

## Dwight Shellman

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**From:** Harvie Branscomb <harvie@electionquality.com>  
**Sent:** Tuesday, October 08, 2013 4:36 PM  
**To:** Andrea Gyger; SoS Rulemaking  
**Cc:** Suzanne Staiert; Public UVS Panel; Hilary Rudy; Dwight Shellman;  
**Subject:** [REDACTED] Colorado Elections rules 10\_1\_2013 Rulemaking- Harvie Branscombs' comments on 214 pages- submission  
**Attachments:** 20130926\_Elections\_RevisedDraft\_Branscomb\_14v\_onlycomments.pdf; Branscomb\_14v\_Rules\_comments\_prioritized.pdf

Gentlepeople of the Secretary of State Office of Colorado

Attached is the full document submission for Colorado election rules changes for the 10/1/2013 Rulemaking (214 pages) with my final 377 comments in tracked changes in red (4MB pdf). I also attach a pdf of a spreadsheet containing a list of my comments and prioritization with respect to the 2013 November election, in order to allow focus on the easiest to change and most important comments first.

Of course almost every rule is touched by these changes, so everything in the rules is up for improvement, and yes there is room for improvement.... and much improvement has already been made in these rules drafts.

Many thanks are due to the CDOS staff for opening this discussion early with an original draft, and soliciting early comments. It is well worth noting that at this point in time in Colorado is experiencing historic changes in election methodology and the usual patient process that Colorado citizens deserve to have is impossible due to deadlines enforced by the HB 13-1303 legislation

One significant rule addition I hope for is a well named and easy to reference document to be created by each Designated Election Official and by the SOS that contains all of the instances of "designations", "authorizations", "delegation" (and so on) of authority or responsibility to others by the "DEO" "SOS" etc. There are many instances of the phrase "SOS or designee" or "DEO may designate", etc. and the public deserves- always- to have easy access to the contact information for these designees. I hope to see such a rule added so that we can CORA request the specific document that contains all the designations in each jurisdiction.

Colorado is experiencing a rather drastic shift towards more computerized and centralized elections, with more control and authority given to a smaller number of people around the county clerks. This change merits a substantial increase in opportunity for citizen verification of election process and this must be made though extra transparency of records, easy access to data, and additional roles for citizens to oversee a very complex process. The citizens of Colorado are depending in the CO SOS to defend their access and means of participation in their election through the roles of election judge, watcher and canvass board in all aspects of the citizens' election.

Thank you very much for reviewing my submission in detail. The attached spreadsheet shows a listing of the first portion of each comment, the category I place it in and the page and comment number. In addition there is a column for priority from 1 to 3. The priority items are shown as "1" and these are either most important for the upcoming election or very easy to change and uncontroversial. Priority 2 is important but not immediate. And priority 3 needs to be addressed well before another election cycle begins.

Thanks again for this important opportunity.

Harvie Branscomb

	<b>List of Comments to Election Rules Proceeding 10/1/2013 Harvie Branscomb with links to pdf by page and comment number (priority 1 is most important for November 2013 election or a simple and obvious change) 10/8/2013</b>		Priority
Page 2: [S1]	Blank ballot is most often used as the item to be delivered to electors for voting, therefore the original definition here is dangerous.	no brainer	1
Page 2: [S2]	"Contest" is a very often used word in the rules, and the word race is not elsewhere defined in rules.	no brainer	3
Page 3: [S3]	Damaged ballot can include a poorly printed ballot that cannot be read correctly by machine.	no brainer	3
Page 3: [S4]	Any form of designation must be signified in writing on a single easily identifiable document accessible to the public. See my general comments. This particular designation is especially dangerous and ought to require a public process of some kind with ov	quality	2
Page 3: [S5]	I am concerned about the effect of this definition, depending on the uses of it in the rest of the rules. For example, only "scanners" and "DRE" will be audited under this definition.		1
Page 3: [S6]	To achieve anonymity is a very important reason for duplication and the policy of marking original and duplicate with the same number is problematic in that particular case.	quality	1
Page 3: [S7]	Note that there are election complaints filed with the canvass board and county clerk. These should not be confused or forgotten by this definition.	official v. citizen	2
Page 4: [S8]	This definition contrasts with the definition in CRS that includes the canvassboard. Also the bulk removal of the phrase "election judge" or "judges" from the rules and replacement by "election officials" is very troubling and signifies a further distancing	official v. citizen	1
Page 4: [S9]	This definition of "electronic ballot" is not needed and may otherwise be counterproductive. It was very poorly worded in any case.	clarity	1
Page 4: [S10]	This definition is not needed and would only be confusing if left in the rules.	clarity	1
Page 5: [S11]	This caveat is needed to allow watching at locations where voter privacy is not at issue, and is consistent with the definition in CRS. Six feet is too far for watching at mail ballot processing, ballot duplication and verification of zero counts on DRE e	quality	1
Page 6: [S12]	Polling location is used often without definition and clearly shown to be different from just VSPC. I know it must include more than just VSPC. I'm not sure of other locations that should be included for example the location where ballots returned in sign	quality	2
Page 7: [S13]	There are many references to "the election" as a date as if everything happened on one day. This is no longer the case and while "election day" is still a useful phrase, it is losing its meaning since the passage of 1303.	no brainer	2
Page 7: [S14]	Ideally the definition of undervote also allows for counting the total number of "votes" so that the contest can be balanced to the number of ballots counted.	quality	3
Page 7: [S15]	It is helpful to recognize that as well as documentation, the procedures for use of equipment are part of the voting system and belong in the definition.	quality	3
Page 7: [S16]	It must be obvious to everyone that Everyone Counts is part of the voting system as a means to deliver and mark and collect ballots from UOCAVA voters. Likewise ballot on demand must be considered part of the voting system.		1
Page 8: [S17]	To include ballot marking devices	clarity	1
Page 8: [S18]	This will include automatic signature comparison and envelope sorting equipment (included in the definition in the UVS RFP).	clarity	1
Page 8: [S19]	This paragraph acts to eliminate provisions for security (e.g. 21.1.17), documentation requirements, and other important safeguards that would otherwise apply to the above components of the voting system. Therefore it should be deleted.	quality	1
Page 9: [S20]	Because the court determined that a write in without proper marking of the target area is a lawful vote, I would leave out the caveat about "properly marks..."	follow the law	1
Page 9: [S21]	To define the "zero tape" at all is a mistake. It MUST be a standard election totals report that reads zero only if everything is correct. This original definition presumes the zeroes on the report. Please.	quality	3

Page 16: [S22]	The phrase “residential address” is used only twice within these rules changes where permanent address is the best term.	no brainer	2
Page 19: [S23]	A concern here is that election judges are not included and there is no bipartisan check and balance built in to this process. Furthermore, citizen oversight of this process is unclear.	official v. citizen	3
Page 19: [S24]	Is “residential address” the same as the legal residence? The phrase is used only twice in this document for no apparent reason. Permanent residence is the phrase that us normally used.	clarity	3
Page 36: [S25]	Ballot return largely involves handling envelopes, and only eventually ballots without the envelopes.	no brainer	1
Page 37: [S26]	Taken literally this would have required a single official to separate the ballots from the envelopes each day upon arrival, but this separation should be done very carefully with bipartisan election judges in attendance, not by a single “official”.	official v. citizen	1
Page 37: [S27]	A log of these undeliverable ballot packets that return to sender should be made for each return, presumably maximum daily.	quality	1
Page 37: [S28]	The ballots are probably contained within envelopes while this storage is taking place.	clarity	2
Page 37: [S29]	This is a mysterious paragraph. The election isn’t held on a “day.” The “day” isn’t correctly described in 1-7-116(1). The DEO “may” mail the notice but only if at the “least cost”. This paragraph is overburdened with uncertainty. I do not know how to co	clarity	1
Page 37: [S30]	This paragraph is vague, but can be easily corrected with a specification for distance.	clarity	2
Page 39: [S31]	There is no reason for the provisional ballot to be specially printed. It is the envelope that must be specially marked by the provisional voter and an adequate supply provided.	quality	1
Page 40: [S32]	Not only election day, but every day prior to election day (starting when?)	no brainer	1
Page 40: [S33]	The deleted phrase duplicates the following paragraph.	no brainer	3
Page 40: [S34]	Not just election day.	no brainer	1
Page 42: [S35]	No requirement to vote.	no brainer	1
Page 43: [S36]	Ballot packet is the more correct description.	no brainer	1
Page 43: [S38]	Election day instead of “the election”	no brainer	2
Page 43: [S39]	Ballot packet is the more correct description.	no brainer	2
Page 43: [S40]	Because of non synchronized registration requirements, this will be difficult and the timing of this certification problematic (and the timing remains unspecified).	clarity	3
Page 44: [S41]	It the absentee ballot still here? Or is everyone who uses a PO box for all USPS actually using this provision?	question	3
Page 44: [S42]	Best to check if “address of record” is meaningful. According to CRS 1-2-204, address of record is different from the mailing address, and hence is probably the permanent residence. So I included mailing address as an alternate to the absentee voting add	clarity	1
Page 44: [S43]	Does this require a submission of a form to end the use of a temporary absentee address?	question	3
Page 46: [S44]	See rules for resolution/duplication e.g. 18.3.2. The process of duplication requires the resolution function as well, therefore the resolution board.	quality	1
Page 46: [S45]	Envelopes come in, not ballots	no brainer	1
Page 47: [S46]	Envelopes not ballots.	no brainer	1
Page 47: [S47]	UOCAVA originated ballots have a different deadline.	no brainer	1
Page 47: [S48]	Bipartisan teams are a security requirement to maintain chain of custody.	no brainer	1
Page 48: [S49]	The original proposal is the wrong way to solve the problem-leaving the ballots in identifiable batches but attempting to conceal the batch identity before it becomes publicly accessible. The correct wayis to render ballots anonymous to everyone including	quality	1
Page 49: [S50]	The replacement of “election judges with election officials is an extremely troubling change that ought to be loudly objected to including by the same election officials mentioned. Judges are named that for a reason. They are intended to represent a publ	official v. citizen	1

Page 49: [S51]	Obviously my previous comments apply to many replacements of judges by officials-as well as the lack of specificity about balanced partisanship.	official v. citizen	1
Page 50: [S52]	I lost control of the format here and had to reproduce the original . the uncounted ballots should go to storage after the certification, any recount or investigation.	no brainer	3
Page 52: [S53]	Note this device may not be controlled by the security measures that apply to vote tabulation equipment-but it should be. No network access during an election.	quality	1
Page 53: [S54]	This is to qualify what “verify” means and to clarify the verbal interaction with the elector and the lookup in SCORE.	clarity	1
Page 53: [S55]	Note that ballots are not marked by election officials, and ballots do not belong to voters. My proposed text is far more accurate and necessary to avoid seeing electors attempt to vote out of county. Also “in-person ballot” is not defined. It should not	clarity	1
Page 53: [S56]	Once the provisional ballots are removed from the envelopes, they must become anonymous and shortly thereafter counted. If this rule is intended to keep the already counted ballots that were once provisional separated because of extended voting....	clarity	1
Page 54: [S57]	I think readers of this paragraph deserve to know why this is a problem.	clarity	3
Page 55: [S58]	Watchers affirm not certify. Party officials certify watchers, not election officials.	clarity	1
Page 55: [S59]	Here we see that election judges and election official has a separate meaning, contradicting the attempt to combine many roles into “election official”.	official v. citizen	1
Page 55: [S60]	“Act” was the correct verb and formerly in the rule. Watchers have a larger role than simply “observing” –namely correcting discrepancies etc.	follow the law	1
Page 56: [S61]	Watchers deserve to be able to refer to at least paper documents brought with them to the polls.	official v. citizen	1
Page 56: [S62]	Watchers may observe other watchers, etc.	clarity	1
Page 57: [S63]	This is one of many reasons why the definition of polling location is important. If polling location refers to places that voters cast ballots (VSPC plus drop off locations plus instances where teams pick up voted ballots) then this paragraph must separa	clarity	1
Page 57: [S64]	One obstacle to watching is complex and unstated rules for identifying locations for watching. With precinct counting it was simple and the law was written for this-but with 70% to 99% central count, the difficulty of identifying the polling location or c	clarity	1
Page 58: [S65]	Duplicated above	clarity	3
Page 58: [S66]	This is a key responsibility of watchers that is taken from statute and must appear in these rules.-the opportuntiiies to challenge ineligible persons and assist in the correction of discrepancies. Both of these show that the watcher role is more than obse	follow the law	1
Page 58: [S67]	Since this is part of a gag order on watchers, it must be very clear when the gag is lifted if not 7PM on election day, then this is the next best. “formally announced” is utterly vague.	clarity	1
Page 58: [S68]	This is to eliminate the need for a paragraph 8.6.4 which is duplicative.	no brainer	3
Page 58: [S69]	Duplicative and therefore overkill.	no brainer	3
Page 58: [S70]	This severe limitation on interaction with election officials is obstructive of the watcher role, and it is a total gag order if the “Supervisor judge” has not designated anyone for this role. This rule had excluded election officials, but now election of	official v. citizen	1
Page 59: [S71]	An absolute prevention of use of phone is unreasonable. By permission makes sense.	official v. citizen	2
Page 59: [S72]	Ditto	official v. citizen	2
Page 59: [S73]	These three replacement of “or” to “and” are to be sure that both proponents and opponents are allowed to appoint watchers. Also the political party and the candidate	clarity	3
Page 61: [S74]	There was no requirement as to the frequency of the availability of this important list.	clarity	1
Page 61: [S75]	Polling locations unlike precincts do not have numbers, thus they are not so easy to identify. This will add some complexity to election watching-therefore the phrase “all polling locations” or “all election activities” should be available for use. My ex	clarity	1

Page 62: [S76]	Rule 8 included for completeness.	clarity	2
Page 62: [S77]	The interaction with potential electors is very well prescribed here but fails to require the official to explain the reason why they are being offered a provisional ballot-namely they have been deemed ineligible. It is almost insulting to allow a provis	quality	3
Page 62: [S78]	If this information is not collected for the provisional ballot resolution at a later time, it will be impossible to track the reason for the use of the provisional ballot for these challenged electors.	quality	1
Page 62: [S79]	This represents an essential change that applies to each challenge question prototype where a response leads to offering a ballot. This seems to be a major oversight in the rules. I will not flag the other locations where this change needs to be made.	no brainer	1
Page 62: [S80]	Without the advice, a false impression of eligibility may be created.	quality	3
Page 62: [S81]	It is the wording in 1-2-102 that leads to this strange language. The statute is worded from the perspective of election day, but the elector may register to vote and vote on any day prior to election day that a polling location is open as well.	clarity	1
Page 62: [S82]	Another replacement of "the election" with "election day".	no brainer	1
Page 62: [S83]	A further extrapolation of the meaning of residency during the 22 days prior to "the election".	quality	1
Page 63: [S84]	"election day" instead of "the election"	no brainer	1
Page 63: [S85]	I think past 22 days is incorrect as this refers to 22 days prior to the date of attempted registration, not 22 days before "the election" which is the phrase used in the law:1-2-102(b) The person has resided in this state twenty-twodays immediately prior	clarity	1
Page 63: [S86]	See above.	clarity	1
Page 63: [S87]	See above	clarity	1
Page 64: [S88]	See above	clarity	1
Page 64: [S89]	See above-I have not flagged all the locations where these challenge questions need to change .	clarity	1
Page 65: [S90]	While reasonable, this odd number of canvass board members is not a statutory requirement. All this does is solve the problem of a lack of majority on a canvass board... a requirement for voting that was recently added without considering the consequences.	follow the law	3
Page 66: [S91]	The rules seem to be attempting to overlook this important role of canvass boards, and transfer the responsibility to the SOS. Meanwhile the end of precinct polling begs for additional citizen oversight opportunities and responsibilities.	follow the law	1
Page 66: [S92]	I was involved in writing the statute that requires a report of the audit to be written by the canvass board and published by the SOS. It is not only a report of the result of discrepancies and deserves to be included in rule explicitly, if not more expli	follow the law	1
Page 66: [S93]	Recent rulemaking has sought to delimit the function of the canvass board in conducting a recount. My proposed change forces a re-reading of statute instead of reliance upon these functions mentioned here, only part of the statutory role.	clarity	1
Page 66: [S94]	There is no statutory limitation to "observation" at all. Quite the contrary.	follow the law	1
Page 66: [S95]	This recently approved rule unnecessarily inhibits the access by the canvass board to the ballots-the most essential record of theelection for integrity purposes-particularly regarding the 3 major functions of the canvass board in certification, audit and	official v. citizen	1
Page 66: [S96]	This restriction on the canvass board is not supported by Statute. The members of the canvass board are included in the definition of election official in CRS 1-1-104(10) as follows:"(10) "Election official" means any county clerk and recorder, election j	follow the law	1
Page 66: [S97]	Because of Colorado's election complexity all must be mentioned. Unfortunately "mail ballot" may no longer have meaning and may need to be defined.	1303	1
Page 66: [S98]	Obviously not just on election day. Note this requirement seems to be repeated in 10.4.1	clarity	1
Page 67: [S99]	Easy accessibility for canvass board and public would obviously be an electronic format. I hope this rule written this way will favor electronic delivery.	clarity	3

Page 67: [S100]	The title of this section is incorrect-"election day" is not the day election processing is done any more.	clarity	1
Page 67: [S101]	When the rule was written this made sense as a precinct polling place report. Now with vote center style voting and the rise of coordinated special districts, it is ballot style that must be specified as the defining subset and with elections operating on	1303	1
Page 67: [S102]	Many new and different numbers must be reported from polling locations. I may not have included all of the new items here yet.	1303	1
Page 67: [S103]	All these roles should be performed by election judges. This shift to "officials" is highly troubling and will lead to lower integrity and oversight of and citizen involvement in the election over time. Already there are reports of elections planned under	official v. citizen	1
Page 67: [S104]	ditto	official v. citizen	1
Page 67: [S105]	This language is sorely out of date and not 1303 compatible any more. See my comment on the previous page for the missing categories that must be reconciled. Please update this paragraph to include the mail ballot packets, and UOCAVA, emergency, etc. th	1303	1
Page 67: [S106]	ditto	1303	1
Page 67: [S107]	ditto	1303	1
Page 67: [S108]	ditto	1303	1
Page 67: [S109]	this change is required by the UOCAVA late ballot return deadline.	follow the law	1
Page 68: [S110]	Canvass should usually take more than one day for obvious reasons (audit, investigations, research, late counted ballots, etc.) "Day of Canvass is long obsolete although some counties attempt to require the canvass to be performed in a single day, sometim	1303	1
Page 68: [S111]	This requires the clerk to perform the function that explains why that role is part of the canvass board... not to control its process and outcome but to provide the essential information. Recent rules changes have sought to circumscribe the exact information oversight function that they cannot ethically or logically perform because they are overseeing their own work.	official v. citizen	1
Page 68: [S112]	This makes sure the reports contain sufficient detail for understanding the basic election numbers. Over and under votes are used to balance each contest vote counts with the number of ballots received.	quality	1
Page 68: [S113]	These are crucial records of the election needed for canvass board review.	quality	1
Page 68: [S114]	By rejection code report is a very good window into the integrity of the election, needed for the decision to certify or not.	quality	1
Page 68: [S115]	Ditto	quality	1
Page 68: [S116]	This is a crucial requirement for election transparency to the citizen board that is intended to get an independent perspective on election decisions. Note this may be provided verbally. Written would be even better.	quality	1
Page 68: [S117]	Increasingly, electronic documentation is taking precedence over written in elections and must be included.	quality	1
Page 68: [S118]	"regarding official numbers" is a vague limitation apparently offering the local official total discretion over what information to allow the canvass board to see. This is a concept that has no place in our rules.	clarity	1
Page 68: [S119]	A requirement for the canvass board to meet in a timely manner so that it can accomplish its required roles before certification of the abstract of the vote is required.	quality	1
Page 68: [S120]	Because of same day election day registration, a time is required. 7PM	clarity	1
Page 68: [S121]	Ditto	clarity	1
Page 69: [S122]	Rejection code reporting was included for provisional ballots, why not mail ballot rejections? Does "mail ballot" have a definition. Look into adding one if not.	quality	1
Page 69: [S123]	Because of same day, election day registration the time is needed-7PM	clarity	1
Page 69: [S125R1]	Ditto	clarity	1
Page 69: [S126]	Under and overvotes show important information about the election quality and are used to balance contests with single choice options against the number of ballots received and voters casting ballots.	quality	2

Page 69: [S127]	The canvass board needs a certain amount of independence to operate effectively. When the DEO appoints workers not acceptable to the canvass board, this independence can be severely damaged.	official v. citizen	2
Page 70: [S128]	There is no criterion for quality of this explanation, but the canvass board can properly be asked to provide it.	quality	2
Page 70: [S129]	CRS is clear on this collaboration of canvass board and clerk (who is also on the canvass board and therefore a redundant inclusion).	follow the law	1
Page 71: [S130]	This expression of purpose of the recount is key to its proper execution. Without the attention to accuracy and voter intent, the recount is purposeless.	clarity	1
Page 71: [S131]	This is an open invitation for requests for reimbursement for extraneous costs that could become obstacles to a recount. This loophole for creation of obstacles need not be opened here.	quality	1
Page 72: [S132]	Like the rules for canvass, here we see a gradual encroachment of the independent ability of the canvass board to review and correct for any errors and weaknesses in the original counting done under control of the election official. Clearly the recount mu	official v. citizen	1
Page 72: [S133]	Here the rule should extrapolate “conducting” from statute into “conducting” in case of a small county or “managing” in case of a large county. Remember the election official is a member of the canvass board.	follow the law	1
Page 72: [S134]	There is no statutory support for the canvass board being limited to “observing” the recount. That would be substantially inconsistent with the statutory responsibility-“conducting”. Have no doubt, what we are seeing here is an asymmetric conflict between	follow the law	1
Page 72: [S135]	Wrong citation.	no brainer	1
Page 72: [S136]	FYI I don’t know how this paragraph makes any sense but it is from statute.	question	3
Page 72: [S137]	This recount must be independent from the weaknesses and errors if any of the original count The canvass board is the only source of that independence other than the SOS.	quality	1
Page 72: [S138]	This is a careful statement of purpose that lays out the reasons for the extra care to be taken with the recount.	clarity	1
Page 72: [S139]	The creation of a new test deck or use of the original LAT deck are bad ideas. It is essential that this LAT use actual election ballots, including ones that are problematic in marking, and that the LAT be substantially more accurate and more precise than	quality	1
Page 72: [S140]	This provision allows for the extra precision of the new LAT by challenging the system with real ballot marks that are known to be difficult to capture.	quality	1
Page 73: [S141]	Mandatory and requested recount both can use voter marked ballots.	quality	1
Page 73: [S142]	As previously explained, it is the real ballots in the election that need to be tested.	quality	1
Page 73: [S143]	This may require replacement of “committee” with the correct description. Recounts are not only of races.	clarity	1
Page 73: [S144]	If the candidates have concerns over the machine capability they may test those concerns with these 25 ballots. This is good. Regardless of mandatory or requested recount.	quality	1
Page 73: [S145]	It is a very bad idea to use the pre-election LAT deck-this causes the recount to be dependent on the accuracy of the original test that may have allowed the original count to be in error.	quality	1
Page 73: [S146]	Sworn? Election judges are the appropriate actors... not “staff” whatever that means.	quality	2
Page 73: [S147]	This is not a function that should be left to staff. Resolution of voter intent is needed here, so an appropriately bipartisan and overseen process should be used. I don’t know the meaning of “sworn judges”.	official v. citizen	1
Page 73: [S148]	“contest” is the defined term.	clarity	2
Page 73: [S150R1]	This new proposal will add to the precision of the LAT with very little extra need for time. The hand count of the test ballots is simply multiplied by two. If there is lack of reliability in vote mark capture, this improvement on the test may find it.	quality	3
Page 73: [S151]	Why only 1%? 5% is the generally accepted statutory number for the audit, and this recount needs even more accuracy than the audit.	quality	2
Page 73: [S153]	Using dice is a way to have publicly verifiable randomness. This is a role for the canvass board in conducting the recount, not the election official.	quality	1
Page 73: [S154]	See above comment on “sworn” and “staff”.	clarity	2

