open to representatives of the press and 18 the public to the extent allowable. The Secretary of State may limit the 19 number of representatives from each group to accommodate space 20 ~~limitations and other considerations~~.

21 ~~45.6.1.6~~ (F) The Secretary of State shall post notice of the fact that the 22 demonstration will take place in the designated public place for posting 23 such notices for at least seven days prior to the demonstration. The notice 24 shall indicate the general time frame during which the demonstration may 25 take place and the manner in which members of the public may obtain 26 specific information about the time and place of the test.

27 ~~45.6.1.7~~ (G) The voting system provider shall provide the same class of 28 workstation and/or server for testing the voting system as the normal 29 production environment for the State of Colorado.

30 ~~45.6.2 Functional Testing~~

31 45.6.2.1 Voting system provider requirements for testing

32 ~~45.6.2.1.1~~ (H) Based upon the review of VSTL or other state reports and test 33 records, the Secretary of State will prepare a test plan. The test plan shall 1 be designed to test for any requirements specific to Colorado law which 2 were not addressed in prior testing and for any federal or Colorado 3 requirements which were not addressed to the satisfaction of the Secretary 4 of State in the reports and records from prior testing.

45.6.2.1.2 (I) The test plan shall include the election definitions to be used in 6 testing and specifications for test ballots. Test ballots and election 7 definitions shall generally follow all requirements for election definitions, 8 ballot layout and printing to verify the system's ability to meet those 9 requirements. Some election definitions and ballots may depart from the requirements in order to test specific functions.

11 45.6.2.1.3 (J) For each system tested, a requirements matrix shall be prepared to 12 identify those requirements satisfied by the review of VSTL or other state 13 reports and test data and how those requirements not satisfied are to be 14 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 16 to be not applicable to the system under test, the reason for the 17 determination will be documented.

18 45.6.2.1.4 (K) The voting system provider shall submit for testing the specific 19 system configuration that will be offered to jurisdictions including the components with which the voting system provider recommends the 21 system be used.

22 45.6.2.1.5 (L) The voting system provider is not required to have a representative 23 present during the functional testing, but shall provide a point of contact 24 for technical support. After the delivery, unpacking and initial inspection of the equipment for shipping damage and missing components, a vendor 26 representative shall only be allowed to operate or touch the equipment 27 when approved by the Secretary of State. All such activity by a vendor 28 representative shall be documented on video ~~and~~ OR in writing.

29 45.6.2.1.6 (M) The proprietary software shall be installed on the workstation/server and all applicable voting system components by the 31 Secretary of State OR THE VSTL using the trusted build and the installation 32 procedures provided by the voting system provider. After installation, 33 hash values for the software and firmware shall be compared to any 34 published hash values of the trusted build. Any mismatches in hash values will be investigated and resolved before proceeding with testing.

36 45.6.2.1.7 (N) All equipment shall be hardened using the voting system 37 provider's procedures and specifications.

38 45.6.2.1.8 (O) Testing shall be performed with test election definitions and test 39 ballots as required in the test plan.

1 45.6.2.1.9 (P) The results of all testing shall be recorded in the requirements 2 matrix. The requirements matrix shall be the primary record describing 3 which requirements were met and specifying which were not. It shall be 4 supplemented as necessary to support the findings with test team notes and 5 system reports. Supplemental information may include photographs and 6 audio or video recordings.

7 45.6.2.1.10 (Q) Functional testing shall be completed according to the phases 8 identified in Rule 45.3.3.

9 45.6.2.2 Secretary of State requirements for testing

10 45.6.2.2.1 (R) The Secretary of State OR THE VSTL shall conduct functional 11 testing on the voting system based on this Rule 45 ~~and additional testing~~ 12 ~~procedures as determined by the Secretary of State.~~

13 45.6.2.2.2 (S) The voting system shall receive a pass, fail or not applicable for 14 each requirement with appropriate notation in the requirements matrix.