Page 73: [S155]	"verify" presumes accuracy. "compare" does not and is the more correct term.	clarity	1
Page 73: [S156]	"contest" is a simpler defined term if my proposal to define contest is accepted.	clarity	2
Page 74: [S157]	It is unclear why a new election database is not being created for a precinct counted election. Otherwise, the county is dependent on any remaining stock of unused memory cards. In any case this rule about the blank memory cards makes little sense. And th	quality	2
Page 74: [S158]	Existing records of the election must be kept as required and not destroyed by the recount process.	quality	1
Page 74: [S159]	No need for this word "precinct".	no brainer	1
Page 74: [S160]	I see no reason to leave this vague and up to the county officials or canvass boards. Oversight will be much easier if all ballots are recounted in the same place with the same methods.	quality	2
Page 75: [S161]	How did this important path in the recount process get left out? Of course a hand count is essential if the machine cannot accurately capture the votes on the actual ballots voted in the election.	quality	1
Page 75: [S162]	"Final" is not defined. Certified is.	clarity	2
Page 75: [S163]	"Location" is meaningless here. Device and precinct reports are important to judge tabulation quality, as of course are over and under votes.	clarity	1
Page 76: [S164]	Precinct reports allow comparison of similar demographics and batch reports are used for auditing.	quality	1
Page 76: [S165]	For the same reason we do an audit of the original counts, the audit of the recount is necessary to make sure that it is sufficiently accurate. A risk limiting audit will be particularly suited to a recount when ballots are all counted centrally.	quality	2
Page 76: [S166]	This designation is important and requires a deadline so that oversight can be performed by the public. The record of designation must become a public record and of course preferably published.	quality	3
Page 77: [S167]	It might not only be county.	clarity	3
Page 78: [S168]	This inventory needs to be made more broad to include ballot marking devices and signature checking equipment, ballot on demand, UOCAVA assistive systems and vote reporting systems, etc.	quality	3
Page 80: [S169]	One from each party is not enough in most cases due to the hardship of testing DRE.	quality	3
Page 80: [S170]	Test board members need not be members of the party that appoints them nor registered in the county. They probably should be party members if the election official appoints them.	follow the law	3
Page 80: [S171]	No reason for this at all... just obstructive to the freedom of a party to appoint the best test representatives.	follow the law	3
Page 80: [S172]	As explained in the previous comment	follow the law	3
Page 80: [S173]	There may be a statutory requirement for this advance public notice.	follow the law	3
Page 80: [S174]	Advance public notice of the testing is necessary. This should be made compatible with any statutory requirement (I have not looked it up).	question	3
Page 80: [S175]	These test ballots must not be printed as "test" ballots or the test is rendered ineffective.	quality	3
Page 80: [S176]	Under the corrected definition, blank is the correct term.	clarity	3
Page 80: [S177]	This specifies enough to make the test ballots meaningful for the election quality and not simply a test of special test ballots.	clarity	3
Page 80: [S178]	No ownership.	clarity	3
Page 80: [S179]	This caveat allows for a meaningful test, not just perfectly voted test ballots.	quality	3
Page 80: [S180]	The test must not be limited in scope arbitrarily. If test board members choose to increase the accuracy of the test they should be allowed to do so.	quality	3
Page 81: [S181]	"Race" is not defined and not appropriate here.	clarity	3
Page 81: [S182]	Future tense needed.	no brainer	3
Page 81: [S183]	"Type of ballot" is not clear. "voting method " may also not be clear but is closer. Voting device is clear.	clarity	3
Page 81: [S184]	"audio presentation of the ballot" gets away from attempting to define audio as "the" ballot-this is getting dangerously close to that.	clarity	3
Page 81: [S185]	With central count, vote tabulation is too late for this deadline. Perhaps a date linked to election day would be better.	quality	3
Page 82: [S186]	If one scanner per any location, each is tested.	quality	3



Page 82: [S187]	This makes sure a central count scanner is tested-even if it is not called a central count scanner.	quality	3
Page 82: [S188]	Specificity for what “randomly” means.	clarity	3
Page 83: [S189]	“verify” presumes accuracy, “determine if” is more appropriate.	clarity	3
Page 83: [S190]	“at least” to prevent enforcement of a limitation if the test board wishes to achieve more accuracy.	quality	3
Page 83: [S191]	You can’t vote a “ballot” on a DRE. You can vote a pattern. To make the test reliable, video of the test votes must be recorded and played back to resolve discrepancies in the vote counts. If we were serious about DRE we would require the video tape.	clarity	3
Page 83: [S192]	If DRE are used at any location, one per each location is to be tested.	quality	3
Page 83: [S193]	Specifies what “randomly” means.	clarity	3
Page 83: [S194]	These changes better specify the testing of two HAVA compliant devices using audio.	clarity	3
Page 83: [S195]	Vote patterns is correct in place of ballot.	clarity	3
Page 83: [S196]	As commented above	clarity	3
Page 83: [S197]	Ditto	clarity	3
Page 83: [S198]	To be clear, hand counted (and one hopes not by barcode.)	clarity	3
Page 84: [S199]	No need for a seal for each test board member... Should we have a seal for each election judge in a polling place? Remember that these machines are left overnight just as the test data is.	quality	3
Page 84: [S200]	Because it specifically says may not open, we must have a caveat for CORA request. Election officials may also wish to see test records. They can use a CORA request. Why are test records subject to such security, more than for ballots?	clarity	3
Page 84: [S201]	To clarify the language.	clarity	3
Page 84: [S202]	This clarifies the actual meaning of the LAT result. One hopes that this citizen LAT testing will be done also on ballot on demand and UOCAVA ballot processing and other equipment that is critical to election tabulation.	clarity	3
Page 84: [S203]	No need to limit it to “voting device” whatever that means.	clarity	3
Page 84: [S204]	The LAT is designed to assess the functionality of the election setup records (ballot programming) rather than the individual accuracy of the device. If the latter were true, more ballots would be tested.	clarity	3
Page 85: [S205]	To be accurate.	clarity	1
Page 85: [S206]	Not just races	clarity	1
Page 85: [S207]	Citation.	no brainer	1
Page 85: [S208]	Make sure to include all voting methods in the audit-in-person (DRE and flat ballot) and also by mail ballot packet.	follow the law	1
Page 85: [S209]	A definition like this is needed to make sure the intent of 1-7-514 is met-that all ballot processing types are audited. It says device type and usually central count and in person voting is done by a different device type. These new rules seek to elimina	clarity	1
Page 85: [S210]	Ditto	clarity	1
Page 85: [S211]	This paragraph ought not prevent auditing of mail ballot processing nor should it require every VSPC to have a scanner in order for any of those scanners to be audited. With my proposed text in the previous paragraph, this paragraph is duplicative and can	quality	1
Page 85: [S212]	At minimum audit one scanner used in VSPC	quality	1
Page 85: [S213]	CRS calls for the canvass board to receive and investigate the complaint. Here the SOS appears to be attempting to take over the role.	official v. citizen	1
Page 85: [S214]	4 edits here: two contest minimum is not necessary, sufficient is correct; races not defined and not appropriate; its is an audit rather than a “verification”; contest is the simpler description and race is not defined.	clarity	1
Page 85: [S215]	Reinstate this paragraph... it does describe an audit of election night results. Since the DEO has control over how many ballots are scanned on each device in each polling location, they can arrange for each to be auditable by limiting the number of ballots	follow the law	1

Page 85: [S216]	This text separates the three situations-a simple small number of ballots in central count; a clerk who is using the sub tally by batch method for reporting so auditing of election night totals is possible (e.g. Eagle and Boulder); and third the case where	quality	1
Page 86: [S217]	The simple case for a small county-only a max of 500 ballots to audit and they represent everything on the selected machine from election night. This is similar to the precinct case we are abandoning.	quality	1
Page 86: [S218]	Second case-like eagle or Boulder, batches are being used with separate memory cards and tallies taken from each on election night. In this case 3% of the ballots tabulated on the selected machine are tabulated (a bonus for using the better method).	quality	1
Page 86: [S219]	The third case-more than 500 ballots on a device used to count mail ballots and the official chooses not to get election night batch sub tallies. In this case 5% of the ballots tallied on the selected device (probably itself only a small percentage of the e	quality	1
Page 86: [S220]	There has never been a statutory basis for this cap and it severely negatively affects the quality of the audit for every large county. In fact the statute directly contradicts the cap by requiring a fixed percentage of ballots to be audited. This method	follow the law	1
Page 86: [S221]	Broadening the control away from the DEO over the audit but probably not enough. It ought to be the canvass board managing this audit to provide necessary independence.	official v. citizen	1
Page 86: [S222]	Manual counting and comparison required-not just "verify".	clarity	1
Page 86: [S223]	Specific reference to the election audit report that is required by statute of all county canvass boards and was performed by them for one or two elections after the language was added to law. I worked with John Hershey on this language.	follow the law	1
Page 86: [S224]	Comparing the vote totals is a better description.	clarity	1
Page 86: [S225]	Terminology problem here. This terminology deserves a definition and application to each vendors vocabulary.	clarity	1
Page 86: [S226]	Unnecessary word "along"	clarity	1
Page 87: [S227]	Broadened the actor from DEO to officials for conducting the audit. Ideally it would be the canvass board-the entity with some independence.	quality	1
Page 87: [S228]	A more precise description.	clarity	1
Page 87: [S229]	This makes the comparison clear, as with the previous similar language.	clarity	1
Page 87: [S230]	This is only ok if it means the election official is not in charge of the audit. However, other references suggest that clerk control was the intention. Worse it appears that the reference to the clerk is to make sure the clerk can do more than just "obse	official v. citizen	1
Page 87: [S231]	This is the standard against which the machine is to be compared for the audit. A mark that could not be detected by machine creates a discrepancy that the audit is intended to pick up. Thus a discrepancy is something the audit would accept as normal and	clarity	1
Page 87: [S232]	More explanation of some ways to find voter intent.	clarity	1
Page 87: [S233]	This citation is only a brief portion of the statutory description of the canvass board duties, and excludes duties listed in 1-7-514 for audit which must be included.	follow the law	1
Page 87: [S234]	I would have expected the rules to be more specific here about detailing the process the canvass board should take in response to 1-7-514. I am not going to write up that extrapolation of the statute but it is clearly needed.	follow the law	1
Page 88: [S235]	There is no definition of this term "cast". Confidentiality is not called for and will in fact hide failures to protect anonymity.	clarity	1
Page 88: [S236]	If the SOS recommended method of recount in place of audit is used, this will tell us what percentage of ballots were sampled.	quality	1
Page 88: [S237]	"vote tally" is more technically correct. Count of contests could be taken to mean what it says ie. one or two, etc	clarity	1
Page 88: [S238]	"races" is not defined and incorrect.	no brainer	1
Page 88: [S239]	Inclusion of under and over makes the audit much more effective.	quality	2
Page 88: [S240]	Under and over allow for full balancing of the audited ballots.	quality	2

Page 88: [S241]	Contests is correct instead of races. Races is not defined and incorrect.	no brainer	1
Page 88: [S242]	Ditto the previous three comments.	quality	1
Page 88: [S243]	It makes sense for the rules not to ignore this part of statute.	quality	1
Page 88: [S244]	Presumably redundant when DEO is on canvass board as required.	clarity	2
Page 90: [S245]	To be reasonably specific.	clarity	3
Page 90: [S246]	7 days before election day is way too late for this escrow. Vote tabulation might begin 15 days before election day (and that is a dangerous mistake for integrity).	quality	3
Page 90: [S247]	Surely this didn't mean 7 days before election day. Is the intention so the SOS can check the election setup records? If so it must happen before the results of counting are irrevocable.	quality	3
Page 91: [S248]	This is far too all encompassing and harmful to public access and should be deleted. At most it can say that intellectual property included in any escrow that is legally privately owned and properly protected shall be kept confidential.	quality	1
Page 93: [S249]	I doubt this makes sense at this point, although I think it is consistent with current statute.	question	3
Page 94: [S250]	I inserted a version of the original definition of electronic voting device, but added the word "captured". I am not sure what the original intention of the definition is, or what the intended scope of this paragraph is. Is it to include optical scanners?	clarity	2
Page 96: [S251]	Either use my definition of "the election" or change this to "election day" or something more appropriate.	no brainer	2
Page 96: [S252]	Somewhere "election night" should be defined.	clarity	2
Page 102: [S253]	Contrary to other testimony I believe this is reasonable if the training is created in English and Spanish	quality	3
Page 102: [S254]	Spanish training required as an option to the circulator.	quality	3
Page 119: [S255]	This issue is not pertaining only to UOCAVA and therefore may need to be placed also elsewhere in the rules.	clarity	3
Page 119: [S256]	This seems unworkable. By the time the SOS knows about a late arriving ballot, the county may have finished tabulation of all but fewer than ten, so the county must hold back ten voted ballots for every ballot style in order to serve this function.	quality	1
Page 119: [S257]	This time period should be specified	clarity	2
Page 119: [S258]	"election day" not election.	no brainer	1
Page 119: [S259]	Here is an open door for non-uniformity... shouldn't it be closed?	quality	2
Page 119: [S260]	To allow a few hours to make the list and send it.	quality	2
Page 120: [S261]	This has the unfortunate property of making these electors special-unreachable by campaigns. A solution for this should be found.	question	3
Page 122: [S262]	Here for the first time we see the word employee instead of election judge or election official. Perhaps this should be changed. What oversight is provided over this part of the election?	official v. citizen	1
Page 122: [S263]	Here is the county clerk verifying the signature. This process should be examined as it relates to the handling of all other signature checks and made as similar as possible as well as considering voter privacy. This signature check must be subject to oves	quality	2
Page 122: [S264]	How is electronic ballot delivery system defined and tested and documented and overseen in operation. This is a system that escapes the other checks and balances provided in these rules. This is of great concern.	question	1
Page 122: [S265]	Crs 1-8.3-113 expects the SOS rules to spell out these limitations but as we can see it does not do so. This is very disappointing. There are two areas of major concern, one is the statement about using electronic methods only when another more secure me	follow the law	1
Page 123: [S266]	This protects the anonymity of the ballot contained within the affidavit.	quality	1
Page 123: [S267]	It is the affidavit that is unique to the provisional voter, not the ballot.	clarity	1
Page 123: [S268]	This is the way to solve anonymity of the provisional ballot-once it is to be counted the privacy violating "provisional" mark is removed with the stub.	quality	3
Page 123: [S269]	See above comment.	quality	3

Page 123: [S270]	I am unclear if “mail” and “in-person” ballots have definitions that clearly separate them or include them with UOCAVA and emergency ballots. Are provisional ballots not “in-person” ballots too?	question	3
Page 123: [S271]	See the following comment.	question	2
Page 124: [S272]	This is a bizarre limitation and creates a huge dependence on the presumed accuracy of SCORE that is in no way justified. It also insults the citizen whose eligibility is being questioned, who apparently has the burden of providing all the necessary infor	quality	2
Page 124: [S273]	One of the easiest mistakes to make in provisional processing is to fail to find an eligible voter in SCORE by failing to look hard enough. Rules must state exactly what the minimum level of effort and number of independent attempts must be made by separa	quality	2
Page 124: [S274]	What does “cast” mean to a provisional elector? Have they not “cast” the ballot when signing the provisional affidavit?	clarity	2
Page 124: [S275]	Will the rule above prevent the use of state records of signature or local signature cards to determine the signature match?	question	2
Page 124: [S276]	In answer to my above question, here we see that the provisional elector has “cast” the ballot by using an affidavit.	clarity	3
Page 125: [S277]	Making this a county clerk role is another example of centralized non-citizen control of the election.	official v. citizen	3
Page 126: [S278]	This looks highly problematic. If it is one of many districts on the ballot that the voter resides outside of, that is not grounds for not counting the ballot at least for all districts that do include the permanent residence address. It is arguable that	follow the law	1
Page 126: [S279]	This apparently needs to be mentioned here.	clarity	2
Page 126: [S280]	The recount rule should be mentioned	clarity	2
Page 126: [S281]	This is essential to protect voter privacy via ballot anonymity.	quality	3
Page 127: [S282]	Provisional ballots may be used at any time VSPC polling is underway, and electors deserve a chance to test their access before they attempt to vote.	quality	2
Page 127: [S283]	To adhere to this rule, stubs must be on all pages of the ballot and the stub numbers must be checked on removal of the secrecy sleeve from the envelope. This is however a best practice and should be enshrined in the SOS election rules. But it isn't. Pl	question	3
Page 128: [S284]	No, there are multiple days on which ballots are counted starting from 15 days before election day and running until certification.	no brainer	1
Page 128: [S285]	“race or ballot measure” could be replaced by contest as I have defined it.	clarity	2
Page 128: [S286]	Ditto	clarity	2
Page 128: [S287]	Are “blank ballots” to be separately accounted for and reported? Apparently so.	question	3
Page 128: [S288]	Its not the ballot that is overvoted but one or more contests.	clarity	2
Page 128: [S289]	This “central counting center is undefined and therefore dangerous to deliver to.	clarity	2
Page 128: [S290]	Secure container is not enough. This has little to do with voter intent except that the voting system may not have any other record of this voter intent as a back up-therefore security is extra important.	clarity	1
Page 128: [S291]	Some ballots might be inserted into the scanner even as damaged, but that must not be the case with the non-anonymous ballots. Also ballots containing indications of voter intent that cannot by design be captured by the voting system must be duplicated.	quality	1
Page 129: [S292]	These ballots are not to be sorted by the equipment until after duplication.	clarity	1
Page 129: [S293]	Only two is too restrictive especially if there are three major parties.	quality	1
Page 129: [S294]	“be” is a bit overly restrictive.	clarity	3
Page 129: [S295]	If witnesses are distinct from “watchers” then more rules must be promulgated for them. I would use the phrase “watchers” and get the advantage of all the watcher rules and statutes. Otherwise there is no way for witnesses to be selected.	clarity	1
Page 129: [S296]	Somehow we have to separate the ballots for in-person voting with the ballots in central count, without having clear definitional distinction.	clarity	3

Page 129: [S297]	Updated to new terminology and recognizing that there is no precinct judge or precinct location, still the reconciliation can be done for the source of the ballots being tabulated and resolved.	1303	1
Page 130: [S298]	This was the reason for the original definition of blank ballot-but this is a much clearer way to handle this so that we don't see already voted ballots given to voters. Blank ballots are the ones to be given to voters.	clarity	1
Page 130: [S299]	There is no reason to suggest post voter marking here.	clarity	3
Page 130: [S300]	"Assigned write-in board" is another unregulated phrase.. with no accountability or means for appointment. Resolution board makes sense here.	clarity	1
Page 130: [S301]	Putting the tense correctly here avoids an implication that post voter marking is ok. Voter intent is the most important criterion, not the ability of the voting system to capture the voter intent. Note this means that written instructions expressing vote	clarity	2
Page 130: [S302]	"Force" is an inappropriate word here.	clarity	1
Page 130: [S303]	This is simply a mistake-	no brainer	1
Page 130: [S304]	This spells out what needs to be done to count the write-in votes for which the oval is not marked-but all candidates deserve the same treatment in the contest in case of any errors made in machine detection of votes for any of the candidates.	clarity	1
Page 130: [S305]	The placement of a number and phrase "duplicate" on the ballot duplicated to achieve anonymity is counterproductive.	quality	1
Page 131: [S306]	"DUPLICATING TEAM" is not defined or regulated. Resolution board is a correct replacement. Resolution of voter intent is required during this function and watcher witnesses are required.	clarity	1
Page 131: [S307]	Numbering the duplicate ballot intended to be separated from the original for anonymity reasons would be counterproductive.	quality	1
Page 132: [S308]	This rule violates the principle of primacy of voter intent. Consistency is a property of a machine, not a human voter or resolution board. But if this rule must be maintained here is a better way to write it-"Except that if a voter inconsistently follows	clarity	1
Page 132: [S309]	Note that this requires marking of the write-in target for the resolution board to see it before a recount.	question	3
Page 132: [S310]	This spells out what needs to be done to count the write-in votes for which the oval is not marked-but all candidates deserve the same treatment in the contest in case of any errors made in machine detection of votes for any of the candidates.	quality	1
Page 133: [S311]	These rules must also work for municipal, special district and school district designated election officials.	follow the law	1
Page 137: [S312]	Why was this change made?	question	2
Page 137: [S313]	Just protecting the slot is not enough.	quality	2
Page 138: [S314]	Just protecting the slot is not enough.	quality	2
Page 139: [S315]	Placing seals without a remedy when the seals are broken does not make sense.	quality	2
Page 139: [S316]	Is the word "employee" no longer defined? Is this a security loophole that needs to be closed? What about "emergency personnel" and who are they?	question	3
Page 140: [S317]	Election management software is not defined.	clarity	3
Page 140: [S318]	These locations-computer room and preparation room are not defined.	clarity	3
Page 140: [S319]	Curious that in the security section, instead of "election officials" or "clerk" it is only the "county" that has responsibility for security tools such as passwords. I would make this the most carefully specific section, with very specific roles that can	clarity	3
Page 141: [S320]	Useful to check what is a voting system component. This is a good rule.	quality	1
Page 141: [S321]	What is the vote tally software? This should be deleted or better defined. Note that the certification caveat has been removed.	clarity	1
Page 143: [S322]	Note the use of "the election" several times in this section.	no brainer	2
Page 143: [S323]	To avoid confusing use of the word "contest"	clarity	2
Page 144: [S324]	Without lighting, the video is useless.	quality	1