15 45.6.2.2.3 (T) Records of the test procedures shall be maintained ~~and recorded on~~ 16 ~~file with the Secretary of State~~ IN ACCORDANCE WITH RULE 45.4.7. The 17 records shall identify the system and all components by voting system 18 provider name, make, model, serial number, software version, firmware 19 version, date tested, test number, test plan, requirements matrix, test team 20 notes and other supplemental information, and results of test. The test 21 environment conditions shall be described.

22 45.6.2.2.4 (U) In the event that a deviation from the test plan is required, it shall 23 be documented in a test team note. The note shall provide a description of 24 the deviation, the reason for the deviation and effect of the deviation on 25 testing and determining compliance with requirements.

26 45.6.2.3 45.6.2 General ~~Testing Procedures and Instructions~~ TESTING PROCEUDRES 27 AND INSTRUCTIONS

28 45.6.2.3.1 (A) Certification tests shall be used to determine compliance with 29 applicable performance standards for the system and its components. The 30 general procedure for these tests shall:

31 ~~(a)~~ (1) Verify, by means of the ~~applicant's~~ VOTING SYSTEM PROVIDER'S 32 standard operating procedure, that the device is in a normal 33 condition and status;

34 ~~(b)~~ (2) Establish the standard test environment or the special environment 35 required to perform the test;

36 ~~(c)~~ (3) Invoke all operating modes or conditions necessary to initiate or to 37 establish the performance characteristic to be tested;

1 ~~(d)~~(4) Measure and record the value or the range of values of the 2 performance characteristic to be tested; and
3 ~~(e)~~ (5) Verify all required measurements have been obtained, and that the 4 device is still in a normal condition and status.

45.6.2.3.2(B) All tests shall be generally conducted in regular election mode. 6 Tests of test mode and diagnostic functions may be conducted in the 7 appropriate test mode.

8 45.6.2.3.3(C) The voting system provider is required to produce ballots and 9 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-11 marking pens/pencils/markers as defined by their system for marking-12 ballots by the Secretary of State.~~

13 45.6.2.3.5(D) For mark-sense or optical scan devices, the Secretary of State OR 14 THE VSTL will prepare 100 or more test ballots with marking devices of
various color, weight and consistency to determine the range of marks that 16 can be read and the range and consistency of reading marginal marks.

17 45.6.2.3.6(E) Ballots shall be cast and counted in all applicable counter types (or 18 counter groups) as necessary based on the parts included in the voting 19 system. These are, at a minimum, ~~Poll Place (or Vote Center), Mail in, Provisional and Early Voting~~ POLLING PLACE (OR VOTE CENTER), MAIL-IN, 21 PROVISIONAL AND EARLY VOTING. Ballots may be run through components 22 more than one time depending on components and counter group being 23 tested to achieve a minimum number of ballots cast as follows for each 24 group:

(a) Polling ~~Place~~-PLACE / OS = 1,000;

26 (b) Polling ~~Place~~-PLACE / DRE = 500;

27 (c) Vote ~~Center~~-CENTER and ~~Early Voting~~-EARLY VOTING / OS = 28 2,500;

29 (d) Vote ~~Center~~-CENTER and ~~Early Voting~~-EARLY VOTING / DRE = 500;

(e) Mail-in = 1, 500; and

31 (f) Provisional = 500.

32 45.6.2.3.7 (F) Ballot design shall be sufficient to verify the scope of allowable 33 ballot designs for the given system under Colorado election law.

1 ~~45.6.2.3.8 Ballots shall be printed in applicable languages as required by state-2 or federal law, or both.-~~

3 ~~45.6.2.3.9 Ballots shall include candidates to represent the maximum number-4 of political parties in the State of Colorado, and shall accommodate all qualified political parties and political organizations.-~~

6 ~~45.6.2.3.10~~-(G)The requirements matrix shall include the following requirements 7 for election definitions and ballots to simulate and test “real world” 8 situations in the State of Colorado. Election definitions and ballots 9 shall include the following minimum contest criteria:

(a)-(1) Parties for different races;

11 (b)-(2) Selection of a pair of candidates;