Page 144: [S325]	Election day seals has no meaning.	clarity	1
Page 148: [S326]	I would use the word "blank" ballots here instead of "unvoted" that is not defined. Sorry to say, all this chain of custody control of the blank ballots at polling locations is absurd when compared to the total lack of control over the ballots sent by mail	clarity	1
Page 149: [S327]	What happened to concern for security of electronic pollbook and devices that access SCORE?	question	1
Page 154: [S328]	Voters are not anonymous.	clarity	1
Page 154: [S329]	County?	clarity	2
Page 154: [S330]	Ditto	clarity	2
Page 155: [S331]	Ditto... Should we define "county" as "county clerk"?	clarity	2
Page 155: [S332]	Ditto	clarity	2
Page 155: [S333]	Ditto	clarity	2
Page 155: [S334]	Ditto	clarity	2
Page 155: [S335]	Ditto	clarity	2
Page 155: [S336]	Ditto	clarity	2
Page 155: [S337]	Ditto	clarity	2
Page 155: [S338]	Describe what It is	clarity	2
Page 155: [S339]	Ditto	clarity	2
Page 155: [S340]	Not just in the county	clarity	2
Page 155: [S341]	County?	clarity	2
Page 155: [S342]	"tally software" is not defined..	clarity	2
Page 155: [S343]	County again.	clarity	2
Page 156: [S344]	Very weak use of terminology for key actors considering this is the security section of the rules.	clarity	2
Page 156: [S345]	One more.	clarity	2
Page 156: [S346]	Not just races.	clarity	2
Page 156: [S347]	Not just results but a report of process.	follow the law	1
Page 156: [S348]	To be clear, it is not just a random selection but an actual audit of other devices.	clarity	1
Page 157: [S349]	County?	clarity	2
Page 159: [S350]	Is this a defined single piece of equipment? Hard to believe.	question	1
Page 159: [S351]	This seems insufficient for security and problematic.	quality	1
Page 160: [S352]	Trying to clearly describe a cast vote record and not a photographic image.	clarity	3
Page 160: [S353]	Either source is possible.	clarity	3
Page 160: [S354]	New and different definition for a scanned photographic image of a ballot.	clarity	3
Page 160: [S355]	This is a rewrite of the definition of a BMD. For HAVA compliance both steps are required. Voter verification happens when the paper ballot is read and verified, notwhen the content on the screen is verified. This is of crucial importance and the origin	clarity	3
Page 160: [S356]	Not necessary.	clarity	3
Page 160: [S357]	Ditto	clarity	3
Page 160: [S358]	Clarification	clarity	3
Page 161: [S359]	This definition needed improvement but I left the structure the same.	clarity	3
Page 162: [S360]	This is how we achieve accountability for SOS actions. Under the circumstances.	quality	3
Page 173: [S361]	Description improved... too much concentration on touch screen that isn't a particularly beneficial technology for the disability community.	clarity	3
Page 173: [S362]	Confidentiality of the choices is not desirable as this prevents tabulation and auditing. The problem is in the use of the possessive form voters'-this implies a violation of the CO constitution. The choices must not be identifiable, not to election of	quality	3
Page 173: [S363]	The locks are to prevent stealing or ballot stuffing, not to hide violations of constitutional anonymity.	clarity	3

Page 173: [S364]	Restated in a manner to clarify what the problem and solution are. This rule is violated by the VVPAT order that can be used to reveal identity in relation to voter intent.This is one primary reason why the DRE is not preferred and the ballot marking devi	clarity	3
Page 174: [S365]	Are we kidding here? What does this intend to say? It actually says nothing.	question	3
Page 176: [S366]	Tense of "ballot" wrong and contests more correct than races.	clarity	2
Page 176: [S367]	Ditto	clarity	2
Page 178: [S368]	Rule 45 seems to be drastically eviscerated in this rule proposal. What about this terribly vague but crucial requirement?	question	3
Page 182: [S369]	Among many other event that need to be logged.	quality	3
Page 184: [S370]	??? really?	question	3
Page 184: [S371]	Ditto. Shocking.	question	3
Page 189: [S372]	Here I see ballot image and cast vote record as presumably different things. But this is contrary to the definition. What constitutes authentication and validation? Shouldn't this rule be specifying what those mean?	clarity	3
Page 191: [S373]	Is this allowed?	question	3
Page 194: [S374]	This barcode and its potential use are problematic. If it is to help know what the voter verified, it will not suffice.	quality	3
Page 194: [S375]	If I recall correctly CO does not allow provisional ballots on DRE. And this paragraph looks like a potential privacy problem.	follow the law	1
Page 208: [S376]	Former rule 45 has been utterly gutted to remove practices intended to maintain integrity. With voting systems going more electronic, more centralized, more technical and less exposed to the public, how can this reduction in oversight possibly be seen to	question	3
Page 209: [S377]	Clerks ok sources, public not? Election judges,canvas boards not?	official v. citizen	1
no brainer	40		
questions	23		
quality	99		
clarity	154		
follow the law	27		
official v. citizen	25		
1303	9		

**Revised Draft of Proposed Rules**

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

**September 26, 2013**

**Disclaimer:**

The proposed draft rules have changed. This draft supersedes the Preliminary Draft that was issued with the Notice of Proposed Rulemaking on August 30, 2013. These revised proposed rules will be considered at the October 1, 2013 rulemaking hearing.

In accordance with the State Administrative Procedure Act, this revised copy of the proposed rules is made available to the public and posted on the Department of State's website.<sup>1</sup>

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
<del>Strikethrough</del>	Deletions
<i>[Italic blue font text]</i>	Annotations
Shading	Revisions to the August 30 <sup>th</sup> preliminary draft.

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*[Current 8 CCR 1505-1 is stricken in its entirety and re-codified as follows:]*

**Rule 1. Definitions**

1.1 ~~As used in these Rules and the "Uniform Election Code of 1992" unless the context otherwise requires, the following terms shall have the meanings indicated:~~

~~"District office of state concern" means any of the following offices: Member of the State Board of Education, Member of the Board of Regents of the University of Colorado, and Member of the Board of Directors of the Regional Transportation District.~~  
AS USED IN THESE RULES, UNLESS STATED OTHERWISE:

1.1.1 ~~"ACTIVE STATUS" OR "ACTIVE RECORD" MEANS THAT THE RECORD IS NOT MARKED INCOMPLETE, INACTIVE, OR CANCELLED. THERE ARE NO CONDITIONS OR RESTRICTIONS ON THE ELECTOR'S ELIGIBILITY OR REGISTRATION RECORD.~~

*[Relocated from 2.20.1 a, with amendments]*

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<sup>1</sup> Section 24-4-103(4)(a), C.R.S. (2012). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."



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~~ NO ONE HAS MADE ~~NO~~  
5 MARKS ~~IN~~  
6 ~~ANY VOTING POSITION, HAS MARKED WITH AN UNREADABLE MARKER, OR HAS~~  
7 ~~CONSISTENTLY MARKED OUTSIDE OF THE “READ” AREA OF THE SCANNER.~~

**Comment [S1]:** Blank ballot is most often used as the item to be delivered to electors for voting, therefore the original definition here is dangerous.

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~~ WAS NOT ELIGIBLE TO VOTE;
- 12 (B) ~~IS NOT REGISTERED TO VOTE~~ FAILED TO PROPERLY COMPLETE THE  
13 REGISTRATION UNDER SECTIONS 1-2-508 AND 1-2-509(3), C.R.S.; OR
- 14 (C) ~~HAS WITHDRAWN~~ WITHDREW HIS OR HER REGISTRATION.

15 *[Relocated from 2.20.1 b, with amendments]*

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

19 ~~*[Relocated from 41.1.1]*~~

20 1.1.6.1.1.5 “Canvass workers” means workers appointed or hired by the designated  
21 election official to assist in the preparation and conduct of the canvass.

22 *[Relocated from 41.1.2]*

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

26 *[Relocated from 11.1.1, with amendments]*

27 43.1.1 20.1.1 1.1.6 “Chain-of-custody log” means a written record that shows that the  
28 equipment and all associated data are secured according to ~~these~~ procedures  
29 OUTLINED IN RULE 20 and in the documented control of an ~~employee or deputized~~  
30 ~~election judge~~ ELECTION OFFICIAL through the entire time of ownership by the  
31 jurisdiction.

32 *[Relocated from 43.1.1, with amendments]*

~~“CONTEST” WHEN USED IN THE CONTEXT OF CONTENTS OF A BALLOT MEANS A EITHER A BALLOT MEASURE  
OR A CHOICE BETWEEN TWO OR MORE CANDIDATES FOR OFFICE THAT IS ALSO REFERRED TO AS A RACE.~~

**Comment [S2]:** This is a very often used word in the rules, and the word race is not elsewhere defined in rules.

1 ~~1.1.8~~ 1.1.7 “DAMAGED BALLOT” MEANS A BALLOT THAT IS TORN, BENT, ~~IMPROPERLY~~  
2 ~~MANUFACTURED~~, OR OTHERWISE  
3 MUTILATED OR RENDERED UNREADABLE, SO THAT IT CANNOT BE PROCESSED BY  
4 THE OPTICAL SCANNER BALLOT READER.

**Comment [S3]:** Damaged ballot can include a poorly printed ballot that cannot be read correctly by machine.

4 (A) DAMAGED BALLOTS INCLUDE ALL BALLOTS THAT CONTAIN A FOREIGN  
5 SUBSTANCE THAT COULD INTERFERE WITH THE OPTICAL SCAN MACHINE (I.E.,  
6 E.G. FOOD, DRINK, ETC.).

7 (B) DAMAGED BALLOTS ~~MAY~~ INCLUDE BALLOTS THAT ARE MARKED IN A  
8 MEDIUM OR MANNER OTHER THAN ~~THE MEDIUM~~ INDICATED IN THE BALLOT  
9 INSTRUCTIONS.

10 (C) DAMAGED BALLOTS INCLUDE BALLOTS THAT THE ELECTOR MARKED IN A  
11 WAY THAT WOULD DISCLOSE HIS OR HER IDENTITY.

12 *[Relocated from 27.1.3, with amendments]*

13 ~~1.1.9~~ 1.1.8 “DATA ENTRY COUNTY” MEANS A COUNTY USING AN ELECTION  
14 MANAGEMENT SYSTEM THAT EXPORTS A FILE TO BE DIRECTLY UPLOADED TO THE  
15 ELECTION NIGHT RESULTS SYSTEM.

16 ~~1.1.10~~ 1.1.9 “DESIGNATED ELECTION OFFICIAL,” ~~AS USED IN RULE 11,~~ INCLUDES THE  
17 DESIGNATED ELECTION OFFICIAL’S SWORN, DEPUTIZED ~~DESIGNEE~~.

**Comment [S4]:** Any form of designation must be signified in writing on a single easily identifiable document accessible to the public. See my general comments. This particular designation is especially dangerous and ought to require a public process of some kind with oversight. Note the power of “DEO” in CRS. Note the definition is no longer limited to Rule 11

18 ~~43.1.2~~ ~~20.1.2~~ 1.1.10 “DRE” “DIRECT RECORDING ELECTRONIC VOTING DEVICE” (DRE)  
19 means a ~~direct recording electronic voting device~~. A DRE is a voting device that  
20 VISUALLY DISPLAYS OR AUDIBLY PRESENTS ~~THE CONTENTS OF A BALLOT~~ AND RECORDS AN ELECTOR’S  
21 VOTES DIRECTLY INTO ELECTRONIC STORAGE ~~MEDIA~~. ~~records votes by means of a~~  
22 ~~ballot display provided with mechanical or electro-optical components or an audio~~  
23 ~~ballot that the voter can activate; that processes data by means of a computer~~  
24 ~~program; and that records voting data and ballot images in memory components~~  
25 ~~or other media. The device may produce a tabulation of the voting data stored in a~~  
26 ~~removable memory component and as printed copy. The device may also provide~~  
27 ~~a means for transmitting individual ballots or vote totals to a central location for~~  
28 ~~consolidating and reporting results from remote sites to the central location.~~

**Comment [S5]:** I am concerned about the effect of this definition, depending on the uses of it in the rest of the rules. For example, only “scanners” and “DRE” will be audited under this definition.

29 *[Relocated from 43.1.2, with amendments]*

30 ~~1.1.11~~ 1.1.11 “DUPLICATED BALLOT” MEANS A BALLOT FOR WHICH A TRUE COPY MUST BE  
31 MADE FOR THE BALLOT TO BE PROPERLY PROCESSED AND COUNTED BECAUSE OF  
32 DAMAGE, IMPROPER MARKING, ~~TO OBTAIN ANONYMITY OF THE BALLOT~~ OR ANY  
33 ISSUE THAT WOULD PREVENT A BALLOT  
34 TABULATING MACHINE FROM ACCURATELY COUNTING THE BALLOT.

**Comment [S6]:** To achieve anonymity is a very important reason for duplication and the policy of marking original and duplicate with the same number is problematic in that particular case.

34 *[Relocated from 27.1.4, with amendments]*

35 ~~1.1.12~~ 1.1.12 “ELECTION COMPLAINT” MEANS A COMPLAINT FILED WITH THE SECRETARY  
36 OF STATE UNDER ARTICLES 1 THROUGH 13 OF TITLE 1, C.R.S.

**Comment [S7]:** Note that there are election complaints filed with the canvass board and county clerk. These should not be confused or forgotten by this definition.

1 ~~1.1.14~~1.1.13 “ELECTION OFFICIAL” MEANS THE DESIGNATED ELECTION OFFICIAL, HIS OR  
2 HER DEPUTY OR DESIGNEE, ELECTION STAFF, SECRETARY OF STATE STAFF, AND  
3 ELECTION JUDGES.

**Comment [S8]:** This definition contrasts with the definition in CRS that includes the canvass board. Also the bulk removal of the phrase “election judge” or “judges” from the rules and replacement by “election officials” is very troubling and signifies a further distancing of citizens from their election. There is a good reason for election judges to be called out for special purposes but the current version of rules has mostly eliminated this distinction and special role of the “judges”.

4 ~~1.1.13~~1.1.14 “ELECTION SETUP RECORDS” MEANS THE ELECTRONIC RECORDS, OFTEN IN  
5 THE FORM OF A DATABASE OR A SET OF DATABASES, GENERATED BY ELECTION  
6 ~~TABULATION~~ SOFTWARE TO CREATE AND DEFINE BALLOTS, TABULATION  
7 INSTRUCTION, AND OTHER FUNCTIONS RELATED TO THE ELECTION.

8 *[Relocated from 11.1.2, with amendments]*

9 ~~1.1.14~~1.1.15 “ELECTION SOFTWARE” MEANS THE SOFTWARE FOR ELECTION EQUIPMENT  
10 OR COMPUTERS THAT CONTROLS ELECTION SETUP VOTE RECORDING, VOTE  
11 TABULATION, AND REPORTING.

12 *[Relocated from 11.1.4, with amendments]*

13 ~~1.1.15~~1.1.16 “ELECTRONIC BALLOT” MEANS A NON-PAPER BALLOT SUCH AS ON A TOUCH  
14 SCREEN OR THROUGH AUDIO FEEDBACK. AFTER A VOTER CASTS AN ELECTRONIC  
15 BALLOT, THE VOTER’S CHOICES MUST BE:

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

18 (B) DIGITALLY RECORDED AND COUNTED BY THE TOUCH SCREEN DEVICE;  
19 COMMONLY REFERRED TO AS A DIRECT RECORDING  
20 ELECTRONIC (DRE) DEVICE.

**Comment [S9]:** This definition of “electronic ballot” is not needed and may otherwise be counterproductive. It was very poorly worded in any case.

21 *[Relocated from 11.1.6, with amendments]*

22 ~~1.1.16~~1.1.17 “ELECTRONIC TRANSMISSION” MEANS:

23 (A) FOR THE PURPOSE OF SENDING AN UNVOTED BALLOT:

24 (1) TO A MILITARY OR OVERSEAS ELECTOR UNDER ARTICLE 8.3 OF TITLE  
25 1, C.R.S., ~~TO THE ELECTOR~~ FAX, EMAIL, OR ONLINE BALLOT  
26 DELIVERY.

27 (2) TO AN ELECTOR REQUESTING A REPLACEMENT FOR A MEDICAL  
28 EMERGENCY UNDER SECTION 1-7.5-115, C.R.S., FAX OR EMAIL.

29 (B) FOR THE PURPOSE OF RETURNING A VOTED BALLOT TO THE COUNTY CLERK  
30 ~~AND RECORDER~~ FAX AND OR EMAIL ONLY IF THE CONDITIONS OF CRS 1-8.3-113  
HAVE BEEN MET. [THESE RULES ARE DEFICIENT IN RESPONDING TO CRS 1-8.3-113 REQUIREMENTS.]

32 ~~1.1.17~~1.1.18 “ELECTRONIC VOTING DEVICE” MEANS A DEVICE BY WHICH VOTES ARE  
33 RECORDED ELECTRONICALLY, INCLUDING A TOUCH SCREEN SYSTEM.

**Comment [S10]:** This definition is not needed and would only be confusing if left in the rules.

1 *[Relocated from 11.1.7, with amendments]*

2 ~~1.1.18~~ 1.1.19 “FIRMWARE” MEANS COMPUTER PROGRAMS, STORED ON READ-ONLY  
3 MEMORY DEVICES OR OTHER ELECTRONIC CIRCUITRY IN VOTING DEVICES, THAT  
4 CONTROL THE BASIC OPERATION AND FUNCTION OF THOSE DEVICES.

5 *[Relocated from 11.1.8, with amendments]*

6 ~~1.1.19~~ 1.1.20 “HELP AMERICA VOTE ACT COMPLAINT” OR “HAVA COMPLAINT” MEANS  
7 A COMPLAINT FILED WITH THE SECRETARY OF STATE UNDER TITLE III OF THE HELP  
8 AMERICA VOTE ACT (HAVA) AND ARTICLE 1.5 OF TITLE 1, C.R.S.

9 ~~1.1.20~~ 1.1.21 “IMMEDIATE VOTING AREA” MEANS THE AREA THAT IS WITHIN SIX FEET OF  
10 THE VOTING EQUIPMENT, VOTING BOOTHS, AND THE BALLOT BOX WHILE A VOTER IS  
PRESENT FOR THE PURPOSE OF VOTING.

**Comment [S11]:** This caveat is needed to allow watching at locations where voter privacy is not at issue, and is consistent with the definition in CRS. Six feet is too far for watching at mail ballot processing, ballot duplication and verification of zero counts on DRE etc.

11 *[Relocated from 8.6.1, with amendments]*

12 ~~1.1.21~~ 1.1.22 “INACTIVE STATUS” MEANS A RESTRICTION A COUNTY CLERK AND  
13 ~~RECORDER~~ PLACES ON AN ELECTOR’S RECORD IF THE UNITED STATES POSTAL  
14 SERVICE RETURNS A MAIL BALLOT, VOTER INFORMATION CARD, OR CONFIRMATION  
15 CARD TO THE COUNTY ~~CLERK AND RECORDER~~ AS UNDELIVERABLE.

16 *[Relocated from 2.20.1 d, with amendments]*

17 ~~1.1.22~~ “LOGIC AND ACCURACY TEST” OR “LAT” MEANS A STEP-BY-STEP DOCUMENTED  
18 REVIEW OF A VOTING DEVICE’S ABILITY, PRIOR TO USE IN ANY ELECTION, TO  
19 ACCURATELY PRODUCE VOTER CHOICES FOR THE CANDIDATES AND BALLOT  
20 MEASURES IN AN ELECTION. THE LOGIC AND ACCURACY TEST MUST FULFILL THE  
21 REQUIREMENTS OF THE PUBLIC TEST DESCRIBED IN SECTION 1-7-509 (2), C.R.S.

22 *[Relocated from 11.1.9, with amendments]*

23 ~~1.1.23~~ 1.1.23 “MANUAL ENTRY COUNTY” MEANS A COUNTY THAT DOES NOT USE AN  
24 ELECTION MANAGEMENT SYSTEM TO EXPORT DATA TO THE ELECTION NIGHT  
25 RESULTS SYSTEM.

26 ~~1.1.24~~ 1.1.24 “MEDIA OBSERVER” MEANS AN OBSERVER WITH VALID AND CURRENT  
27 MEDIA CREDENTIALS.

28 *[Relocated from 8.1.3, with amendments]*

29 ~~1.1.25~~ 1.1.24 “OFFICIAL OBSERVER” MEANS EITHER AN OBSERVER APPOINTED BY THE  
30 SECRETARY OF STATE OR AN OBSERVER APPOINTED BY THE FEDERAL GOVERNMENT  
31 AND APPROVED BY THE SECRETARY OF STATE. OFFICIAL OBSERVERS MAY BE  
32 PRESENT IN ALL PHASES OF THE ELECTION PROCESS, BUT ARE SUBJECT TO RULES  
33 AND REGULATIONS AS PRESCRIBED BY THE SECRETARY OF STATE AND PERFORM  
34 DUTIES AS MAY BE ASSIGNED BY THE SECRETARY OF STATE.

2 ~~1.1.26~~ 1.1.25 “OVERVOTE” MEANS ~~A RACE OR BALLOT MEASURE AN INSTANCE~~ WHERE  
3 THE VOTER MARKED VOTES FOR MORE THAN THE MAXIMUM NUMBER OF  
4 CANDIDATES OR RESPONSES FOR A BALLOT MEASURE ALLOWED.

~~POLLING LOCATION MEANS A VOTER SERVICE AND POLLING CENTER (VSPC) OR AN ENVELOPE DROPOFF LOCATION.~~

5 *[Relocated from 27.1.6, with amendments]*

6 ~~1.1.27~~ 1.1.26 “QUALIFIED POLITICAL ORGANIZATION” MEANS AN ORGANIZATION THAT  
7 HAS PLACED A CANDIDATE FOR CONGRESSIONAL OR STATE OFFICE ON THE BALLOT  
8 IN A CONGRESSIONAL VACANCY OR GENERAL ELECTION, WHOSE OFFICERS HAVE  
9 FILED PROOF OF ORGANIZATION WITH THE SECRETARY OF STATE, AND THAT  
10 CONTINUES TO MEET THE REQUIREMENTS OF RULES 3.3 AND 3.4. [*BAER V. MEYER*,  
11 728 F.2D 47 (10TH CIR. 1984)]

12 *[Relocated from 3.1, with amendments]*

13 ~~1.1.28~~ 1.1.27 “RELATED TO THE SECOND DEGREE” MEANS SPOUSE, CIVIL UNION PARTNER,  
14 PARENTS, CHILDREN, BROTHERS AND SISTERS, GRANDPARENTS, AND  
15 GRANDCHILDREN RELATED BY BLOOD OR MARRIAGE.

16 *[Relocated from 42.10, with amendments]*

17 ~~43.1.4~~ ~~20.1.6~~ 1.1.28 “Removable card or cartridge” means ~~any~~ A programming card or  
18 cartridge, except a voter activation card, that stores firmware, software, or data.

19 *[Relocated from 43.1.4, with amendments]*

20 ~~1.1.29~~ 1.1.29 “SCORE” MEANS THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM  
21 AND THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST DESCRIBED IN  
22 PART 3 OF ARTICLE 2 OF TITLE 1.

23 ~~43.1.5~~ ~~20.1.7~~ 1.1.30 “Seal” means a serial-numbered tamper-evident device that  
24 indicates a seal is broken or removed, IF BROKEN OR MISSING, INDICATES THAT THE  
25 CHAIN OF CUSTODY IS BROKEN AND A DEVICE IS NOT SECURE.

26 *[Relocated from 43.1.5, with amendments]*

27 ~~1.1.30~~ 1.1.31 “Statement of Ballots Form” means the form used at the polling location  
28 that accounts for all ballots at that location and includes all information required  
29 by ~~this rule~~ RULE 10.

30 *[Relocated from 41.1.3, with amendments]*

31 ~~1.1.31~~ 1.1.32 “TARGET AREA” MEANS ~~≠~~

32(A) ~~THE SQUARE OR OVAL OPPOSITE THE CANDIDATE’S NAME OR BALLOT~~  
33 ~~RESPONSE ON A PAPER BALLOT; OR~~

**Comment [S12]:** Polling location is used often without definition and clearly shown to be different from just VSPC. I know it must include more than just VSPC. I’m not sure of other locations that should be included for example the location where ballots returned in signed sealed envelopes are counted. Note that VSPC is not defined in these rules.

1 (B) THE SQUARE, OVAL, INCOMPLETE LINE, OR INCOMPLETE ARROW OPPOSITE  
2 CORRESPONDING TO THE CANDIDATE'S NAME OR BALLOT RESPONSE  
3 (EXAMPLES: "YES", "NO", "FOR" OR "AGAINST") ON AN OPTICAL SCAN  
4 BALLOT A PAPER BALLOT.

5 *[Relocated from 27.1.8, with amendments]*

6 ~~38.1.2~~ ~~20.1.8~~ 1.1.33 "Teleprocessing lines" means secure, dedicated communication  
7 transmission facilities used for the purpose of transferring elector data between  
8 Vote Centers VOTER SERVICE AND POLLING CENTER and a centralized  
9 computerized pollbook maintained by the county clerk and recorder ACCESSING  
10 SCORE, to ensure the security and integrity of voting information so that no  
11 deviation can go undetected.

"THE ELECTION" USED AS A DATE CERTAIN MEANS THE LAST DAY OF VOTING AT A  
POLLING LOCATION ALSO SOMETIMES REFERRED TO AS ELECTION DAY.

**Comment [S13]:** There are many references to "the election" as a date as if everything happened on one day. This is no longer the case and while "election day" is still a useful phrase, it is losing its meaning since the passage of 1303.

13 ~~43.1.6~~ ~~20.1.9~~ 1.1.34 "Trusted build" means the write-once installation disk or disks for  
14 software and firmware for which the Secretary of State or his/her agent has  
15 established the chain of evidence to the building of a the disk(s), which is then  
16 used to establish and/or re-establish the chain of custody CHAIN-OF-CUSTODY of  
17 any component of a voting system that contains newly installed firmware or  
18 software. The trusted build is the origin of the chain of evidence for any software  
19 and firmware component of the voting system.

20 *[Relocated from 43.1.6, with amendments]*

21 ~~1.1.32~~ 1.1.35 "UNDERVOTE" MEANS A RACE OR BALLOT MEASURE AN INSTANCE WHERE  
22 THE VOTER MARKED VOTES FOR FEWER THAN THE MAXIMUM NUMBER OF  
23 CANDIDATES OR RESPONSES FOR A BALLOT MEASURE ALLOWED.

**Comment [S14]:** Ideally the definition of undervote also allows for counting the total number of "votes" so that the contest can be balanced to the number of ballots counted.

24 *[Relocated from 27.1.7, with amendments]*

25 ~~43.1.7~~ ~~20.1.10~~ 1.1.36 "Video security surveillance recording" means video monitoring  
26 by a device that continuously records a designated location or a system using  
27 motion detection that records one frame, or more, per minute until detection of  
28 motion triggers continuous recording.

29 *[Relocated from 43.1.7]*

30 ~~1.1.33~~ 1.1.37 "VOTING SYSTEM" AS DEFINED IN 1-1-104(50.8), C.R.S., MEANS:

31 (A) THE TOTAL COMBINATION OF MECHANICAL, ELECTROMECHANICAL, OR  
32 ELECTRONIC EQUIPMENT (INCLUDING THE SOFTWARE, FIRMWARE,  
33 PROCEDURES, AND DOCUMENTATION REQUIRED TO PROGRAM, CONTROL, AND SUPPORT THE  
34 EQUIPMENT) THAT IS USED TO:

**Comment [S15]:** It is helpful to recognize that as well as documentation, the procedures for use of equipment are part of the voting system and belong in the definition.

35 (1) DEFINE PRODUCE, DELIVER AND RETURN BALLOTS;

**Comment [S16]:** It must be obvious to everyone that Everyone Counts is part of the voting system as a means to deliver and mark and collect ballots from UOCAVA voters. Likewise ballot on demand must be considered part of the voting system.

- 1 (2) CAST, CAPTURE AND COUNT VOTES;
- 2 (3) REPORT OR DISPLAY ELECTION RESULTS; AND
- 3 (4) COLLECT, MAINTAIN AND PRODUCE ANY AUDIT TRAIL  
INFORMATION; AND (5) ASCERTAIN ELIGIBILITY TO VOTE
- 4 (B) THE PRACTICES AND ASSOCIATED DOCUMENTATION USED TO:
- 5 (1) IDENTIFY SYSTEM COMPONENTS AND VERSIONS OF SUCH  
6 COMPONENTS;
- 7 (2) TEST THE SYSTEM DURING ITS DEVELOPMENT AND MAINTENANCE;
- 8 (3) MAINTAIN RECORDS OF SYSTEM ERRORS AND DEFECTS;
- 9 (4) DETERMINE SPECIFIC SYSTEM CHANGES TO BE MADE TO A SYSTEM  
10 AFTER THE INITIAL QUALIFICATION OF THE SYSTEM; AND
- 11 (5) MAKE AVAILABLE ANY MATERIALS TO THE VOTER (SUCH AS  
12 NOTICES, INSTRUCTIONS, FORMS, OR PAPER BALLOTS).

**Comment [S17]:** To include ballot marking devices

**Comment [S18]:** This will include automatic signature comparison and envelope sorting equipment (included in the definition in the UVS RFP).

13 ~~(6C) "VOTING SYSTEM" AS DEFINED IN 1-1-104(50.8), C.R.S., DOES NOT~~  
14 ~~INCLUDE ANY OTHER COMPONENT OF ELECTION ADMINISTRATION, SUCH AS,~~  
15 ~~VOTER REGISTRATION APPLICATIONS OR SYSTEMS, ELECTRONIC~~  
16 ~~POLLBOOKS, BALLOT DELIVERY AND RETRIEVAL SYSTEMS, SIGNATURE~~  
17 ~~VERIFICATION AND BALLOT SORTING DEVICES, BALLOT ON DEMAND~~  
18 ~~PRINTERS, ELECTION NIGHT REPORTING AND OTHER ELECTION REPORTING~~  
19 ~~SYSTEMS, AND OTHER COMPONENTS USED THROUGHOUT THE ELECTION~~  
20 ~~PROCESS THAT DO NOT CAPTURE AND TABULATE VOTES.~~

**Comment [S19]:** This paragraph acts to eliminate provisions for security (e.g. 21.1.17), documentation requirements, and other important safeguards that would otherwise apply to the above components of the voting system. Therefore it should be deleted.

21 1.1.34 1.1.38 "VVPAT" HAS THE SAME MEANING AS IN SECTION 1-1-104 (50.6), C.R.S.

22 *[Relocated from 11.1.3, with amendments]*

23 1.1.35 1.1.39 "WATCHER" HAS THE SAME MEANING AS IN SECTION 1-1-104(51), C.R.S.  
24 ~~MEANS AN ELIGIBLE ELECTOR, OTHER THAN A CANDIDATE ON THE BALLOT,~~  
25 ~~SELECTED BY A POLITICAL PARTY CHAIRPERSON ON BEHALF OF THE POLITICAL~~  
26 ~~PARTY, BY A PARTY CANDIDATE AT A PRIMARY OR RECALL ELECTION, BY AN~~  
27 ~~UNAFFILIATED CANDIDATE AT A GENERAL, CONGRESSIONAL VACANCY,~~  
28 ~~NONPARTISAN, OR RECALL ELECTION, OR BY A PERSON DESIGNATED BY EITHER THE~~  
29 ~~OPPONENTS OR PROPONENTS IN THE CASE OF REGISTERED ISSUE COMMITTEE~~  
30 ~~SUPPORTING OR OPPOSING A BALLOT ISSUE OR BALLOT QUESTION. IF SELECTED BY A~~  
31 ~~POLITICAL PARTY CHAIRPERSON, A PARTY CANDIDATE, OR AN UNAFFILIATED~~  
32 ~~CANDIDATE, THE WATCHER MUST BE AFFILIATED WITH THAT POLITICAL PARTY OR~~  
33 ~~UNAFFILIATED AS SHOWN ON THE REGISTRATION BOOKS OF THE COUNTY CLERK~~  
34 ~~AND RECORDER.~~

- 35 (A) A WATCHER MAY BE APPOINTED FOR A RECALL ELECTION IN THE SAME

1 MANNER AS IN A PRIMARY ELECTION.

2 (B) FOR THE PURPOSE OF APPOINTING A WATCHER, THE PROPONENT OR  
3 OPPONENT OF A BALLOT ~~ISSUE OR BALLOT QUESTION MEASURE~~ MEANS A  
4 REGISTERED ISSUE COMMITTEE SUPPORTING OR OPPOSING THE BALLOT  
5 ~~ISSUE OR BALLOT QUESTION MEASURE.~~

6 (C) A DESIGNATED WATCHER NEED NOT BE A RESIDENT OF THE COUNTY HE OR  
7 SHE IS DESIGNATED IN AS LONG AS HE OR SHE IS AN ELIGIBLE ELECTOR IN  
8 THE STATE OF COLORADO. ~~[SECTION 1-1-104(51), C.R.S.]~~

9 *[Relocated from 8.9.1 and 8.1.2, with amendments]*

10 ~~1.1.36-1.1.40~~ "WRITE-IN VOTE" MEANS A VOTE WHERE THE VOTER PHYSICALLY WRITES  
11 IN THE NAME OF A ~~LEGALLY~~ QUALIFIED WRITE-IN CANDIDATE IN THE SPACE  
12 RESERVED ON THE BALLOT FOR WRITE-IN VOTES ~~AND PROPERLY MARKS THE~~  
13 ~~TARGET AREA ACCORDING TO VOTER INSTRUCTIONS.~~

**Comment [S20]:** Because the court determined that a write in without proper marking of the target area is a lawful vote, I would leave out the caveat about "properly marks..."

14 ~~1.1.37-1.1.41~~ "ZERO TAPE" MEANS A PRINTOUT OF THE INTERNAL DATA REGISTERS IN  
15 ELECTRONIC VOTE-TABULATING EQUIPMENT ~~ANTICIPATING INDICATING~~ A ~~VALUE OF ZERO~~ ZERO  
16 ~~VALUE BEFORE VOTING BEGINS ON THAT MACHINE AND USED TO VERIFY THAT THE~~  
17 ~~DEVICE IS PROPERLY INITIALIZED PRIOR TO TABULATION.~~

**Comment [S21]:** To define the "zero tape" at all is a mistake. It MUST be a standard election totals report that reads zero only if everything is correct. This original definition presumes the zeroes on the report. Please.

17 *[Relocated from 11.1.6, with amendments]*

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

19 ~~2.20.2.2.1~~ **Effect of voter registration status designation**

20 ~~a. 2.1.1~~ A COUNTY CLERK AND RECORDER MUST LIST THE NAME OF SEND A MAIL  
21 BALLOT TO EVERY active status or active record voters' ELECTOR names  
22 will appear on LISTED IN SCORE. the poll book POLLBOOK, they will be  
23 sent a ballot in AND SEND HIM OR HER a mail ballot election, and they will  
24 be sent election NOTICES. notice mailings.

25 ~~b. 2.1.2~~ A COUNTY CLERK AND RECORDER MUST ENSURE THAT THE NAME OF EVERY  
26 cancelled status or cancelled record voters' records will remain ELECTOR  
27 APPEARS in the statewide voter registration database however, SCORE  
28 BUT their names will not appear on the poll book POLLBOOK. They THE  
29 COUNTY CLERK AND RECORDER will MAY not be sent SEND a MAIL ballot in  
30 a mail ballot election, and they will not be sent OR election notice mailings  
31 NOTICES TO AN ELECTOR WHOSE RECORD IS LISTED AS CANCELLED IN  
32 SCORE ELECTORS.

33 ~~e. 2.1.3~~ Inactive failed to vote status voters STATUS ELECTORS are eligible voters  
34 their ELECTORS WHOSE names will appear on the poll book POLLBOOK and  
35 they will be sent election notice mailings BUT THE THE COUNTY CLERK  
36 AND RECORDER MAY NOT SEND A MAIL BALLOT TO AN ELECTOR WHOSE  
37 RECORD IS LISTED AS INACTIVE IN SCORE UNTIL THE ELECTOR UPDATES HIS



1 ~~OR HER REGISTRATION INFORMATION ELECTORS. Inactive — failed to vote~~  
2 ~~voters will be sent a ballot in a mail ballot election where specifically~~  
3 ~~required by sections 1-7.5-107 and 1-7.5-108.5(b), C.R.S.~~

4 ~~d. Inactive — returned mail status or inactive — undeliverable status voters are~~  
5 ~~eligible voters and their names will appear on the poll book. However,~~  
6 ~~they will not be sent ballots in a mail ballot election and they will not be~~  
7 ~~sent election notice mailings.~~

8 ~~e. Inactive — undeliverable ballot status voters are eligible voters and their~~  
9 ~~names will appear on the poll book. However, they will not be sent a~~  
10 ~~ballot in a mail ballot election and they will not be sent election notice~~  
11 ~~mailings.~~

12 ~~2.8~~ ~~2.2.2.1~~ Submission of voter registration forms

13 ~~2.2.1.2.1.1~~ ~~A~~ AN APPLICANT MAY SUBMIT A properly executed voter registration form  
14 ~~may be submitted~~ to the county clerk ~~and recorder~~ in person, by mail, by fax, by  
15 ~~online voter registration, or as a scanned~~ AN EMAIL attachment. ~~to an email.~~

16 ~~2.8.1~~ ~~2.2.2.2.1.2~~ All ~~voter registrations~~ APPLICATIONS submitted by mail, fax, or as a  
17 ~~PDF~~ AN EMAIL attachment ~~to an email shall be treated as~~ ARE mail registrations.  
18 [Section 1-2-501, C.R.S., ~~Election Rule 30.3~~]

19 ~~2.8.2~~ ~~2.2.3.2.1.3~~ If any portion of a MAIL APPLICATION ~~voter registration submitted~~  
20 ~~by “mail”~~ is illegible, the county clerk ~~and recorder~~ shall ~~shall~~ MUST notify the  
21 applicant of the additional information required in accordance with section 1-2-  
22 509, C.R.S.

23 ~~2.8.3~~ ~~2.2.4.2.1.4~~ For the purpose of submitting ~~voter registration~~ applications by  
24 fax, email, or online voter registration, close of business ~~shall be~~ IS 11:59pm MT.

25 ~~2.2.5.2.1.5~~ UNDER SECTION ~~1-5-509-1-2-508~~, C.R.S., THE EFFECTIVE DATE OF A VOTER  
26 REGISTRATION APPLICATION RECEIVED BY THE ~~SECRETARY~~ SECRETARY OF STATE  
27 STATE IS THE EARLIER OF THE DATE THE APPLICATION IS RECEIVED OR THE DATE OF  
28 THE LEGIBLE POSTMARK.

29 ~~2.2.6.2.1.6~~ IF A COUNTY CLERK ~~AND RECORDER~~ RECEIVES A PAPER VOTER  
30 REGISTRATION APPLICATION OTHER THAN IN-PERSON BETWEEN 21 AND 7 DAYS  
31 BEFORE ELECTION DAY, THE COUNTY CLERK MUST SEND THE APPLICANT  
32 NOTIFICATION BY REGULAR MAIL, OR EMAIL IF PROVIDED, WITHIN ONE BUSINESS  
33 DAY ~~AFTER RECEIVING THE APPLICATION STATING~~ THAT THE ~~APPLICANT IS~~  
34 ~~REGISTERED TO VOTE~~ APPLICATION IS RECEIVED BUT THE APPLICANT WILL NOT  
35 RECEIVE A BALLOT BY MAIL. THE NOTICE MUST STATE THAT, IF THE APPLICANT  
36 WISHES TO VOTE IN THE UPCOMING ELECTION, THE APPLICANT MUST ~~EITHER~~  
37 REGISTER.

1 (A) ~~ONLINE VIA~~ THROUGH THE ONLINE VOTER REGISTRATION SYSTEM ON OR  
2 BEFORE THE EIGHTH DAY BEFORE ELECTION DAY, OR

3 (B) ~~IN~~ IN-PERSON AT THE COUNTY CLERK'S AND RECORDER'S OFFICE OR AT A  
4 VOTER SERVICE AND POLLING CENTER THROUGH ELECTION DAY,  
5 ~~WHICHEVER IS APPLICABLE.~~

6 *[Current Rule 2.8 is amended and moved to new Rule 2.1. Amendments are shown above.*  
7 *Portions of current Rule 2.14 are included in new Rule 2.1.5.]*

8 ~~2.3.2.2~~ FOR THE PURPOSES OF PRECINCT CAUCUS LISTS AND REGISTRATION LISTS FOR MUNICIPAL  
9 OR SPECIAL DISTRICT ELECTIONS, THE ELECTOR'S LENGTH OF RESIDENCY REQUIREMENT IS  
10 BASED UPON THE DATE PROVIDED BY THE ELECTOR ON HIS OR HER APPLICATION.

11 ~~2.3.12.2.1~~ THE COUNTY CLERK AND RECORDER MUST ENTER THE DATE PROVIDED BY  
12 THE ELECTOR IN THE REGISTRATION RECORD MAINTAINED IN THE STATEWIDE  
13 VOTER REGISTRATION SYSTEM SCORE. [SECTIONS 1-3-101, AND 31-10-201, AND  
14 32-1-103(5), C.R.S.]

15 ~~2.3.22.2.2~~ IF THE ELECTOR SUBMITS AN APPLICATION AND DOES NOT INCLUDE THE  
16 DATE HE OR SHE MOVED, THE COUNTY CLERK MUST ENTER THE DATE THE  
17 APPLICATION IS RECEIVED OR POSTMARKED, WHICHEVER IS EARLIER, AS THE DATE  
18 MOVED. ~~BUT IF~~ IF THE ELECTOR SUBMITS THE APPLICATION DURING THE 22 DAYS  
19 BEFORE AN ELECTION AND DOES NOT PROVIDE THE DATE HE OR SHE MOVED, THE  
20 COUNTY CLERK MUST ENTER THE DATE MOVED AS THE 22ND DAY BEFORE THE  
21 ELECTION BASED UPON THE AFFIDAVIT.

22 ~~2.4.2.3~~ IDENTIFICATION REQUIRED FROM AN APPLICANT FOR VOTER REGISTRATION WHEN AN  
23 ELECTOR REGISTERS TO VOTE, THE ELECTOR MUST PROVIDE A VERIFIABLE DRIVER'S  
24 LICENSE OR STATE IDENTIFICATION CARD NUMBER, OR LAST FOUR DIGITS OF HIS OR HER  
25 SOCIAL SECURITY NUMBER. IF THE ELECTOR STATES THAT HE OR SHE DOES NOT HAVE A  
26 DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER, THE COUNTY CLERK MUST REGISTER THE  
27 ELECTOR AND MARK THE REGISTRATION RECORD "ID REQUIRED".

28 ~~2.4.1~~ AN APPLICANT FOR VOTER REGISTRATION MUST COMPLETE THE IDENTIFICATION  
29 NUMBER PORTION OF THE APPLICATION FOR VOTER REGISTRATION. ~~BUT AN~~  
30 APPLICANT REGISTERING TO VOTE IN PERSON IS NOT REQUIRED TO SHOW OR  
31 PRESENT A COLORADO DRIVER'S LICENSE OR ID IF HE OR SHE PROVIDES A  
32 VERIFIABLE DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER THAT VERIFIES IN  
33 SCORE.

34 (A) ~~IF THE APPLICANT CANNOT PROVIDE A VERIFIABLE DRIVER'S LICENSE OR~~  
35 ~~SOCIAL SECURITY NUMBER THAT VERIFIES IN SCORE, THE APPLICANT MUST~~  
36 ~~SHOW IDENTIFICATION UNDER SECTION 1-1-104(19.5), C.R.S., WHEN~~  
37 ~~REGISTERING TO VOTE, PROVIDE IDENTIFICATION WHEN VOTING IN PERSON,~~  
38 ~~OR PROVIDE A COPY OF IDENTIFICATION WHEN RETURNING THE MAIL~~  
39 ~~BALLOT.~~

1 ~~2.4.22.3.1~~ AS USED IN SECTION 1-1-104(19.5), C.R.S., GOVERNMENT DOCUMENT  
2 MEANS ~~ANY~~ A DOCUMENT ISSUED BY A ~~LOCAL, CITY, COUNTY,~~ STATE OR FEDERAL  
3 GOVERNMENT, ~~INCLUDING.~~

4 (A) A GOVERNMENT DOCUMENT INCLUDES:

5 ~~(B-1)~~ A CERTIFICATE OF DEGREE OF INDIAN OR ALASKAN NATIVE  
6 BLOOD;

7 ~~(C-2)~~ A LETTER FROM THE DIRECTOR OR ADMINISTRATOR OF A GROUP  
8 RESIDENTIAL FACILITY THAT INDICATES THAT THE ELECTOR IS A  
9 RESIDENT OF THE FACILITY AND THAT HE OR SHE RESIDES AT THE  
10 STREET ADDRESS LISTED IN ~~THE POLLBOOK SCORE;~~ OR

11 ~~(D-3)~~ A DIVISION OF YOUTH CORRECTIONS IDENTIFICATION CARD ISSUED  
12 BY DEPARTMENT OF HUMAN SERVICES.

13 (B) A GOVERNMENT DOCUMENT DOES NOT INCLUDE ANY DOCUMENT PRODUCED  
14 BY THE SCORE SYSTEM OR USING AN ADDRESS LABEL PRODUCED BY  
15 SCORE.

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

17 ~~2.4.32.3.3~~ AS USED IN SECTION 1-1-104(19.5)(A)(VII), C.R.S., CURRENT MEANS THAT  
18 THE 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 ~~2.4.4~~ A SUSPENDED DRIVER'S LICENSE IS CONSIDERED CURRENT AND VALID. A REVOKED  
22 OR EXPIRED LICENSE IS NOT CONSIDERED CURRENT AND VALID AND IS NOT  
23 ACCEPTABLE.

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 ~~2.7.2.5-2.4~~ Treatment of applications where the ~~ELECTOR FAILS TO PROVIDE~~ required information  
26 ~~was not provided~~

27 ~~2.7.1 2.5.12.4.1~~ If an applicant fails to check the box ~~(es)~~ answering the question  
28 ~~(s)~~, "Are you a citizen of the United States?" ~~or "Will you be 18 years of age on~~  
29 ~~or before election day?"~~, the COUNTY CLERK ~~AND RECORDER~~ MUST ACCEPT AND  
30 PROCESS THE ~~form shall be accepted for registration~~ APPLICATION AS COMPLETE so  
31 long as it is otherwise complete and the affirmation at the bottom of the form is  
32 signed.