12 (c)-(3) In a ~~Primary Election~~-PRIMARY ELECTION, allow voters to vote for 13 the candidates of the party for which they are eligible and for any 14 and all non-partisan candidates and measures, while preventing them from voting on candidates of another party;

16 (d)-(4) In a general election, allow a voter to vote for any candidate for 17 any office, in the number of positions allowed for the office, and to 18 vote for any measure on the ballot that the voter is allowed to vote 19 in, regardless of party;

(e)-(5) Allow for programming to accommodate Colorado recall questions 21 as prescribed in Article 12 of Title 1, C.R.S.;

22 (f)-(6) A minimum of 20 pairs of “yes” and “no” positions for 23 voting on ballot issues; and

24 (g)-(7) 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-26 of the Secretary of State.-~~

27 ~~45.6.2.3.12~~ (H)A county clerk and recorder OR HIS/HER designated representative 28 may observe the functional testing of a voting system. The representative 29 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.-~~

31 ~~45.6.2.3.13~~ (I) The public shall be allowed to view all functional testing 32 conducted by the Secretary of State.

However, legal limitations may 33 require that certain testing, including but not limited to proprietary 34 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

1 viewing shall be subject to limitations set forth by the testing lab or 2 contractor.

3 ~~45.6.2.3.14~~ (J) If any malfunction or data error is detected, its occurrence and the 4 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 6 restore the devices to a fully operational condition within eight hours, then 7 the test may be resumed at the point of suspension.

8 ~~45.6.3 The Secretary of State shall certify voting systems that substantially comply with 9 the requirements in this Rule 45, Colorado Election Code, and any additional testing that is deemed necessary by the Secretary of State.~~

11 [Current Rule 45.6.3 moved to New Rule 45.3.4]

12 ~~45.7 Temporary Use-USE~~

13 45.7.1 If a voting system provider has a system that has not yet been approved for 14 certification through the Secretary of State, the voting system provider or the designated election official may apply to the Secretary of State for temporary 16 approval of the system to be used for up to one year.

17 45.7.2 Upon approval of temporary use, a jurisdiction may use the voting system, or 18 enter into a contract to rent or lease the voting system for a specific election upon 19 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 21 approved for temporary use.

22 ~~45.7.3 The Secretary of State shall approve use of a temporarily approved voting system 23 for each election that a jurisdiction requests permission to conduct with the voting 24 system.~~

45.7.4 Temporary use does not supersede the certification requirements and/or process, 26 and may be revoked at any time at the discretion of the Secretary of State.

27 ~~45.8 Periodic Review~~

28 ~~45.8.1 The Secretary of State shall periodically review the voting systems in use in 29 Colorado to determine if the system(s):~~

~~(a) Are defective, obsolete or unacceptable for use based on the requirements 31 of this Rule 45; and~~

32 ~~(b) Have been modified from certified and trusted build versions of hardware 33 or software;~~

1 45.8.2 The Secretary of State shall review a minimum of two randomly selected 2 jurisdictions and voting systems
per calendar year at the choosing of the Secretary 3 of State.

4 45.8.3 The Secretary of State shall conduct an annual visual inspection of all software 5 incident records
maintained by each voting system provider certified for use in the 6 State of Colorado.

7 45.8.4 After such review, certification or temporary approval for use may be withdrawn. 8 Three months notice
shall be given prior to withdrawing certification of any 9 voting system unless the Secretary of State shows good
cause for a shorter notice 10 period.

11 45.8.5 All forms, notes and documentation from a periodic review shall be kept on file 12 with the Secretary of
State.

13 [Current Rule 45.8 amended and moved to New Rule 11]

14 ~~45.9~~ 45.8 Decertification

15 ~~45.9.1~~ 45.8.1 If, after any time the Secretary of State has certified a voting system, it is 16 determined that the
voting system fails to substantially meet the standards set 17 forth in this Rule 45, the Secretary of State shall notify
any jurisdictions in the 18 State of Colorado and the voting system provider of that particular voting system 19 that
the certification of that system for future use and sale in Colorado is to be 20 withdrawn.

21 ~~45.9.2~~ 45.8.2 Certification of a voting system may be revoked and/or suspended at the 22 discretion of the
Secretary of State based on information that may be provided 23 after the completion of the initial certification. This
information may come from 24 any of the following sources:

25 (a) The Election Assistance Commission (EAC);

26 (b) Voting System Test Laboratory (VSTL);

27 (c) The Federal Election Commission (FEC);

28 (d) The National Software Reference Library (NSRL);

29 (e) National Association of State Election Directors (NASSED);

30 (f) The National Association of Secretaries of State (NASS);

31 (g) Information from any state elections department or Secretary of State;

32 (h) Information from Colorado ~~County Clerk and Recorders~~ COUNTY CLERK 33 AND RECORDS or their association;

1 (i) Any other source the Secretary of State deems reliable.

2 ~~45.9.3~~ 45.8.3 If any voting system provider, provides for use, ~~or~~ installs, or causes to be 3 installed an uncertified or decertified voting system or component, the Secretary of 4 State may suspend use of the component or the voting system. ~~[Section 1-55 618(6), C.R.S.]~~

6 ~~45.9.4~~ 45.8.4 ~~Pursuant to~~ IN ACCORDANCE WITH section 1-5-621, C.R.S., the Secretary 7 of State shall hold a public hearing to consider the decision to decertify a voting 8 system.

9 ~~45.10~~ 45.9 Modifications and ~~Re-examination~~ REEXAMINATION.

10 45.10.1 Any modification, change or other alteration to a certified voting system 11 shall require ~~certification~~ CERTIFICATION or review of the modification under 12 section 1-5-618, C.R.S., unless the voting system provider decides to present the 13 modified system for certification under this Rule 45.

14 ~~45.11~~ 45.10 Acceptance Testing by Jurisdictions

15 ~~45.11.1~~ 45.10.1 Whenever ~~an election~~ A jurisdiction acquires a new system or 16 ~~modification of an existing system certified by the Secretary of State~~ VOTING 17 EQUIPMENT, the ~~election~~ jurisdiction shall perform acceptance tests of the system 18 before it may be used to cast or count votes at any election. The voting system 19 shall be operating correctly, pass all tests as directed by the acquiring 20 jurisdiction's project manager or contract negotiator and shall be identical to the 21 voting system certified by the Secretary of State.

22 ~~45.11.2~~ 45.10.2 The voting system provider shall provide all manuals and training 23 necessary for the proper operation of the system to the jurisdiction, ~~or as indicated~~ 24 ~~by their contract~~.

25 ~~45.11.3~~ 45.10.3 The election jurisdiction shall perform a series of functional and 26 programming tests ~~that shall test~~ FOR all functions of the voting system at their 27 discretion.

28 45.11.4 The jurisdiction shall coordinate acceptance testing with the Secretary of 29 ~~State and complete a Jurisdiction Acceptance Test form provided by the Secretary~~ 30 ~~of State~~.

31 [Current Rule 45.11.4 amended and moved to New Rule 11]

32 ~~45.12 Purchases and Contracts~~

33 45.12.1 Any voting system that has been certified under the procedures of this 34 ~~Rule 45~~ are eligible for purchase, lease, or rent for use by jurisdictions within the 35 ~~State of Colorado~~ providing the contract contains the following items:—

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

2 (b) ~~Contract contains training and maintenance costs for jurisdiction; and~~

3 (c) ~~Contract identifies components contained in the certified voting system~~ 4 and appears complete with all accessories necessary for successfully conducting an election within the laws and rules of the State of Colorado.

6 45.12.2 The Secretary of State shall maintain on file a list of all components used 7 and purchased for use. The list shall include, at a minimum, the name of the 8 jurisdiction, the date of purchase, the serial number(s) of voting devices and name 9 of the voting systems that was purchased.