33 ~~2.7.2 2.5.22.4.2~~ If an applicant ~~for voter registration~~ fails to complete the required  
34 identification portion of the form in accordance with section 1-2-204(2)(f.5) and  
35 (3)(c), C.R.S., ~~and rule 2.6.3,~~ the COUNTY CLERK MUST TREAT THE application  
36 ~~shall be treated~~ as INCOMPLETE. ~~"incomplete"; however,~~ BUT if the applicant

1 submits a photocopy of his/her HIS OR HER driver's license or identification card,  
2 then the county CLERK may MUST enter the ID number from the card into the  
3 applicant's record and consider PROCESS the application AS COMPLETE  
4 "complete".

5 ~~2.7.3~~ ~~2.5.3~~ ~~2.4.3~~ If an applicant for voter registration fails to provide a date of birth  
6 the COUNTY CLERK MUST TREAT THE application shall be treated as INCOMPLETE  
7 "incomplete"; however, BUT if the applicant submits a photocopy of his/her HIS  
8 OR HER driver's license or other approved form of ID which THAT includes the  
9 date of birth, then the county CLERK may MUST enter that information into the  
10 applicant's record and consider PROCESS the application AS COMPLETE  
11 "complete".

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

13 ~~2.10~~ ~~2.6~~ ~~2.5~~ Changes to an Elector's Voter Registration Record

14 ~~2.10.1~~ ~~2.6.12~~ ~~2.5.1~~ If an elector submits a change to his or her voter registration record  
15 that does not contain all of AND FAILS TO INCLUDE the information required by  
16 sections 1-2-216 or 1-2-219, C.R.S., the county clerk and recorder may MUST not  
17 make the requested change, unless the county clerk and recorder can confidently  
18 identify the voter, otherwise the THE county clerk and recorder shall MUST notify  
19 the voter what OF THE additional information THAT is required to process the  
20 request.

21 ~~2.10.2~~ ~~2.6.22~~ ~~2.5.2~~ If an elector submits a change to his or her voter registration record  
22 and writes or selects a name of an organization that is not a qualified political  
23 party or qualified political organization, or writes "none", the elector's affiliation  
24 shall MUST be recorded as "Unaffiliated".

25 ~~2.10.3~~ ~~2.6.32~~ ~~2.5.3~~ If an elector submits a change to his or her voter registration record  
26 and leaves the affiliation section blank, THE COUNTY CLERK MUST MAKE no change  
27 will be made to the voter's affiliation in the registration record.

28 ~~2.6.42~~ ~~2.5.4~~ WHEN THE COUNTY CLERK AND RECORDER PROVIDES A LIST OF ACTIVE  
29 ELIGIBLE ELECTORS TO A MUNICIPAL MUNICIPALITY OR SPECIAL DISTRICT FOR AN  
30 ELECTION NOT COORDINATED WITH THE COUNTY, THE COUNTY CLERK AND  
31 RECORDER MUST REQUEST THE DESIGNATED ELECTION OFFICIAL OF THE  
32 MUNICIPALITY OR SPECIAL DISTRICT PROVIDE THE VOTE HISTORY INFORMATION  
33 FOLLOWING THE ELECTION. WITHIN TEN DAYS AS SOON AS FEASIBLE AFTER  
34 RECEIVING THE INFORMATION, THE COUNTY CLERK MUST ACTIVATE VOTER  
35 RECORDS AND REMOVE THE ID REQUIRED FLAGS IN SCORE FROM THE RECORD OF  
36 EACH PERSON WHO VOTED, AS PROVIDED IN SECTION 1-2-605(4)(B), C.R.S.

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

38 ~~2.11~~ ~~2.7~~ ~~2.6~~ Changes to an elector's voter registration status.

1 ~~2.11.1~~ ~~2.7.1~~2.6.1 An elector may update his or her inactive registration status to  
2 active status by submitting:

- 3 (a) A signed written request, by mail, fax, or PDF attachment to an email;
- 4 (b) An online voter registration application; or
- 5 (c) An in-person request ~~with identification~~.

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

7 ~~2.11.2~~ ~~2.7.2~~2.6.2 If an elector is unable to sign, another person must witness the  
8 elector's mark. An elector may use a signature stamp because of age, disability, or  
9 other need. The stamp is treated as a signature and does not require a witness.

10 *[Current Rule 2.11 is amended and moved to new Rule 2.6. Amendments are shown above.]*

11 ~~2.21~~ ~~2.8~~2.7 Minimum matching criteria

12 ~~2.21.1~~ ~~2.8.1~~2.7.1 A record may ~~THE EXCEPT AS PROVIDED IN SECTION 1-2-302.5,~~  
13 ~~C.R.S., THE COUNTY CLERK AND RECORDER MUST not be transferred, consolidated,~~  
14 ~~or cancelled~~ TRANSFER, CONSOLIDATE, OR CANCEL A VOTER REGISTRATION  
15 RECORD unless the minimum matching criteria as set forth in sections 1-2-603 and  
16 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county  
17 CLERK MUST ~~may~~ send a letter to the voter requesting confirmation of the missing  
18 or non-matching information in order to transfer, consolidate, or cancel the  
19 record.

20 ~~2.21.2~~ ~~2.8.2~~2.7.2 For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this  
21 Rule a match of the name shall mean MEANS a match of the full name, except  
22 that the following shall be ARE sufficient to establish a match:

- 23 (a) Common variations and nicknames in the first or middle name, ~~i.e.~~ E.G.,  
24 Michael and Mike;
- 25 (b) Explainable and documented change of name, including last name, ~~i.e.~~  
26 E.G., maiden name and married name; and
- 27 (c) Explainable and documented variations in suffix, except that the absence  
28 of a suffix in one of the records shall IS not be considered a variation.  
29 Examples of suffix variations that must be explained include junior in one  
30 record and III in another.

31 ~~2.21.3~~ ~~2.8.3~~2.7.3 For the purpose of sections 1-2-603 and 1-2-604, C.R.S., and this  
32 Rule a match of the prior address shall mean MEANS a match of the residential  
33 street address.

1 ~~2.21.4~~ ~~2.8.42.7.4~~ The county clerk ~~and recorder~~ may use the DMV Motor Voter  
2 database to verify prior name or residence address history for the purpose of  
3 meeting the minimum matching criteria. The COUNTY CLERK MUST SCAN AND  
4 RETAIN THE information ~~gathered must be scanned and retained~~ in the elector's  
5 record ~~in order~~ to document how the criteria ~~was~~ WERE met.

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

7 ~~2.9.2.8~~ Registration of ~~Homeless Voters~~ ELECTORS WHO HAVE NO FIXED PERMANENT  
8 HOME

9 ~~2.9.12.8.1~~ For the purpose of voter registration residence ~~a homeless voter may~~ AN  
10 ELECTOR WHO HAS NO FIXED PERMANENT HOME MUST identify a specific location  
11 within a precinct that the ~~voter~~ APPLICANT considers his OR HER home base.

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

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

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

21 ~~2.9.22.8.2~~ If the home base does not include a mailing address, THE APPLICANT ~~then~~  
22 ~~the homeless voter~~ must provide a mailing address ~~pursuant to~~ IN ACCORDANCE  
23 WITH section 1-2-204(2)(f), C.R.S.

24 ~~2.9.32.8.3~~ A post office box or general delivery at a post office ~~shall not be deemed~~  
25 IS NOT a home base.

26 *[Current Rule 2.8 is amended as are shown above.]*

27 ~~2.10.2.9~~ A COUNTY CLERK ~~AND RECORDER~~ MAY CANCEL A REGISTRATION RECORD BASED  
28 UPON INFORMATION FROM A LOCAL LAW ENFORCEMENT ~~ONLY~~ AGENCY ONLY IF:

29 ~~2.10.1.2.9.1~~ THE INFORMATION STATES THAT THE INDIVIDUAL IS CURRENTLY SERVING A  
30 SENTENCE OF INCARCERATION OR PAROLE FOR A FELONY CONVICTION; AND

31 ~~2.10.2.2.9.2~~ MINIMUM MATCHING CRITERIA OUTLINED IN RULE ~~2.6.2.5~~ ARE MET.

32 ~~2.16~~ ~~2.11.2.10~~ An elector who has received notice that his or her application for registration may  
33 not be processed or whose registration was cancelled because his or her name was  
34 matched with a record bearing the same name, date of birth, and social security number  
35 in the databases provided by Colorado Department of Corrections or Colorado

1 Department of Public Health and Environment, and who believes that the match was  
2 erroneous, may request that his or her application be processed or registration be  
3 reinstated if he or she:

4 a. ~~2.11.1-2.10.1~~ Appears in person at the office of the county clerk ~~and recorder~~ and  
5 presents identification; or

6 b. ~~2.11.2-2.10.2~~ ~~Returns to the office of the county clerk and recorder a signed,~~  
7 ~~notarized, and dated~~ SUBMITS a statement TO THE COUNTY CLERK affirming that ~~he~~  
8 ~~or she~~ THE APPLICANT believes the match was in error. THE APPLICANT MUST  
9 INCLUDE HIS OR HER ~~This statement must contain the elector's~~ printed name,  
10 ~~residential~~ address ~~OF PERMANENT RESIDENCE~~, and date of birth ON THE SIGNED, AND-DATED, AND  
NOTARIZED  
11 STATEMENT.

**Comment [S22]:** The phrase "residential address" is used only twice within these rules changes where permanent address is the best term.

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

13 ~~2.17-2.12-2.11~~ 20-DAY APPLICANTS UNDER SECTION 1-2-509(3), C.R.S.

14 ~~2.12.1-2.11.1~~ When a county clerk ~~and recorder~~ deems an applicant "not registered"  
15 upon receipt of an undeliverable new voter notification in accordance with section  
16 1-2-509(3), C.R.S., the ~~applicant shall be mailed~~ COUNTY CLERK MUST MAIL a  
17 confirmation card ~~by forwardable mail~~. The confirmation card MUST MEET THE  
18 REQUIREMENTS OF SECTION 1-1-104(2.8), C.R.S. ~~shall have a postage prepaid~~  
19 ~~returnable portion that is preaddressed to the sending county clerk and recorder.~~

20 ~~2.17.1-2.12.2-2.11.2~~ If the county clerk and recorder receives a-APPLICANT RETURNS THE  
21 signed confirmation card within 90 days ~~from an applicant who was deemed "not~~  
22 ~~registered" in accordance with section 1-2-509(3), C.R.S., the applicant shall be~~  
23 ~~deemed registered as of the~~-THE COUNTY CLERK MUST REGISTER THE APPLICANT  
24 USING THE date of the original application.

25 ~~2.17.2~~ During the ~~28~~ days prior to an election, if an applicant who has been deemed "not  
26 registered" in accordance with section 1-2-509(3), C.R.S., completes a certificate  
27 of registration and presents identification in person at the office of the county  
28 clerk and recorder, the applicant shall be deemed registered as of the date of the  
29 original application.

30 ~~2.12.3-2.11.3~~ DURING THE 22 DAYS BEFORE AN ELECTION, THE COUNTY CLERK ~~AND~~  
31 ~~RECORDER~~ MUST DEFER PROCESSING UNDELIVERABLE ~~NEW VOTER~~-20-DAY  
32 NOTIFICATIONS. AFTER THE ELECTION IS CLOSED, THE CLERK MUST DEEM AN  
33 APPLICANT "NOT REGISTERED" UNDER SECTION 1-2-509(3), C.R.S., ONLY IF THE  
34 APPLICANT DID NOT VOTE IN THE ELECTION.

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

36 ~~2.4-2.13-2.12~~ Confidentiality of Agency in Voter Registration.—VOTER REGISTRATION  
37 CONFIDENTIALITY

1 ~~2.13.1~~2.12.1 INFORMATION ABOUT THE NAME AND LOCATION OF AN AGENCY FOR AN  
2 APPLICATION COMPLETED AT A VOTER REGISTRATION AGENCY OR DRIVER'S  
3 LICENSE OFFICE IS CONFIDENTIAL. [42 USC §§ 1973GG-3(c)(2)(D)(III)]

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

5 ~~2.13.2~~2.12.2 AN ELECTOR MAY REQUEST HIS OR HER VOTER REGISTRATION ADDRESS BE  
6 CONFIDENTIAL UNDER SECTION 24-72-204(3.5), C.R.S., IN PERSON.

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

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

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

13 ~~2.13.3~~2.12.3 REGISTRATION OF ADDRESS CONFIDENTIALITY PROGRAM (ACP) ELECTORS

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

16 (B) THE COUNTY CLERK ~~AND RECORDER~~ MUST:

17 (1) USE THE ACTUAL RESIDENCE ADDRESS OF THE ACP ELECTOR FOR  
18 PRECINCT DESIGNATION.

19 (2) USE THE SUBSTITUTE ADDRESS, AS DEFINED IN SECTION 24-30-  
20 2103(14), C.R.S., FOR ALL CORRESPONDENCE AND MAILINGS PLACED  
21 IN THE UNITED STATES MAIL.

22 (3) KEEP THE PARTICIPANT'S ADDRESS, COUNTY, AND VOTING PRECINCT  
23 AND SPLIT NUMBER CONFIDENTIAL FROM THE PUBLIC.

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

27 (D) EXCEPT AS SPECIFICALLY PROVIDED BY PART 21 OF ARTICLE 30 OF TITLE  
28 24, C.R.S., A PROGRAM PARTICIPANT'S ACTUAL ADDRESS AND TELEPHONE  
29 NUMBER IS NOT A PUBLIC RECORD UNDER PART 2 OF ARTICLE 72 OF TITLE  
30 24, C.R.S.

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

32 ~~2.18~~2.142.13 List Maintenance Pursuant to UNDER section 8 of the National Voter Registration  
33 Act of 1993



1 ~~2.18.1~~ ~~2.14.1~~ ~~2.13.1~~ When THE UNITED STATES POSTAL SERVICE RETURNS a voter  
2 ~~information card~~ A NEW VOTER NOTIFICATION or confirmation card is returned TO  
3 THE COUNTY CLERK as undeliverable, or PROVIDES THE CLERK WITH a postcard  
4 notice of mail forwarding ~~is provided by the United States Postal Service to the~~  
5 ~~county clerk and recorder~~, the county clerk ~~and recorder shall~~ MUST mark the  
6 voter's record "Inactive – returned mail" and ~~shall~~ mail a confirmation card.  
7 Where a confirmation card sent under this rule is returned as undeliverable, the  
8 county is not required to mail another card.

9 ~~2.18.2~~ ~~2.14.2~~ ~~2.13.2~~ National Change of Address (NCOA). ~~Counties may utilize the~~  
10 ~~NCOA to send mailings to electors who may have moved to request that the~~  
11 ~~electors update their voter registration records. However, no county may update~~  
12 ~~the registration address of any registration record or change the status of an~~  
13 ~~elector to "inactive" based solely upon the information provided by NCOA. THE~~  
14 ~~SECRETARY OF STATE WILL PROVIDE MONTHLY NATIONAL CHANGE OF ADDRESS~~  
15 ~~(NCOA) DATA UNDER SECTION 1-2-302.5, C.R.S., TO THE COUNTY CLERK BY THE~~  
16 ~~FIFTH OF EACH MONTH.~~

17 (A) THE COUNTY MUST PROCESS THE DATA TO UPDATE REGISTRATION RECORDS  
18 AND SEND NOTIFICATIONS IN ACCORDANCE WITH SECTION 1-2-302.5,  
19 C.R.S., BY THE END OF EACH MONTH.

20 (1) THE COUNTY MAY NOT AUTOMATICALLY UPDATE A VOTER  
21 REGISTRATION RECORD DURING THE 60 DAYS BEFORE ANY ELECTION  
22 CONDUCTED BY THE COUNTY CLERK ~~AND RECORDER~~ UNDER TITLE 1,  
23 C.R.S.

24 (2) IF THE NCOA DATA INDICATES THAT AN ELECTOR HAS MOVED OUT  
25 OF THE COUNTY OR STATE, THE RECORD IS MARKED INACTIVE, AND  
26 THE COUNTY HAS SENT A CONFIRMATION CARD UNDER SECTION 1-2-  
27 605, C.R.S., THE COUNTY IS NOT REQUIRED TO MAIL ANOTHER  
28 CONFIRMATION CARD.

29 (B) WHEN THE COUNTY UPDATES A VOTER REGISTRATION RECORD USING  
30 NCOA DATA, THE COUNTY MUST USE THE NCOA TRANSACTION SOURCE.

31 ~~2.18.3~~ ~~2.14.3~~ ~~2.13.3~~ In accordance with section 1-2-605(7), C.R.S., no later than 90 days  
32 following a General Election, the county clerk ~~and recorder~~ in each county shall  
33 MUST cancel ~~only~~ the registrations of electors who have met the following  
34 requirements:

35 a-(A) Whose records have been marked "Inactive – returned mail", "inactive  
36 INACTIVE – undeliverable", ~~or~~ "Inactive – undeliverable ballot", OR  
37 INACTIVE – NCOA";

38 b-(B) Who have been mailed a confirmation card; and

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

1 ~~2.14.4~~ 2.13.4 AN ELECTOR WHOSE REGISTRATION RECORD WAS CANCELLED DURING THE  
2 PREVIOUS SIX YEARS UNDER SECTION 1-2-605(7), C.R.S., AND ~~RULE 2.12.2~~ RULE  
3 2.11.2, MAY REQUEST REINSTATEMENT OF THE RECORD. THE ELECTOR MUST  
4 ~~PROVIDE PROOF~~ AFFIRM THAT HE OR SHE HAS CONTINUOUSLY RESIDED AT THE  
5 ADDRESS SHOWN ON THE REGISTRATION RECORD SINCE THE RECORD WAS  
6 CANCELLED.

7 ~~2.22~~ ~~2.14.5~~ 2.13.5 ~~Effective January 1, 2012, no~~ No county may consolidate or cancel  
8 duplicate records in accordance with section 1-2-604, C.R.S., within the period  
9 beginning 90 days ~~prior to~~ BEFORE a Primary or General Election.

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

11 ~~2.15~~ 2.14 VOTER REGISTRATION AT A VOTER SERVICE AND POLLING CENTER

12 ~~2.15.1~~ 2.14.1 A PERSON REGISTERING VOTERS OR UPDATING VOTER REGISTRATION  
13 INFORMATION IN A VOTER SERVICE AND POLLING CENTER MUST:

14 (A) BE A PERMANENT OR TEMPORARY COUNTY EMPLOYEE, ~~OR~~ STATE  
15 EMPLOYEE, OR TEMPORARY STAFF HIRED BY ~~OF~~ THE COUNTY CLERK AND  
16 RECORDER'S OFFICE;

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

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

24 ~~2.15.2~~ 2.14.2 THE PERSON REGISTERING VOTERS OR UPDATING VOTER REGISTRATION  
25 INFORMATION IN A VOTER SERVICE AND POLLING CENTER MUST VERBALLY  
26 CONFIRM EACH ELECTOR'S NAME AND ~~RESIDENTIAL ADDRESS~~ OF PERMANENT RESIDENCE.

27 ~~2.16~~ 2.15 VOTER REGISTRATION RECORDS AND DATA

28 ~~2.13~~ ~~2.16.1~~ 2.15.1 ~~Preservation of Voter Registration Records.~~ Notwithstanding the  
29 retention timelines specified in section 1-2-227, C.R.S., THE COUNTY CLERK AND  
30 RECORDER MAY DESTROY paper voter registration records ~~may be destroyed~~ as  
31 soon as they have been digitally recorded in the statewide voter registration  
32 database known as "SCORE". ~~Such records shall be retained.~~ THE STATEWIDE  
33 VOTER REGISTRATION SCORE SYSTEM MUST RETAIN DIGITAL IMAGES OF VOTER  
34 REGISTRATION APPLICATIONS in perpetuity in digital format by the voter  
35 registration database in accordance with Title 1, C.R.S. and this rule.

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

**Comment [S23]:** A concern here is that election judges are not included and there is no bipartisan check and balance built in to this process. Furthermore, citizen oversight of this process is unclear. Since same day registration and voting is now possible, instant oversight to protect against errors potentially of a partisan nature in registration is especially needed. This rule does not provide an assurance of oversight nor does the watcher rule protect oversight of the registration interaction. Are election judges even considered "temporary staff"? This is unclear.

**Comment [S24]:** Is "residential address" the same as the legal residence? The phrase is used only twice in this document for no apparent reason. Permanent residence is the phrase that us normally used.

1 ~~2.2~~ ~~2.16.2~~ ~~2.15.2~~ After a receipt of request, the fee for providing the information  
2 shall be determined. The fee must be paid prior to the request being filled.  
3 UNDER SECTION 24-21-104(3), C.R.S., THE SECRETARY OF STATE MUST CHARGE A  
4 FEE FOR VOTER INFORMATION REPORTS AND RELATED SERVICES. A REQUEST FOR  
5 ELECTIONS DATA MUST BE SUBMITTED USING THE ELECTIONS DATA REQUEST  
6 FORM. THE SECRETARY OF STATE WILL PROVIDE THE REQUESTED DATA AFTER  
7 PAYMENT OF THE FEE AS OUTLINED IN THE FEE SCHEDULE ON THE SECRETARY'S  
8 WEBSITE.

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

11 ~~49.3.2~~ ~~2.16.3~~ ~~2.15.3~~ The county clerk ~~and recorder~~ of each county may charge fees for  
12 county voter information reports and related services, such as the printing of  
13 labels provided by the centralized statewide registration system. ~~However,~~ BUT in  
14 accordance with federal requirements governing the use of federal funds, fees  
15 shall ~~MUST~~ not exceed county direct and indirect costs for providing such reports  
16 and services.

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

18 ~~49.2~~ ~~2.16.4~~ ~~2.15.4~~ Custodianship of Voter Registration Information

19 ~~49.2.1~~(A) The Secretary of State shall ~~be~~ IS the official custodian of the  
20 information contained in the centralized statewide registration system and  
21 the computerized statewide voter registration list created and maintained  
22 pursuant to UNDER section 1-2-301, C.R.S.

23 ~~49.2.2~~(B) ~~The EACH~~ county clerk ~~and recorder~~ for each county shall ~~be~~ IS the  
24 official custodian of the voter registration information only for electors  
25 within ~~that~~ HIS OR HER county.

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

27 ~~49.1~~ ~~2.17.2~~ ~~2.16~~ SCORE username and password administration

28 ~~49.1.1~~ ~~2.17.1~~ ~~2.16.1~~ The state user administrator shall ~~assign~~ ASSIGNS county USER  
29 administrator privileges to the individual designated in each county by the county  
30 clerk ~~and recorder~~. ~~49.1.1.1~~ The county clerk ~~and recorder~~ shall ~~MUST~~ submit ~~the~~  
31 A request for county USER administrator privilege to the state user administrator in  
32 writing. The request shall ~~MUST~~ specifically state the full name of the county  
33 employee that is being assigned as a county USER administrator.

34 ~~49.1.2~~ ~~2.17.2~~ ~~2.16.2~~ Each county may ~~have~~ IS LIMITED TO ~~ONE TWO~~ COUNTY USER  
35 administrators. ~~privileges assigned to no more than one (1) individual, except that~~  
36 ~~any~~ BUT A county clerk ~~and recorder~~ may apply to the Secretary of State for an  
37 additional county USER administrator.