45.13 Financial Statements of Voting System Providers

11 45.13.1 All voting system providers applying for certification in the State of 12 Colorado, or doing business in the State of Colorado, shall provide quarterly 13 financial statements and an annual auditor's report to the Secretary of State. All 14 financial statements and reports shall be due:

(a) ~~Prior to the completion of functional testing for any voting system being~~ 16 submitted for certification;

17 (b) ~~At the conclusion of each accounting quarter for providers with equipment~~ 18 certified for use in the State of Colorado; and

19 (c) ~~Upon issuance of a final auditor's report after the completion of each annual audit.~~

21 45.13.2 Financial statements submitted to the Secretary of State shall include a 22 ~~Statement of Cash Flow, Statement of Retained Earnings, Balance Sheet, and~~ 23 ~~Income Statement.~~

24 [Current Rule 45.13 amended and moved to New Rule 11]

~~41.8~~ 45.11 Escrow of ~~Voting System Software by Voting System Provider~~ VOTING SYSTEM 26 SOFTWARE AND FIRMWARE BY VOTING SYSTEM PROVIDER. THE VOTING SYSTEM PROVIDER 27 MUST MEET THE REQUIREMENT FOR SOFTWARE ESCROW PER THE FOLLOWING:

28 ~~41.8.1~~ 45.11.1 ~~Voting System Providers~~ THE VOTING SYSTEM PROVIDER must place in 29 escrow a copy of the election software, FIRMWARE, and supporting documentation

being certified with either the Secretary of State or an independent escrow agent 31 approved by the Secretary of State. ~~See section~~ [SECTION 1-7-511, C.R.S.]

32 ~~41.8.2~~ 45.11.2 Within ten days of the ~~Voting System~~ VOTING SYSTEM provider receiving 33 notification of examination of voting equipment as part of the certification 34 process, the ~~Voting System Provider shall~~ VOTING SYSTEM PROVIDER MUST

arrange for the completion of escrow requirements as indicated by this rule.

1 ~~11.8.3~~ 45.11.3 ~~Voting System Provider shall~~ THE VOTING SYSTEM PROVIDER MUST sign a 2 sworn affidavit that the election software in escrow is the same as the election 3 software used in its voting systems in this state. An annual update of the affidavit 4 will be on file in a secured location with the Secretary of State's office.

~~11.8.4~~ 45.11.4 A complete copy of the certified election software including any and all 6 subsystems of the certified software shall be maintained in escrow.

7 ~~11.8.5~~ 45.11.5 Any changes to current configurations or new installations must be 8 approved through the certification program of the Secretary of State.

~~11.8.6~~ 45.11.6 In addition to the requirements listed below, the ~~Voting System Provider~~ VOTING SYSTEM PROVIDER must include a cover/instructions sheet for any escrow 11 material to include the ~~Voting System Provider Name, Address~~ VOTING SYSTEM 12 PROVIDER, ADDRESS and pertinent contact information, ~~Software Version, 13 Hardware Version, Firmware Revision Number~~ SOFTWARE VERSION, HARDWARE 14 VERSION, FIRMWARE REVISION NUMBER, and other uniquely identifying numbers of the software submitted for certification.

16 ~~11.8.7~~ 45.11.7 Election ~~Software Source Code~~ SOFTWARE SOURCE CODE, maintained in 17 escrow, shall contain internal documentation such that a person reasonably 18 proficient in the use of the programming language can efficiently use the 19 documentation to understand the program structure, control techniques, and error processing logic in order to maintain the ~~Source Code~~ SOURCE CODE should it be 21 removed from escrow for any reason.

22 ~~11.8.8~~ 45.11.8 System documentation shall include instructions for converting the 23 escrowed ~~Source Code~~ SOURCE CODE into ~~Object Code~~ OBJECT CODE, organized 24 and configured to produce an executable system, if warranted.

~~11.8.9~~ 45.11.9 System documentation shall include technical architecture design, 26 analysis, detail design, testing and an installation and configuration guide.

27 ~~11.8.10~~ 45.11.10 A set of schematics and drawings on electronic vote casting and 28 counting equipment purchased or in use by the county clerk and recorder shall be 29 on file with the Secretary of State.