1           ~~49.1.2.1~~(A) ~~Such~~THE application ~~shall~~MUST be submitted by the county clerk  
2           ~~and recorder~~ in writing to the state user administrator and ~~shall~~MUST state  
3           the name of the county employee for which county ~~USER~~ administrator  
4           privilege is being sought. The application ~~shall~~MUST also state the specific  
5           reasons the county clerk ~~and recorder~~ is requesting the additional ~~USER~~  
6           administrator.

7           ~~49.1.2.2~~(B) The state user administrator ~~shall~~WILL notify the county clerk ~~and~~  
8           ~~recorder~~ in writing whether the request is approved within five ~~(5)~~  
9           business days ~~from receipt of~~AFTER RECEIVING the application.

10          ~~49.1.3~~ ~~2.17.3~~ ~~2.16.3~~ The county ~~USER~~ administrator is responsible for security  
11          administration and ~~shall~~MUST assign all access privileges, as well as usernames  
12          and passwords for county employees and temporary election workers.

13          ~~49.1.3.1~~(A) For county employees, the county ~~USER~~ administrator ~~shall~~MUST  
14          assign a unique username in accordance with the naming conventions  
15          provided by the Secretary of State.

16          ~~49.1.3.2~~(B) Passwords ~~shall~~MUST be assigned by the county ~~USER~~  
17          administrator upon initial authorization and ~~shall~~MUST be changed by  
18          users and maintained confidentially.

19          ~~49.1.4~~ ~~2.17.4~~ ~~2.16.4~~ If a county employee or temporary election worker is no longer  
20          employed by the county, the county ~~USER~~ administrator ~~shall~~MUST IMMEDIATELY  
21          inactivate the username ~~within a reasonable timeframe, not to exceed one (1)~~  
22          ~~business week~~.

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

## 24          2.17 SCORE NETWORK SECURITY REQUIREMENTS

25          2.17.1 THE COUNTY CLERK MUST USE ONLY COUNTY-CONTROLLED NETWORKS WITH  
26          PROPER NETWORK SECURITY CONTROLS IN PLACE TO ACCESS SCORE. THE COUNTY  
27          MAY NEVER USE AN OPEN OR SHARED PUBLIC-USE NETWORK TO ACCESS SCORE.

28          (A) ALL WIRELESS NETWORKS MUST MEET THE FOLLOWING MINIMUM  
29          REQUIREMENTS:

30                  (1) WPA2 OR ABOVE SECURITY MUST BE ENABLED.

31                  (2) SHARED WIRELESS PASSWORDS OR SECRETS MUST BE CHANGED  
32                  EVERY THREE MONTHS, AT A MINIMUM.

33                  (3) WIRELESS KEYS MUST BE A MINIMUM OF 14 CHARACTERS IN LENGTH  
34                  AND MUST INCLUDE AT LEAST ONE NUMBER AND MIXED CASE  
35                  LETTERS.

1 (B) ALL NETWORKS MUST EMPLOY PROPER SECURITY CONTROLS TO ENSURE  
2 MALICIOUS USERS CANNOT CONNECT TO THE NETWORK, INTERCEPT SCORE  
3 COMMUNICATIONS, OR OTHERWISE ATTACK THE SCORE SYSTEM. THESE  
4 CONTROLS MUST INCLUDE, AT A MINIMUM, NETWORK FIREWALLS AND  
5 SECURELY CONFIGURED NETWORK EQUIPMENT TO PREVENT COMMON  
6 ATTACK MECHANISMS.

7 2.17.2 ALL ELECTION OFFICIALS WHO ACCESS THE SCORE SYSTEM MUST SIGN A SCORE  
8 ACCEPTABLE USE POLICY (AUP) BEFORE THE COUNTY PROVIDES A SCORE  
9 USERNAME.

10 (A) THE COUNTY CLERK, COUNTY SCORE USER-ADMINISTRATOR, AND COUNTY  
11 ELECTIONS IT MANAGER, IF APPLICABLE, MUST SUBMIT THEIR SIGNED AUP  
12 TO THE SECRETARY OF STATE.

13 (B) THE COUNTY CLERK MUST RETAIN THE AUP FOR EACH INDIVIDUAL WHO IS  
14 ASSIGNED A SCORE USERNAME.

15 (1) THE SECRETARY OF STATE WILL AUDIT THE COUNTY AUP RECORDS  
16 FOR EACH COUNTY SELECTED FOR ANNUAL INSPECTION OF ITS  
17 VOTING SYSTEM MAINTENANCE RECORDS UNDER RULE 20.8.5

18 (2) THE SECRETARY WILL SUSPEND ACCESS TO SCORE FOR ANY  
19 INDIVIDUAL WHOSE AUP IS NOT ON FILE WITH THE COUNTY CLERK.

20 **Rule 3. Rules Concerning Qualified Political Organizations**

21 ~~3.2.3.1 The required proof of organization, which may be filed at any time after organization,~~  
22 ~~shall include, but shall not be limited to:~~ A QUALIFIED POLITICAL ORGANIZATION, AS  
23 DEFINED IN RULE ~~1.1.1.1~~, MUST FILE PROOF OF ORGANIZATION WITH THE SECRETARY OF  
24 STATE. THE PROOF MUST INCLUDE, BUT IS NOT LIMITED TO:

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

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

34 ~~3.3.3.2 A qualified political organizations shall~~ ORGANIZATION MUST meet AT LEAST once a EACH  
35 CALENDAR year.

36 ~~3.3.1.3.2.1~~ DURING the meeting in the odd-numbered year, THE ORGANIZATION MUST  
37 ELECT ~~shall be held for the purpose of electing~~ a chairperson, vice-chairperson,

1 secretary, and other officers or committees ~~as shall be provided for in the by laws~~  
2 ~~on file with the Secretary of State~~ REQUIRED BY THE ORGANIZATION'S BYLAWS.

3 (a) ~~For new political organizations~~ IF THE POLITICAL ORGANIZATION IS A NEW  
4 ORGANIZATION, THE ORGANIZATION MUST HOLD this meeting ~~must take~~  
5 ~~place prior to~~ BEFORE placing a candidate on the ballot. ~~Therefore, this~~  
6 ~~meeting may occur~~ IN THIS INSTANCE, THE ORGANIZATION MAY HOLD THIS  
7 MEETING in an even-numbered year AND MAY SELECT CANDIDATES AS  
8 DESCRIBED IN RULE 3.3.3.

9 ~~3.3.2~~3.2.2 The ORGANIZATION'S chairperson and ~~the~~ secretary ~~shall~~ MUST file WITH  
10 THE SECRETARY OF STATE a full and complete list, under oath, of the persons  
11 elected or appointed ~~pursuant to Rule 3.2~~ UNDER THIS RULE 3.2, together with any  
12 amendments to the ~~by laws~~ BYLAWS adopted at the meeting.

13 ~~3.3.3~~3.2.3 DURING the meeting in the even-numbered year, THE ORGANIZATION MUST  
14 SELECT ~~shall be held for the purpose of selecting~~ candidates who ~~wish to use the~~  
15 ~~name of the political organization on petitions for~~ WILL ATTEMPT TO PETITION ON  
16 TO THE BALLOT FOR THE next general election.

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

20 ~~3.4.3~~3.3 TO REMAIN IN GOOD STANDING, a qualified political organization ~~shall~~ MUST place a  
21 candidate ~~or candidates~~ on the general election ballot every two years. A WRITE-IN  
22 CANDIDATE ALONE IS NOT SUFFICIENT TO MEET THIS REQUIREMENT.

23 ~~3.4.1~~3.3.1 ORGANIZATION candidates ~~wishing to represent a qualified political~~  
24 ~~organization on the general election ballot shall be placed in nomination by~~  
25 ~~nominating petition pursuant to~~ MUST BE NOMINATED IN ACCORDANCE WITH  
26 section 1-4-802, C.R.S.

27 ~~3.4.2~~3.3.2 Each petition ~~shall~~ MUST contain the name of one candidate and ~~shall have~~  
28 ~~attached~~ an affidavit signed under oath by the chairperson and secretary of the  
29 qualified political organization. The affidavit form ~~shall~~ MUST be approved by the  
30 Secretary of State. ~~and will include the date of the meetings required in Rule 3.3.~~

31 ~~3.4.3~~3.3.3 ~~For a candidate~~ To qualify for the ballot, ~~the~~ A candidate must have been  
32 affiliated with the qualified political organization for one year or, if the ~~political~~  
33 organization has not ~~previously~~ been qualified FOR ONE YEAR, the candidate must  
34 have been registered as unaffiliated for one year.

35 ~~3.4.4~~ Having the name of a candidate from the qualified political organization appear  
36 on the ballot by the use of the write in candidacy process ~~shall not be considered~~  
37 ~~as, nor meeting the requirements of, placing a qualified candidate on the general~~  
38 ~~election ballot.~~

1 ~~3.5-3.4~~ A political organization shall be qualified as soon as it THE SECRETARY OF STATE WILL  
2 QUALIFY A POLITICAL ORGANIZATION IF THE ORGANIZATION:

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

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

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

6 ~~3.6-3.5~~ Once a political organization becomes a qualified political organization, eligible electors  
7 shall be able to MAY register as affiliated AFFILIATE with the political organization.

8 ~~3.6.1~~ When an individual appears at any office or location for the purpose of voter  
9 registration, the questions asked and the information recorded shall be amended  
10 to reflect "political organization" affiliation.

11 ~~3.6.2~~ The opportunity to declare or change a political affiliation shall be provided  
12 exactly as the law provides for political parties in sections 1-2-204(2)(j) and 1-  
13 2-219, C.R.S.

14 ~~3.6.3~~ At any time a declaration or change in affiliation is requested, the same  
15 procedure shall be used for declaring a political party or political organization  
16 affiliation.

17 ~~3.6.4~~ In recording the information on the voter registration page, or affidavit, the  
18 affiliation with a political organization shall be listed by the name entry of the  
19 organization.

20 ~~3.6.5~~ In converting information on the voter registration page to lists, submissions for  
21 data entry, the Secretary of State's master voter registration list, etc., standard  
22 abbreviations shall be used and will be furnished to the county clerk and  
23 recorders by the Secretary of State.

24 ~~3.7-3.6~~ THE SECRETARY OF STATE WILL REVOKE THE QUALIFIED STATUS OF A political  
25 ~~organizations~~ ORGANIZATION IF THE ORGANIZATION DOES NOT FULLY COMPLY WITH RULES  
26 3.3 AND 3.4. shall lose their status as qualified political organizations by failing to do any  
27 one of the following:

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

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

32 ~~(c)~~ Place a candidate on a general election ballot through a nominating petition, meeting  
33 the requirements of Rule 3.4.

34 ~~3.8-3.7~~ IF the Secretary of State REVOKES THE QUALIFIED STATUS OF A POLITICAL ORGANIZATION,

1 THE SECRETARY will notify the county clerks and recorders by June 1 of each odd-  
2 numbered year of the loss of qualified status of a political organization. Upon receiving  
3 notification RECEIPT, the county clerk and recorders shall MUST mark on every affected  
4 voter registration record RECORDS AS “unaffiliated”, WHERE APPLICABLE.

5 ~~3.9-3.8~~ EXCEPT FOR THE PRECINCT CAUCUS LIST FURNISHED TO MAJOR POLITICAL PARTIES, A  
6 QUALIFIED POLITICAL ORGANIZATION MAY OBTAIN print-outs, lists, AND tapes, etc. of voter  
7 registration records shall be furnished to qualified political organizations at the same rate  
8 or cost as charged to political parties. The only exception to this provision shall be the  
9 list furnished to the major political parties prior to the statutory precinct caucus day.

10 ~~3.10-3.9~~ On all summary reports of voter registration by political party, the A VOTER  
11 REGISTRATION SUMMARY report shall list those registered with MUST INCLUDE major  
12 political parties, minor political parties, qualified political organizations, or as AND  
13 unaffiliated CATEGORIES.

14 ~~3.11~~ Electors, whose voter registration record shows affiliation with a qualified political  
15 organization and who appear to vote at a primary election, shall complete a Declaration  
16 of Party Affiliation, thus losing affiliation with the qualified political organization.

#### 17 Rule 4. COORDINATED ELECTIONS

##### 18 ~~6.1-4.1~~ Participation in coordinated elections.

19 ~~6.1.1-4.1.1~~ For elections where the electors do not need to be registered electors,  
20 political subdivisions may conduct their own elections and must coordinate with  
21 the coordinated election official any ballot issue notice required by Article X,  
22 Section 20 of the Colorado Constitution.

23 ~~6.1.2-4.1.2~~ The affected A COORDINATING political subdivision shall MUST enter into  
24 AN intergovernmental agreements AGREEMENT WITH THE COUNTY CLERK AND  
25 RECORDER which THAT delineate DELINEATES which tasks shall be ARE the  
26 responsibility of the designated election official of the political subdivision and  
27 which shall be ARE the responsibility of the eordinated election official  
28 COUNTY CLERK AND RECORDER.

##### 29 ~~6.2-4.2~~ Procedures for Coordinated Elections Involving Jurisdictions Shared by Multiple 30 Counties

31 ~~6.2.1-4.2.1~~ For each jurisdiction that is shared by multiple counties, a controlling  
32 county shall MUST be designated for the purpose of assigning and coordinating  
33 the ballot letter/number for the shared races, issues, and questions in  
34 coordinated elections.

35 ~~6.2.2-4.2.2~~ The controlling county shall be IS the county where the administrative  
36 office of the political subdivision is maintained at the time that the controlling  
37 county is designated.



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

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

7 ~~6.2.3~~ — Repealed.

8 ~~6.2.4~~ 4.2.3 The controlling county ~~shall~~ MUST coordinate with each county that shares  
9 the jurisdiction to assign the ballot number/letter in accordance with ~~Rule 6.5~~  
10 ~~4.5~~ no later than the date of ballot certification. All counties within the shared  
11 jurisdiction ~~shall~~ MUST ensure that the shared races, issues, and questions are  
12 printed on the ballot as certified by the Secretary of State or designated election  
13 official, and in the order assigned by the controlling county

14 ~~6.2.5~~ 4.2.4 If any controlling county fails to fulfill its responsibilities in accordance  
15 with this Rule, any of the other counties in the shared jurisdiction may make a  
16 written request to the Secretary of State to temporarily assume the duties of the  
17 controlling county. The Secretary of State ~~shall have the authority to~~ MAY act on  
18 behalf of the controlling county or to temporarily designate another county to  
19 act as the controlling county ~~in order to IMPLEMENT assure implementation of~~  
20 this Rule.

21 ~~6.3.4.3~~ Form of election for November coordinated elections.

22 ~~6.3.1~~ 4.3.1 The county clerk ~~and recorder~~ is the election official for coordinated  
23 elections ~~which are held in November of each year AND IS RESPONSIBLE FOR~~  
24 MAILING THE ARTICLE X, SECTION 20 BALLOT ISSUE NOTICE.

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

27 ~~(b) The county clerk and recorder shall not be required to conduct more than~~  
28 ~~one form of election unless he or she so chooses.~~

29 ~~6.3.2~~ — School districts that have the opportunity to participate in a coordinated election  
30 may not elect to hold separate mail ballot elections but must participate in the  
31 form of election chosen by the county clerk and recorder.

32 ~~21.1~~ 4.3.2 Placing measures on the ballot for coordinated odd-year elections.

33 ~~21.1.1~~ (A) For A statewide ~~elections~~ ELECTION, the Secretary of State MUST  
34 DETERMINE ~~shall be responsible for determining~~ whether ~~the~~ A proposed  
35 initiative is eligible to appear on an odd-year election ballot and WHETHER IT  
36 concerns state matters arising under Section 20 of Article X of the State  
37 Constitution.

1           ~~21.1.2~~(B) For ~~election concerning county or other political subdivision~~ ALL  
2           OTHER ELECTIONS, ~~if the election is held as a coordinated election each~~ THE  
3           political subdivision CONDUCTING THE ELECTION MUST ~~shall~~ determine  
4           whether the proposed initiative or referred measure is a local government  
5           matter arising under Section 20 of Article X of the State Constitution.

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

8    ~~6.4.4.4~~ Form of coordinated elections held other than in November.

9           ~~6.4.1.4.4.1~~ For all other elections where political subdivisions hold an election on the  
10           same day, the electors or boundaries overlap and ballot issues as defined in  
11           ~~Section~~ SECTION 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping  
12           jurisdictions, the governing bodies or the designated election officials of ~~such~~  
13           THE overlapping jurisdictions must name a coordinated election official who is  
14           responsible for assuring that the Article X, Section 20 notice is given.

15           ~~6.4.2.4.4.2~~ The political subdivisions may contract with the appropriate county clerk  
16           ~~and recorder~~ to be the coordinated election official.

17    ~~6.5.4.5~~ Determination of ballot issues and texts.

18           ~~6.5.1.4.5.1~~ Each political subdivision ~~shall~~ MUST prepare the list of candidates and the  
19           ballot title and text for ballot issues and ballot questions, as required by law.

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

22           (b) Political subdivisions may only require the coordinated election official to  
23           print the entire text of a ballot issue or ballot question on the ballot if ~~they~~  
24           ~~pay~~ THE POLITICAL SUBDIVISION pays for any additional cost associated with  
25           printing and if sufficient space is on the voting equipment to print the entire  
26           text given the other issues, questions, and candidates on the ballot. The  
27           coordinated election official ~~shall~~ MUST tell the political subdivision how  
28           much space is available for text for each position on the ballot. If the  
29           required ballot title and text is too long for the voting equipment, the  
30           coordinated election official may choose to conduct the election with a  
31           different form of ballot.

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

37           (d) For counties where election material is not required to be printed in  
38           languages other than English, the political subdivisions are not required to

1 provide translation of all election materials nor pay a pro-rata share of the  
2 printing costs unless they so agree.

3 ~~6.5.2-4.5.2~~ Each political subdivision ~~shall~~-MUST determine the order of the ballot  
4 issues for their political subdivision in accordance with the requirements of  
5 Colorado Constitution Article X, Section 20 and Title 1.

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

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

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

12 (1)- Referred measures to increase taxes;

13 (2)- Referred measures to retain excess revenues;

14 (3)- Referred measures to increase debt;

15 (4)- Other referred measures;

16 (5)- Initiatives to increase taxes;

17 (6)- Initiatives to retain excess revenues;

18 (7)- Initiatives to increase debt;

19 (8)- Other citizen petitions.

20 (d) For statewide measures, initiatives ~~shall~~-MUST be numbered in the order in  
21 which the statements of sufficiency are issued. The numbers one through  
22 five ~~shall~~-MUST be reserved for initiatives to increase taxes; the numbers six  
23 through ten ~~shall~~-MUST be reserved for initiatives to retain excess revenues;  
24 the numbers eleven through fifteen ~~shall~~-MUST be reserved for initiatives to  
25 increase debt; all other citizen petitions ~~shall~~-MUST be numbered  
26 consecutively beginning with sixteen.

27 (e) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or  
28 referred, every proposed change to the Colorado Constitution ~~shall~~-MUST be  
29 called an "amendment" and every proposed change to the Colorado Revised  
30 Statutes ~~shall~~-MUST be called a "proposition"

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

1 (1)- Each category of referred and initiated state amendments and  
2 propositions ~~shall~~-MUST be numbered and listed on the ballot in the  
3 following series:  
4

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

8 (2)- Each category of initiated local ballot issues and questions ~~shall~~-MUST  
9 be numbered in the following series:  
10

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

11 (3)- Each category of local referred ballot issues and questions ~~shall~~-MUST  
12 be designated by a letter or a number and a letter in the following  
13 series:  
14

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

15 (4)-Ballot questions and issues are numbered or lettered in the order in  
16 which the measures are certified to the ballot by the designated election  
17 official after the protest period has ended, or if a protest was filed after  
18 the protest has been completed.

19 (5)-For other than state issues, if a county has multiple cities ~~and~~-or

1 multiple discrete school districts and other political subdivisions, the  
2 designated election official may either further subdivide the series and  
3 assign each political subdivision a specific series of numbers, or when  
4 the ballot is certified the designated election official may assign the final  
5 numbers/OR letters, making sure that all measures for each political  
6 subdivision are grouped together.

7 (6).For other than state issues and questions, if the same ballot issue or  
8 question will be on the ballot in more than one county, the county clerks  
9 ~~shall~~ MUST confer with one another and ~~shall~~ MUST give the same ballot  
10 number or letter to the ballot issue or questions.

11 (7).Each ballot question or issue ~~shall~~ MUST contain the name of the political  
12 subdivision at the beginning of the ballot questions or issue. If the  
13 designated election official chooses, the name of the political  
14 subdivision may appear before the grouping of questions, such as State  
15 Ballot Questions, Arapahoe County Ballot Questions, City of Aurora  
16 Ballot Questions, etc.

17 4.6 CANDIDATE AUDIO RECORDINGS

18 ~~10.4.4.6.1~~ Candidates whose names are listed on a ballot A CANDIDATE FOR  
19 STATEWIDE OFFICE, THE GENERAL ASSEMBLY, CONGRESSIONAL OFFICE, REGENT,  
20 OR DISTRICT ATTORNEY must provide an audio recording of the pronunciation of  
21 their HIS OR HER name to the Secretary of State. prior to the election for offices  
22 that are voted on by the electors of the entire state, or of a congressional district,  
23 or for the offices of members of the general assembly or district attorney or a  
24 district office of state concern. THE CANDIDATE MUST RECORD HIS OR HER NAME  
25 EXACTLY AS IT APPEARS ON THE CANDIDATE ACCEPTANCE FORM, STATEMENT OF  
26 INTENT, OR DECLARATION OF INTENT TO RUN FOR RETENTION IN A JUDICIAL  
27 OFFICE, AS APPLICABLE, AND THE CANDIDATE MUST PROVIDE THE RECORDING TO  
28 THE SECRETARY OF STATE NO LATER THAN THE DEADLINE TO FILE THE  
29 CANDIDATE ACCEPTANCE FORM, STATEMENT OF INTENT, OR DECLARATION OF  
30 INTENT TO RUN FOR RETENTION IN A JUDICIAL OFFICE, AS APPLICABLE.

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

32 ~~10.5-4.6.2~~ A CANDIDATE FOR A county, municipal, school district, and or special  
33 district OFFICE candidates whose names are listed on a ballot for IN an election  
34 coordinated by the county clerk and recorder must provide an audio recording  
35 of the pronunciation of their HIS OR HER name to the county clerk and recorder.  
36 prior to the election for offices that are voted on by the electors of the county,  
37 municipality, school district, or special district. THE CANDIDATE MUST RECORD  
38 HIS OR HER NAME EXACTLY AS IT APPEARS ON THE STATEMENT OF INTENT, AND  
39 MUST PROVIDE THE RECORDING TO THE COUNTY CLERK AND RECORDER NO LATER  
40 THAN THE DEADLINE TO FILE THE STATEMENT OF INTENT.

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

2 4.7 CONGRESSIONAL TERM LIMITS DECLARATION

3 ~~24.1~~4.7.1 The Secretary of State ~~shall~~ MUST make THE CONGRESSIONAL TERM  
4 LIMITS DECLARATION available to every candidate for United States House of  
5 Representatives or the United States Senate, ~~the Congressional Term Limits~~  
6 ~~Declaration~~ provided in Article XVIII, Section 12a of the Colorado  
7 Constitution. The Secretary of State will offer the Congressional Term Limits  
8 Declaration to ~~every such~~ THESE candidate CANDIDATES when the candidate files  
9 ~~his or her~~ A candidate affidavit with the Secretary of State. Any failure of the  
10 Secretary of State to offer the Congressional Term Limits Declaration to a  
11 candidate ~~shall~~ WILL have no effect on ~~such~~ THE candidate's candidacy.

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

16 ~~24.3~~4.7.3 In the case of a candidate who has qualified as a candidate for a term that  
17 would exceed the number of terms set forth in Term Limits Declaration One,  
18 the Secretary of State ~~shall~~ MAY not place the words, "Signed declaration to  
19 limit service to [3 terms] [2 terms]" after the candidate's name, even if the  
20 candidate has executed and submitted Parts A and B of Term Limits Declaration  
21 One.

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

24 4.8 BALLOT FORMAT AND PRINTING

25 ~~10.1~~4.8.1 The text of all ballot issues that are subject to Article X, Section 20 shall  
26 be printed in all capital letters. ~~The names of all candidates and all other ballot~~  
27 ~~issues and questions shall be printed in upper and lower case.~~ THE COUNTY  
28 CLERK ~~AND RECORDER~~ MUST PRINT THE CANDIDATE NAMES AND THE TEXT OF  
29 BALLOT ISSUES AND BALLOT QUESTIONS IN UPPER AND LOWER CASE, EXCEPT  
30 THAT THE CLERK ~~AND RECORDER~~ MUST PRINT THE TEXT OF BALLOT ISSUES  
31 SUBJECT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION IN ALL  
32 UPPERCASE TEXT.

33 ~~10.3~~4.8.2 If there is no candidate on the ballot for any particular AN office, the ballot  
34 ~~shall read~~ MUST STATE, "~~No~~ THERE ARE NO candidates" for this office."

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

37 ~~10.6~~4.8.3 Printing primary election ballots.

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

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

7 ~~(b)~~(II) If there are no candidates for any particular office, the county clerk  
8 must print on the ballot "There are no candidates for this office".

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

10 ~~10.6.2~~(B) If a minor political party, as defined in section 1-1-104(23), C.R.S.,  
11 ~~has~~ NOMINATES more than one candidate for any office, the county clerk  
12 ~~and recorder~~ may conduct the primary election for that party only.

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

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

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

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

~~10.8.4.8.4~~ Use of unique numbers on ballots.

20 ~~10.8.1~~(A) Except for ballots sent to military or overseas electors by electronic  
21 transmission under Rule 16.2, ~~no~~A county may NOT print a ballot for use  
22 in a state or federal election that has a unique number, or a barcode  
23 containing a unique number, that is specific to a single ballot.

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

26 ~~(b)~~(2) Nothing in this rule prohibits a county from printing a unique  
27 number or barcode on the removable stub.

28 ~~10.8.2~~(B) After AN election ~~judges have dissociated~~ ~~JUDGE OFFICIAL~~  
29 DISSOCIATES a voted ballot from its envelope and REMOVES the stub, ~~is~~  
30 ~~removed~~, the county may write or print unique numbers on the voted  
31 ballot for auditing and accounting purposes, including duplication of  
32 damaged ballots and risk limiting audits.

1 ~~10.8.3~~(C) For ballots printed before the adoption of this rule that are in a  
2 county's possession, the county must redact unique numbers, or barcodes  
3 containing unique numbers, before providing ballots in response to a  
4 request for inspection under the Colorado Open Records Act (Section 24-  
5 72-205.5(4)(b)(II), C.R.S.).

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

8 ~~10.2.4.8.5~~ If a ballot has been printed in error, the designated election official shall  
9 consult, as soon as the error is discovered, with the Secretary of State and  
10 follow the direction of the Secretary of State on the appropriate method of  
11 correction. IF THE DESIGNATED ELECTION OFFICIAL DISCOVERS A BALLOT  
12 LAYOUT, PRINTING, OR PROGRAMMING ERROR, HE OR SHE MUST IMMEDIATELY  
13 REPORT THE ISSUE TO ~~SEEK AND FOLLOW~~ THE SECRETARY OF STATE'S OFFICE  
14 ~~ADVICE ON HOW AND WORK IN CONJUNCTION TO CORRECT THE ERROR.~~

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

17 ~~6.6.4.9~~ Colorado Constitution Article X, Section 20 notice requirements.

18 ~~6.6.4.9.1~~ The state and local governments, excluding enterprises, have sole  
19 responsibility for drafting and distribution of the notice required by Article X,  
20 Section 20. ~~Any or all of the~~ THESE responsibilities may be delegated to the  
21 coordinated election official in the intergovernmental agreement.

22 ~~6.6.2.4.9.2~~ The notice shall ~~MUST~~ be mailed to "All Registered Voters" at the mailing  
23 addresses of active registered electors in the county, as indicated on the voting  
24 record in ~~SCORE~~ MAILING BALLOT ISSUE NOTICES.

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

29 (b) Nothing ~~shall preclude~~ PRECLUDES the coordinated or designated election  
30 official from sending notice to each household in the county or political  
31 subdivision whether or not registered electors reside at that household as  
32 long as notice is sent which ~~assures~~ ENSURES that all active registered  
33 electors are included on the mailing list.

34 (c) Nothing ~~shall preclude~~ PRECLUDES the coordinated or designated election  
35 official from sending notice to each registered elector in a particular political  
36 subdivision.

37 (a)(D) The coordinated or designated election official may include the  
38 following statement with the ballot issue notice: "This notice is mailed to



1 each address with one or more active, registered electors. You may not be  
2 eligible to vote on all issues presented in this notice.”

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

5 ~~6.6.3 4.9.3~~ The coordinated election official must include information in the package  
6 sent with the notice that tells electors whether the election is a mail ballot  
7 election, a OR polling place election, a vote center election or a combination of  
8 election forms.

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

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

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

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

21 ~~6.6.4 4.9.3~~ If state statute allows the ballot issue notice and the ballot to be mailed at  
22 the same time, the ballot for the mail ballot election may be included with the  
23 notice.

24 ~~6.6.5 4.9.4~~ The political subdivisions must provide all completed Article X, Section  
25 20 notices in camera ready format or as otherwise specified.

26 ~~6.6.6 4.9.5~~ The coordinated election official ~~shall~~ IS NOT be responsible for failure to  
27 meet the Article X, Section 20 constraints if the POLITICAL SUBDIVISION FAILS  
28 TO SUBMIT THE notice and summaries ~~are not submitted by the political~~  
29 ~~subdivision~~ within the deadline and in the form required by the coordinated  
30 election official.

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

35 (b) For purposes of counting words and to verify the five hundred constitutional  
36 limit for each “pro” and each “con” summary, a hyphenated word, unless it  
37 is divided by a continuation hyphen at the end of a line, counts as two or

1 more words. A number counts as one word, regardless of dollar signs,  
2 commas or periods within the number.

3 ~~6.7.4.9.6 Written~~ NO PERSON MAY WITHDRAW WRITTEN comments concerning ballot  
4 issues submitted to the designated election official ~~for the political subdivision~~  
5 ~~shall not be withdrawn after the end of the business day on~~ the last Friday  
6 immediately preceding the forty-fifth day before the election.

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

9 **Rule 5. ~~Rules Concerning Non-Partisan~~ NONPARTISAN Elections not Coordinated by the**  
10 **County Clerk**

11 ~~12.3.1~~ 5.1 ~~Call and notice~~ ELECTION NOTICE

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

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

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

21 5.2 MAIL BALLOT ELECTIONS

22 5.2.1 IF A POLITICAL SUBDIVISION COORDINATES WITH THE COUNTY CLERK ~~AND~~  
23 ~~RECORDER~~, THE DESIGNATED ELECTION OFFICIAL IS NOT REQUIRED TO SUBMIT A  
24 SEPARATE MAIL BALLOT PLAN FOR THE ELECTION.

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

26 ~~12.4.1~~ 5.2.2 ~~Coordinated and non-partisan elections. (a) — Written plan. The~~ IF A LOCAL  
27 GOVERNING BOARD DETERMINES AN ELECTION WILL BE CONDUCTED BY MAIL BALLOT,  
28 THE designated election official must submit a mail ballot plan to the Secretary of State  
29 no later than 55 days before ~~any nonpartisan~~ THE election, ~~and 90 days before any~~  
30 ~~election that is coordinated with or conducted by the county clerk and recorder.~~ The  
31 designated election official must use the approved mail ballot plan template. ~~that~~  
32 ~~includes the following:~~

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

36 (B) A HOME RULE MUNICIPALITY MUST CHECK THE APPROPRIATE BOX ON THE

1 PLAN INDICATING WHETHER THERE ARE LOCALLY ADOPTED ELECTION  
2 PROCEDURES DIFFERENT FROM THOSE SET FORTH IN TITLE 1, C.R.S. THE  
3 SECRETARY OF STATE WILL NOT REVIEW THE MAIL BALLOT PLAN OF ANY  
4 HOME RULE MUNICIPALITY THAT FAILS TO INCLUDE THIS INFORMATION.

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

7 5.2.3 BALLOTS AND BALLOT PACKETS

8 (A) IN ANY ELECTION WHERE A MULTIPLE PAGE PRINTED BALLOT IS USED, A  
9 VOTER MUST ~~VOTE AND~~ RETURN ALL PAGES OF THE BALLOT AT THE SAME  
10 TIME. ANY VOTER WHO ~~HAS RETURNED~~ RETURNS AT LEAST ONE PAGE OF A  
11 MULTIPLE PAGE PRINTED BALLOT ~~WILL BE CONSIDERED TO HAVE HAS~~  
12 VOTED.

13 ~~12.5.2-~~(B) For non-partisan elections where multiple ballots will be included  
14 in the same packet or will be sent in separate packets, the ballots and  
15 return envelopes ~~shall~~ MUST include distinctive markings or colors to  
16 identify political subdivisions when the colors or distinctive markings will  
17 aid in the distribution and tabulation of the ballots.

18 ~~12.5.3-~~(C) The designated election official for each political subdivision for  
19 whom one or more county clerks ~~and recorders~~ are conducting the election  
20 ~~shall assure that~~ MUST PROVIDE a complete list of eligible electors in their  
21 political subdivision ~~is sent to each appropriate county clerk and recorder,~~  
22 unless otherwise provided in the intergovernmental agreement. The  
23 political subdivision ~~shall~~ MUST list each elector only once to ~~assure~~  
24 ENSURE that each elector receives one and only one ballot unless otherwise  
25 authorized.

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

28 ~~13.1-~~(D) All election materials prepared by the designated election official,  
29 including the Article X, Section 20 notice, may be included in the ~~mail in~~  
30 MAIL ballot packet.

31 *[Current Rule 13.1 is moved to new Rule 5.2.3.]*

~~12.7.5.2.4~~ Receipt of Ballots

32 ~~12.7.1-~~(A) ~~One or more~~ THE DESIGNATED ELECTION OFFICIAL MUST APPOINT  
33 SUFFICIENT ELECTION OFFICIALS ~~judges~~ TO PROCESS **RETURNED ENVELOPES AND** BALLOTS ~~shall be~~  
34 ~~appointed for the site to which ballots are to be mailed to receive the ballots~~  
35 ~~as mailed.~~

**Comment [S25]:** Ballot return largely involves handling envelopes, and only eventually ballots without the envelopes.

36 ~~12.7.2-~~(B) Each day when ballots come in, ~~\_\_\_\_\_ shall~~ AN ELECTION

1 OFFICIAL MUST count the ~~ballots~~ **SEALED ENVELOPES**, batch them and record the number of  
2 ~~ballots~~ **ENVELOPES** received.

**Comment [S26]:** Taken literally this would have required a single official to separate the ballots from the envelopes each day upon arrival, but this separation should be done very carefully with bipartisan election judges in attendance, not by a single "official" recording the arrival of the envelope. Were the ballots to be counted literally by a single person, a privacy problem would manifest. Ideally bipartisan teams should be used for this daily count of envelopes.

3 ~~12.7.3 (C) The ballots shall be date stamped when received.~~ AN ELECTION  
4 ~~JUDGE-OFFICIAL~~ MUST DATE-STAMP THE ~~BALLOTS-ENVELOPES~~ UPON RECEIPT.  
5 If any ballot is received after the time set for the closing of the elections, the  
6 ~~ballot shall-ENVELOPE~~ MUST be date-stamped but the ~~ballot shall-~~ MUST not be  
7 counted.

8 ~~12.7.4 (D) Records shall also be kept of-~~ ELECTION ~~JUDGES-OFFICIALS~~ MUST  
9 RECORD the number of ballot packets returned as undeliverable **UPON RECEIPT**.

**Comment [S27]:** A log of these undeliverable ballot packets that return to sender should be made for each return, presumably maximum daily.

10 ~~12.7.5 (E) Ballot packets shall then be placed-~~ THE DESIGNATED ELECTION  
11 OFFICIAL MUST SEAL AND STORE **ENVELOPES AND** ~~BALLOTS~~ in a safe, secure place until the  
12 counting of the ballots.

**Comment [S28]:** The ballots are probably contained within envelopes while this storage is taking place.

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

15 **5.2.4.5.2.5** RECALL ELECTIONS. THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A  
16 WRITTEN PLAN TO THE SECRETARY OF STATE WITHIN FIVE DAYS AFTER THE  
17 DESIGNATED ELECTION OFFICIAL SETS THE DATE OF THE ELECTION. THE SECRETARY  
18 OF STATE WILL APPROVE OR DISAPPROVE THE PLAN WITHIN FIVE DAYS FROM THE  
19 DATE IT IS RECEIVED. [SECTION 1-12-111.5, C.R.S.]

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

21 ~~5.1.5.3 For elections conducted on days~~ IF A DESIGNATED ELECTION OFFICIAL CONDUCTS AN  
22 ELECTION ON A DAY other than described in section 1-7-116(1), C.R.S., ~~nothing shall~~  
23 ~~preclude the designated election official from mailing~~ THE DESIGNATED ELECTION  
24 OFFICIAL MAY MAIL the notice required by Article X, Section 20 of the Colorado  
25 Constitution to ~~persons~~ PEOPLE who are not eligible electors if ~~such~~ THE mailing is done  
26 at the "least cost" **possible**.

**Comment [S29]:** This is a mysterious paragraph. The election isn't held on a "day." The "day" isn't correctly described in 1-7-116(1). The DEO "may" mail the notice but only if at the "least cost". This paragraph is overburdened with uncertainty. I do not know how to correct it.

27 ~~5.2.5.4 If there are no appropriate polling place locations~~ THE DESIGNATED ELECTION OFFICIAL  
28 FOR THE POLITICAL SUBDIVISION IS UNABLE TO ESTABLISH A ~~VOTER SERVICE AND POLLING~~  
29 ~~CENTER LOCATION~~ within the political subdivision, ~~conducting the election, a polling~~  
30 ~~place may be designated~~ THE DESIGNATED ELECTION OFFICIAL MAY DESIGNATE A ~~VOTER~~  
31 ~~SERVICE AND POLLING CENTER-LOCATION~~ outside of the political subdivision ~~in a~~ IF THE  
32 location that is **WITHIN 10 MILES OF THE SUBDIVISION** ~~convenient for the~~ eligible electors. of such political  
subdivision.

**Comment [S30]:** This paragraph is vague, but can be easily corrected with a specification for distance.

33 ~~5.3.5.5~~ For elections not conducted in November and not coordinated with the county clerk ~~and~~  
34 ~~recorder~~, the ballot issue or question ~~shall-~~ MUST be identified by the name of the  
35 jurisdiction submitting the ballot issue or ballot question followed by a number in the  
36 case of initiatives or by a letter in the case of referred measures.

37 ~~5.4.5.6~~ Elections authorized ~~under~~ BY Part 1, Article 45 of Title 37, C.R.S., (~~Water Conservancy~~  
38 ~~Act~~), ~~shall-~~ MUST be conducted in accordance with Articles 1 through 13 of Title 1,

1 C.R.S., where applicable, unless otherwise ordered by the district court having  
2 jurisdiction over the water conservancy district, pursuant to UNDER section 37-45-103 (3),  
3 C.R.S. (“Court”).

4 ~~5.4.1~~5.6.1 The form and verification of any petition requesting an election conducted  
5 by a water conservancy district pursuant to UNDER sections 37-45-114 (2) and  
6 37-45-136(3.5), C.R.S., (“Petition”), shall MUST conform with the requirements  
7 of sections 1-40-113 and 1-40-116, C.R.S., and the sections cited therein, and  
8 Rule 17 15 of these rules; except that PETITIONERS NEED NOT SEEK PETITION  
9 FORMAT APPROVAL FROM no prior approval of the form of such election petition  
10 needs to be provided by the Secretary of State. the petition shall be filed with  
11 the Court and the verification process shall be directed by the water  
12 conservancy district named in the petition rather than the Secretary of State, and  
13 the “warning” language appearing on the petition shall be applicable to the  
14 election requested to be conducted. PETITIONERS MUST FILE THE PETITION WITH  
15 THE COURT COURT AND THE WATER CONSERVANCY DISTRICT MUST VERIFY THE  
16 SIGNATURES ON THE PETITION.

17 ~~5.4.2~~5.6.2 The procedures for issuing the statement of sufficiency or insufficiency of  
18 the petition shall MUST conform to the requirements of WITH section 1-40-117,  
19 C.R.S., and Rule 18 15 of these rules; except that such THE statement shall MUST  
20 be issued by the water conservancy district named in the petition, unless  
21 otherwise ordered by the Court COURT.

22 ~~5.4.3~~5.6.3 The procedures for cure of a petition deemed insufficient shall MUST  
23 conform to the requirements of WITH section 1-40-117, C.R.S., and Rule 19 15  
24 of these rules; except any addendum to the petition shall MUST be filed with  
25 both the Court COURT and the water conservancy district named in the petition,  
26 unless otherwise ordered by the Court COURT.

27 ~~5.4.4~~5.6.4 The procedures for protesting the determination that a petition is  
28 insufficient shall MUST conform to the requirements of WITH section 1-40-118,  
29 C.R.S., and Rule 20 15 hereof, unless otherwise ordered by the Court COURT.

30 ~~5.4.5~~5.6.5 THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT any election pursuant  
31 to UNDER section 37-45-114(2), C.R.S., shall be conducted no more than one  
32 hundred (100) days nor less than sixty (60) AFTER THE SIXTIETH BUT BEFORE THE  
33 ONE HUNDRETH DAY AFTER days from the date of the Court COURT order,  
34 regardless of the actual expiration date of the term of the office, unless the Court  
35 order establishes an alternate date or the water conservancy district has notified  
36 the Court COURT that such THE election is to be conducted as a coordinated  
37 election pursuant to MUST BE COORDINATED AND CONDUCTED IN ACCORDANCE  
38 WITH section 1-7-116, C.R.S.

39 ~~5.4.6~~5.6.6 The form and procedures for filing candidate nomination forms and call  
40 for CANDIDATE nominations of persons desiring to be a candidate for the office  
41 to be voted upon at the Court COURT-ordered election described in THIS Rule

1 ~~5.4.5~~, shall be in conformance with the form and procedures required for special  
2 districts MUST BE CONDUCTED under Article 1, Title 32, C.R.S., unless otherwise  
3 ordered by the ~~Court~~ COURT.

4 ~~5.5-5.7~~ Non-Partisan Elections: Polling ~~Place~~ LOCATION Procedures.

5 ~~5.5.1-5.7.1~~ For polling place elections being conducted in accordance with Article 1,  
6 Title 32, C.R.S., upon execution of the self-affirming oath or affirmation  
7 pursuant to UNDER section 32-1-806(2), C.R.S., the ~~A AN~~ eligible elector  
8 desiring to vote shall MUST show his or her identification as defined in section  
9 1-1-104(19.5), C.R.S., to one of the election judges. ~~See section 1-7-110(1),~~  
10 ~~C.R.S.~~

11 ~~5.5.2~~ If the eligible elector has executed the self affirming oath or affirmation and  
12 provided his or her identification, such eligible elector may be allowed to vote,  
13 if such vote is not challenged. ~~See sections 1-7-110(2) and 32-1-806(4), C.R.S.~~

14 ~~5.5.3-5.7.2~~ The election supplies provided to the supply judge of each polling place  
15 shall include an adequate number of provisional ballot envelopes that include  
16 the affidavit set forth in Rule 26.8. THE DESIGNATED ELECTION OFFICIAL MUST  
17 ENSURE THAT EACH POLLING ~~PLACE~~ LOCATION HAS AN ADEQUATE NUMBER OF  
18 PROVISIONAL BALLOT ~~ENVELOPES~~.

19 ~~5.5.4~~ The signature and date on the provisional ballot affidavit envelope shall remain  
20 on the outside of the envelope.

21 ~~5.5.6~~ The provisional ballot affidavit envelope shall be numbered to correspond to the  
22 number of the provisional elector's name in the poll book, and the word  
23 "provisional" shall be marked on the ballot.

24 ~~5.5.7-5.7.3~~ Verification of Information in Provisional Ballot Affidavit. The designated  
25 election official shall verify the information contained in the provisional ballot  
26 affidavit pursuant to Rule 26. If the information contained in the affidavit  
27 provides adequate criteria such that the designated election official, using the  
28 Rule 26 search, can ascertain the registration of the elector, the provisional  
29 ballot shall count. If the information cannot be verified, the ballot shall be  
30 rejected. ~~See~~ MUST FOLLOW THE PROVISIONAL BALLOT PROCEDURES CONTAINED  
31 IN ARTICLES 1 THROUGH 13 OF TITLE 1 sections 1-8.5-105 and 1-8.5-106, C.R.S.,  
32 and Rule ~~26~~17.

33 ~~5.5.8~~ The verification and counting of all provisional ballots shall be completed prior  
34 to the certification of the official abstract of votes cast in the election by the  
35 canvass board, pursuant to Section 1-10-203(1), C.R.S.

36 ~~5.5.9~~ Canvassing Board's Count of Provisional Ballots. If, after the expiration of  
37 twelve days following an election, the election judges cannot complete the  
38 count of the provisional ballots cast, the canvassing board appointed pursuant to  
39 Section 1-10-201(1.5), C.R.S., shall complete the count of such provisional

**Comment [S31]:** There is no reason for the provisional ballot to be specially printed. It is the envelope that must be specially marked by the provisional voter and an adequate supply provided.

1 ballots.

2 5.5.10 ~~If 25 or more provisional ballots have been cast and counted, the results shall be~~  
3 ~~reported as one total. If less than 25 provisional ballots have been cast and~~  
4 ~~counted, the results shall be included in the results of the mail-in ballots counted~~  
5 ~~in the election.~~

6 5.5.11 ~~The provisional ballot shall not be counted if the elector failed to complete the~~  
7 ~~affidavit on the envelope or the elector was not registered by the deadline in the~~  
8 ~~State of Colorado.~~

9 5.5.12 ~~A copy of the provisional ballot affidavit shall be provided to the county clerk~~  
10 ~~and recorder of the county of the elector's residence, and shall constitute a voter~~  
11 ~~registration for future elections. See section 1-8.5-108, C.R.S.~~

12 5.8 THE COUNTY CLERK ~~AND RECORDER~~ FOR A COUNTY THAT CONTAINS ANY PORTION OF A  
13 POLITICAL SUBDIVISION WITHIN ITS BORDERS MUST PROVIDE ELECTION ~~DAY~~ REGISTRATION  
14 FOR THE POLITICAL SUBDIVISION.