~~11.8.11~~ 45.11.11 All parties shall treat as confidential the terms of this ~~Section~~ RULE 31 including all escrow materials and any other related information that comes into 32 their possession, control or custody pursuant to IN ACCORDANCE WITH this section.

33 ~~11.8.12~~ 45.11.12 Copies of ~~Electronic~~ ELECTRONIC media and supporting 34 documentation for ~~Escrow~~ ESCROW within the Secretary of State shall be sent to: Colorado Secretary of State 36 Attn: Voting Systems Specialist 37 1700 Broadway – Suite 270 200 38 Denver, CO 80290

1 ~~11.8.13~~ 45.11.13 Any cost of using an alternative third party escrow agent shall be 2 borne by the ~~Voting System~~
VOTING SYSTEM provider

3 *[Current Rule 11.8 is amended and moved to New Rule 45.11. Modifications are shown 4 above.]*

5 **Rule 46. RESERVED**

6 **Rule 47. RESERVED**

7 **Rule 48. RESERVED**

8 **Rule 49. RESERVED**

9 **Rule 50. RESERVED**

10 Rule 51. Use of approved and recommended election forms

11 51.1 Where the Secretary of State ~~has issued~~ ISSUES an approved election form, notice, 12 application, or
correspondence ~~provided for by the~~ “Uniform Election Code of 13 1992”, all designated election officials
and registration offices ~~shall~~ MUST use the 14 approved form.

15 51.1.1 A designated election official or registration office that wishes to 16 SUBSTANTIVELY modify the
content of any form approved ~~or recommended~~ 17 by the Secretary of State ~~shall~~ MUST submit a written
request via email to 18 the Secretary of State’s office stating the requested modification and the 19 reasons it
is needed.

20 (a) The Secretary of State ~~shall have~~ WILL APPROVE A REQUEST TO 21 MODIFY AN APPROVED FORM
WITHIN five business days. ~~in which to~~ 22 ~~approve or deny the modification request.~~ Failure of the Secretary
23 of State to issue a decision within five business days ~~shall~~ DOES not 24 constitute an approval of the
request. If the modification request is 25 denied, the Secretary of State will ~~provide an explanation stating the~~
26 ~~basis~~ EXPLAIN THE REASON for denying the request.

27 (b) A non-substantive customization OF AN APPROVED FORM, such as 28 placing the form on county
letterhead or language translation, ~~shall~~ 29 DOES not require THE SECRETARY OF STATE’S approval.

30 51.2 The Secretary of State ~~shall~~ WILL approve standard voter registration and ballot 31 application forms
~~recommended~~ for use by political parties and organizations that 32 provide such forms to the public. The
Secretary of State will PUBLISH ON THE 33 DEPARTMENT’S WEBSITE ~~ensure that~~ the current approved
REGISTRATION forms for 34 registration and ballot request are publicly available on it’s the website.

1 51.2.1 Political parties and organizations may also use the National Mail Voter 2 Registration form. Because the forms approved by the Secretary of State 3 contain all ~~of the information specific to~~ SPECIFICALLY REQUIRED BY 4 Colorado law, the applicants and the organization are afforded greater 5 protection ~~when~~ BY DISTRIBUTING OR USING the ~~standard~~ STATE forms 6 approved by the Secretary of State ~~are used~~.

7 51.2.2 All political parties and organizations that conduct a mass mailing of either 8 registration or ballot request forms to the public ~~shall~~ MUST identify ~~the~~ 9 party or organization conducting the mailing THEMSELVES by printing the 10 organization name and contact information on the form.

11 51.2.3 Any political party or organization may contact the Secretary of State ~~prior~~ 12 ~~to~~ BEFORE sending a mailing to request a review of the form and 13 information to be mailed.

14 51.3 ~~In accordance with~~ UNDER section 1-1-107(2)(d), C.R.S., the Secretary of State ~~may~~ WILL 15 seek injunctive action or other ~~penalties as a remedy to~~ REMEDIES FOR violations of this 16 Rule.