**Comment [S32]:** Not only election day, but every day prior to election day (starting when?)

15 5.8.1 THE COUNTY CLERK ~~AND RECORDER~~ MUST PROVIDE VOTER REGISTRATION  
16 THROUGH THE 22-DAY ~~ELECTION PERIOD BEFORE THE ELECTION~~ DURING NORMAL  
17 BUSINESS HOURS, MONDAY THROUGH FRIDAY, AND 7:00 AM TO 7:00 PM ON  
18 ELECTION DAY.

19 5.8.2 THE COUNTY CLERK ~~AND RECORDER~~ MUST PROVIDE DAILY REGISTRATION UPDATES  
20 ~~22 DAYS PRIOR AND~~ THROUGH ~~THE DAY BEFORE~~ ELECTION DAY, TO THE DESIGNATED ELECTION  
21 OFFICIAL BY SECURE TRANSMISSION AS OUTLINED IN RULE ~~43-20~~ ~~AND PROVIDE A~~  
22 ~~CERTIFICATE OF REGISTRATION TO THE APPLICANT ON ELECTION DAY~~

**Comment [S33]:** The deleted phrase duplicates the following paragraph.

23 5.8.3 ~~ON ELECTION DAY,~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST PROVIDE A  
24 ~~SAME DAY~~ CERTIFICATE OF REGISTRATION TO ANY ELECTOR WHO REGISTERS TO VOTE OR  
25 UPDATES HIS OR HER REGISTRATION ~~UP TO AND INCLUDING ELECTION DAY~~.

**Comment [S34]:** Not just election day.

26 **Rule 6. Rules Concerning Election Judges**

27 ~~28.1~~-6.1 For purposes of training election judges, an “election cycle” ~~shall mean~~ MEANS all  
28 elections held during a calendar year beginning ~~with~~ January 1 and ending December 31.

29 ~~28.2~~-6.2 In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S.,  
30 each person appointed to serve as a student election judge ~~shall~~ MUST take a self-  
31 affirming oath or affirmation before ~~beginning their duties~~ SERVING as a student election  
32 judge, in substantially the following form:

33 “I, \_\_\_\_\_ do solemnly swear (or affirm) that I am a citizen of the United  
34 States and state of Colorado; that I am at least 16 years of age and a High School Junior  
35 or Senior; that I will perform the duties of an election judge according to law and to the  
36 best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in  
37 conducting the same; that I will not try to determine how any elector voted, nor will I

1 disclose how any elector voted if in the discharge of my duties as a student election judge  
2 such knowledge shall come to me, unless called upon to disclose the same before some  
3 court of justice; that I have never been convicted of election fraud, any other election  
4 offense, or fraud and that, if any ballots are counted before the polls close on the date of  
5 the election, I will not disclose the result of the votes until after the polls have closed and  
6 the results are formally announced by the designated election official.”

7 6.3 A SUPERVISOR JUDGE IN A VOTER SERVICE AND POLLING CENTER MUST:

8 ~~a-~~ 6.3.1 SUCCESSFULLY PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN  
9 RULE ~~28.56.4~~. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION OFFENSE  
10 OR FRAUD IS PROHIBITED FROM ~~HANDLE~~—HANDLING VOTER REGISTRATION  
11 APPLICATIONS OR ~~CONDUCT~~—CONDUCTING VOTER REGISTRATION AND LIST  
12 MAINTENANCE ACTIVITIES.

13 ~~b-~~ 6.3.2 SUCCESSFULLY COMPLETE A TRAINING COURSE PROVIDED BY THE  
14 SECRETARY OF STATE.

15 6.4 THE COUNTY CLERK ~~AND RECORDER~~ MUST ARRANGE FOR A CRIMINAL BACKGROUND CHECK  
16 ON A SUPERVISOR JUDGE AND ANY A PERSON REGISTERING VOTERS IN A VOTER SERVICE  
17 AND POLLING CENTER. THE CRIMINAL BACKGROUND CHECK MUST BE CONDUCTED BY OR  
18 THROUGH THE COLORADO BUREAU OF INVESTIGATION IN THE DEPARTMENT OF PUBLIC  
19 SAFETY OR BY THE COUNTY SHERIFF’S DEPARTMENT FOR THE COUNTY IN WHICH THE  
20 COUNTY CLERKS ~~AND RECORDER’S~~ OFFICE IS LOCATED.

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

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

23 7.1 MAIL BALLOT PLANS

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

28 (A) FOR RECALL ELECTIONS, THE COUNTY CLERK MUST SUBMIT A MAIL BALLOT  
29 PLAN TO THE SECRETARY OF STATE BY EMAIL WITHIN FIVE DAYS AFTER THE  
30 APPROPRIATE OFFICIAL SETS THE ELECTION. WITHIN FIVE DAYS AFTER  
31 RECEIVING THE RECALL ELECTION PLAN, THE SECRETARY OF STATE WILL  
32 APPROVE OR DISAPPROVE.

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

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



1 ~~12.4.3~~ 7.1.2 Approval of mail ballot plans and submission of amendments

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

7 (b) A ~~designated election official shall~~ COUNTY CLERK AND RECORDER may  
8 amend a timely submitted mail ballot plan by submitting a written statement  
9 outlining the ~~amendment(s) to the plan~~ AMENDMENT. The amendment must  
10 state the specific section of the plan amended and the ~~reason(s)~~ REASON for  
11 the amendment. The ~~secretary~~ SECRETARY of ~~state~~ STATE will approve or  
12 disapprove the amendment within 15 days from the date it is received. If the  
13 amendment is received within 30 days before the election, the Secretary of  
14 State will approve or disapprove the amendment within two business days.

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

17 ~~12.3.3~~ 7.1.3 For elections coordinated by the THE county clerk and recorder, MUST  
18 SUBMIT a security plan ~~shall be submitted in accordance with~~ UNDER Rule ~~43-20~~  
19 in addition to the mail ballot plan submitted in accordance with this Rule.

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

22 ~~12.5~~ 7.2 ~~Ballots~~ BALLOTS AND BALLOT PACKETS

23 ~~12.5.1~~ 7.2.1 In any election where a multiple page printed ballot is used, a voter must  
24 ~~vote and return~~ all pages of the ballot at the same time. Any voter who has  
25 returned at least one page of a multiple page printed ballot will be considered to  
26 have voted.

Comment [S35]: No requirement to vote.

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

28 ~~12.5.5~~ 7.2.2 In accordance with section 1-7-116(1), C.R.S., for all ~~Coordinated~~  
29 COORDINATED elections, the outgoing envelope as well as the instructions or  
30 other notice ~~shall~~ MUST include a notice advising electors that they may receive  
31 a ballot from another political subdivision conducting a mail ballot election.

32 ~~12.5.6~~ 7.2.3 If the ballot is returned to the election official as undeliverable, the ~~official~~  
33 ~~shall not be~~ COUNTY CLERK AND RECORDER IS NOT required to re-mail the ballot  
34 packet.

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

36 7.2.4 IN ACCORDANCE WITH SECTION 1-7.5-107(3), C.R.S., THE COUNTY CLERK \_\_\_\_\_

1 ~~RECORDER~~ MUST MAIL BALLOTS NO LATER THAN 18 DAYS BEFORE ~~THE~~ ELECTION  
2 DAY.

3 (A) THE COUNTY CLERK MUST PROCESS ALL NEW REGISTRATION APPLICATIONS  
4 AND UPDATES RECEIVED BY THE 22-DAY DEADLINE TO MAIL APPLICANTS A  
5 BALLOT ~~PACKET~~ IN ACCORDANCE WITH SECTION 1-7.5-107(3), C.R.S.

6 (B) THE COUNTY CLERK MUST PROCESS NEW ONLINE AND IN-PERSON  
7 REGISTRATION APPLICATIONS AND MAIL REGISTRATION UPDATES RECEIVED  
8 BY THE EIGHTH DAY BEFORE ~~THE~~ ELECTION DAY AND MAIL A BALLOT ~~PACKET~~ WITHIN ONE  
9 BUSINESS DAY AFTER RECEIPT 24 HOURS AFTER THE APPLICATION IS  
10 SUBMITTED.

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

16 10.7.7.2.5 Voiding ballots due to timely changes in address or affiliation.

17 ~~10.7.1~~(A) If an elector ~~submits a~~ timely CHANGES HIS OR HER address or  
18 affiliation ~~change~~ after the county mails ballots or sends the voter file to the  
19 vendor, the county must void the first ballot and generate a second ballot.

20 ~~(a)~~(1) If the county processes the change to the elector's record after it  
21 sends the voter file to the vendor but before the vendor prints ballots,  
22 the county must provide the vendor a voided ballot file to prevent the  
23 vendor from printing and preparing voided ballots for mailing.

24 ~~(b)~~(2) If the county processes the change to the elector's record after the  
25 vendor has printed ballots but before the vendor mails ballots, the  
26 county must work with the vendor to make every reasonable effort to  
27 remove voided ballots before they enter the mail stream.

28 ~~10.7.3~~(B) If the county mails its own ballots, the county clerk must remove  
29 all voided ballots before mailing.

30 ~~10.7.4~~(C) If the county processes the change to the elector's record after it  
31 mails ballots, the county must count the first ballot returned by the elector IN  
32 ACCORDANCE WITH SECTION 1-7.5-107(6), C.R.S., except as follows:

33 ~~(a)~~(1) ~~In the case of an affiliation change~~ If THE ELECTOR CHANGED HIS OR  
34 HER AFFILIATION, the county must count the ballot issued for the  
35 ELECTOR'S new party affiliation.

36 ~~(b)~~ ~~In the case of an address change that results in a change of precinct,~~  
37 ~~the county must count the ballot issued for the elector's new address.~~

**Comment [S36]:** Ballot packet is the more correct description.

**Comment [S37R36]:**

**Comment [S38]:** Election day instead of "the election"

**Comment [S39]:** Ballot packet is the more correct description.

**Comment [S40]:** Because of non synchronized registration requirements, this will be difficult and the timing of this certification problematic (and the timing remains unspecified).

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

3 7.3 ABSENTEE VOTING

**Comment [S41]:** Its still here? Or is everyone who uses a PO box for all USPS actually using this provision?

4 7.3.1 AN ELECTOR MAY REQUEST THAT THE COUNTY CLERK MAIL HIS OR HER BALLOT  
5 TO AN ADDRESS OTHER THAN THE ELECTOR'S ADDRESS OF RECORD OR MAILING ADDRESS BY  
6 SUBMITTING AN APPLICATION IN ACCORDANCE WITH SECTION 1-7.5-116, C.R.S.

**Comment [S42]:** Best to check if "address of record" is meaningful. According to CRS 1-2-204, address of record is different from the mailing address, and hence is probably the permanent residence. So I included mailing address as an alternate to the absentee voting address.

7 7.3.2 THE COUNTY CLERK MUST MAIL THE BALLOT TO THE ADDRESS PROVIDED UNTIL  
8 THE ELECTOR INDICATES OTHERWISE. ELECTOR INDICATES OTHERWISE.

**Comment [S43]:** Does this require a submission of a form to end the use of a temporary absentee address?

9 7.4 EMERGENCY BALLOT TRANSMISSION

10 ~~42.1~~ 7.4.1 The county clerk ~~and recorder~~ may deliver a REPLACEMENT ballot ON  
11 ELECTION DAY to an elector's authorized representative or to the elector by  
12 electronic transmission IN THE CASE OF ~~an administrative or~~ medical emergency  
13 UNDER SECTION 1-7.5-115, C.R.S.

14 (A) THE APPLICANT MUST SUBMIT AN APPLICATION FOR EMERGENCY BALLOT  
15 BEFORE THE COUNTY CLERK MAY SEND THE BALLOT.

16 (B) If THE COUNTY CLERK DELIVERS a ~~mail-in~~ ballot ~~is delivered~~ to an elector  
17 by ~~facsimile~~ ELECTRONIC transmission, the elector may return the ballot  
18 by ~~facsimile~~ ELECTRONIC transmission.

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

20 ~~42.4~~ 7.4.2 ~~Mail-in ballots~~ BALLOTS sent by ~~facsimile~~ ELECTRONIC transmission shall  
21 MUST include all races, ballot issues, and questions ~~on~~ FOR which the elector  
22 may IS ELIGIBLE TO vote. ~~Counties are encouraged to work with their vendors to~~  
23 ~~develop a~~ THE ballot that is clearly MUST BE legible to the elector to increase the  
24 readability of the ballot and to avoid possible misinterpretations of the elector's  
25 intended choice because of poor transmission of the document.

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

28 7.4.3 THE ELECTRONIC TRANSMISSION MUST INCLUDE:

29 (A) THE COUNTY CLERK'S CONTACT INFORMATION INCLUDING MAILING  
30 ADDRESS, EMAIL ADDRESS, PHONE, AND FAX NUMBER;

31 (B) A NOTICE THAT THE BALLOT MAY NOT BE DUPLICATED FOR ANY OTHER  
32 ELECTOR;

33 (C) INSTRUCTIONS FOR COMPLETING AND RETURNING THE BALLOT;

1 (D) A NOTICE REGARDING THE BALLOT RETURN DEADLINE;

2 (E) INFORMATION REGARDING HOW THE ELECTOR MAY VERIFY THAT HIS OR  
3 HER BALLOT HAS BEEN RECEIVED BY THE COUNTY CLERK; AND

4 (F) ANY OTHER INFORMATION DEEMED NECESSARY BY THE SECRETARY OF  
5 STATE OR THE COUNTY CLERK.

6 7.4.3(G) THE BALLOT PACKET, WHICH SENT BY ELECTRONIC TRANSMISSION  
7 MUST BE IN TEXT FORMAT ON 8 1/2" X 11" WHITE PAPER AND MUST INCLUDE:

8 (A-1) AN ELECTRONIC TRANSMISSION COVERSHEET TO PROTECT VOTER  
9 PRIVACY;

10 (B-2) THE BLANK BALLOT;

11 (C-3) THE ELECTRONIC TRANSMISSION BALLOT INSTRUCTIONS; AND

12 (D-4) THE SELF-AFFIRMATION REQUIRED BY SECTION 1-7.5-107(3)(B.5),  
13 C.R.S.

14 ~~7.4.4 THE ELECTRONIC TRANSMISSION MUST INCLUDE:~~

15 ~~(A) THE COUNTY CLERK AND RECORDER'S CONTACT INFORMATION INCLUDING~~  
16 ~~MAILING ADDRESS, EMAIL ADDRESS, PHONE, AND FAX NUMBER;~~

17 ~~(B) A NOTICE THAT THE BALLOT MAY NOT BE DUPLICATED FOR ANY OTHER~~  
18 ~~ELECTOR;~~

19 ~~(C) INSTRUCTIONS FOR COMPLETING AND RETURNING THE BALLOT;~~

20 ~~(D) A NOTICE REGARDING THE BALLOT RETURN DEADLINE;~~

21 ~~(E) INFORMATION REGARDING HOW THE ELECTOR MAY VERIFY THAT HIS OR~~  
22 ~~HER BALLOT HAS BEEN RECEIVED BY THE COUNTY CLERK AND RECORDER;~~  
23 ~~AND~~

24 ~~(F) ANY OTHER INFORMATION DEEMED NECESSARY BY THE SECRETARY OF~~  
25 ~~STATE OR THE COUNTY CLERK AND RECORDER.~~

26 ~~7.4.5-7.4.4~~ ANY BALLOT TRANSMITTED TO AN ELECTOR BY ELECTRONIC TRANSMISSION  
27 MUST CONTAIN A UNIQUE IDENTIFICATION NUMBER FOR TRACKING AND AUDITING  
28 PURPOSES.

29 ~~7.4.6-7.4.5~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST MAINTAIN A LOG OF EACH  
30 BALLOT SENT BY ELECTRONIC TRANSMISSION. THE COUNTY CLERK MUST RETAIN  
31 THE LOG AS PART OF THE OFFICIAL ELECTION RECORD ALONG WITH ANY OTHER  
32 ELECTRONIC TRANSMISSION RECORDS. THE LOG MUST INCLUDE:

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

7 *[Portions of current Rule 42.7.2 are included in new Rule 7.4.5.]*

8 ~~42.8 7.4.7.7.4.6~~ The designated election official shall fax the blank ballot with the  
 9 instructions to the fax number provided by the elector. If THE COUNTY CLERK  
 10 TRANSMITS A BALLOT PACKET TO AN ELECTOR BY FAX AND the transmission is  
 11 unsuccessful, the designated election official shall COUNTY CLERK MUST attempt  
 12 to fax THE BALLOT at least two more times and make reasonable effort, if possible,  
 13 to ensure the transmission was successful.

14 *[Current Rule 42.8 is amended and moved to new Rule 7.4.6. Amendments are shown*  
 15 *above.]*

16 ~~42.9 7.4.8.7.4.7~~ Upon receipt of the ballot, THE COUNTY CLERK MUST VERIFY THE  
 17 SIGNATURE ON THE AFFIDAVIT UNDER RULE ~~7.6.7.7~~. when the information from the  
 18 signed AFTER the affidavit has been verified, a bipartisan team of RESOLUTION BOARD judges  
 shall MUST duplicate the ballot. Duplicating judges shall MUST not reveal VOTER INTENT CONTAINED  
 ON THE how the elector has cast his or her ballot.

**Comment [S44]:** See rules for resolution/duplication e.g. 18.3.2. The process of duplication requires the resolution function as well, therefore the resolution board.

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

23 7.5 RECEIPT AND PROCESSING OF BALLOTS

24 ~~12.10.4 7.5.1~~ Monitoring drop-off locations. All drop-off locations must be monitored by  
 25 an election judge ELECTION OFFICIAL or video security surveillance recording  
 26 system, as defined in Rule 20.

- 27 (a) Freestanding drop-off locations must be monitored at all times.
- 28 (b) If the drop-off location utilizes a drop-slot into a building, the ballots must
- 29 be collected in a locked container, and both the drop-slot and container
- 30 must be monitored at all times.

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

33 ~~42.7.2 7.5.2~~ Each day when ENVELOPES ballots come in, a judge shall MUST count the  
 ballots ENVELOPES, batch

**Comment [S45]:** Envelopes come in, not ballots

1 them and record the number of **ENVELOPES** ballots received.

**Comment [S46]:** Envelopes not ballots.

2 ~~12.7.3-7.5.3~~ The ballots shall be date stamped when received. AN ELECTION JUDGE  
3 OFFICIAL MUST DATE-STAMP AND RECEIVE THE **BALLOTS** RETURNED BALLOT  
4 ENVELOPES INTO ~~THE STATEWIDE VOTER REGISTRATION SYSTEM SCORE~~  
5 IMMEDIATELY UPON RECEIPT. If any ballot is received after the time set for ~~the~~  
6 ~~closing-BALLOT RETURN~~ of the ~~VOTING METHOD~~-elections, the **ballot ENVELOPE** shall ~~MUST~~ be  
7 date-stamped but ~~the ballot~~  
~~shall~~ **THE BALLOT MUST** not **BE** be counted.

**Comment [S47]:** UOCAVA originated ballots have a different deadline.

8 ~~(A)-7.5.4~~ THE COUNTY CLERK MUST **USE BIPARTISAN TEAMS TO** COLLECT BALLOTS FROM  
9 ALL DROP-OFF LOCATIONS  
10 AND RECEIVE THEM INTO **SCORE**; ~~INCLUDING FREE STANDING BALLOT BOXES;~~  
~~HOURLY DURING REGULAR BUSINESS HOURS (INCLUDE OR MORE AS NEEDED?).~~

**Comment [S48]:** Bipartisan teams are a security requirement to maintain chain of custody.

11 ~~(1-A)~~ AT LEAST ONCE EVERY 72 HOURS AFTER BALLOTS ARE MAILED UNTIL THE  
12 DATE THAT VOTER SERVICE AND POLLING CENTERS MUST OPEN;

13 ~~(2-B)~~ AT LEAST ONCE EVERY 24 HOURS DURING THE DAYS THAT VOTER SERVICE  
14 AND POLLING CENTERS MUST BE OPEN; AND

15 ~~(3-C)~~ AT LEAST TWICE ON ELECTION DAY, AT APPROXIMATELY 1PM AND 7PM.

16 ~~(B-D)~~ THE COUNTY CLERK MAY MEET THE REQUIREMENTS OF THIS RULE BY:

17 (1) COLLECTING AND TRANSPORTING THE BALLOTS TO THE CENTRAL  
18 COUNTING LOCATION FOR RECEIPT INTO **SCORE**;

19 (2) COLLECTING AND TRANSPORTING THE BALLOTS TO THE NEAREST  
20 VOTER SERVICE AND POLLING CENTER FOR RECEIPT INTO  
21 **SCORE**; OR

22 (3) RECEIVING THE BALLOTS INTO **SCORE** AT THE BALLOT DROP-OFF  
23 LOCATION.

24 ~~12.7.4-7.5.4-7.5.5~~ ~~Records shall also be kept of~~ ELECTION ~~JUDGES~~ OFFICIALS MUST  
25 RECORD the number of ballot packets returned as undeliverable ~~UPON RECEIPT~~.

26 ~~12.7.5-7.5.5-7.5.6~~ ~~Ballot packets shall then be placed~~ THE DESIGNATED ELECTION  
27 OFFICIAL MUST SEAL AND STORE BALLOTS AND RETURN ENVELOPES in a safe,  
28 secure place until the counting of the ballots.

29 *[Current Rule 12.7 is amended and moved to new Rule 7.5.2 through 7.5.6. Amendments*  
30 *are shown above.]*

31 ~~13.2-7.5.6-7.5.7~~ The county clerk ~~and recorder shall~~ MUST keep a list, to the extent  
32 possible, of the names and mailing addresses of all individuals who deliver  
33 more than ~~ten (10)~~ 10 voted ~~mail-in~~ ballots to the ~~designated or coordinated~~  
34 ~~election official's~~ COUNTY CLERK'S office, DROP-OFF LOCATION, OR VOTER  
35 SERVICE AND POLLING CENTER ~~or the designated drop site for mail-in ballots.~~

1 13.3 ~~7.5.7-7.5.8~~ The county clerk ~~and recorder~~ shall MUST notify each individual on  
2 the list required by ~~13.2 7.5.6-7.5.7~~ by letter that they have violated section ~~1-8-~~  
3 ~~113-1-7.5-107(4)(B)~~, C.R.S., by delivering more than ten ~~(10) mail-in~~ ballots to  
4 the ~~designated election official~~ COUNTY CLERK.

5 *[Current Rules 13.2 and 13.3 are amended and moved to new Rules 7.5.7 and 7.5.8.*  
6 *Amendments are shown above.]*

7 ~~10.9 7.5.8-7.5.9~~ **Tracking PROVIDING FOR PRIVACY WITHIN** ballot batches. ~~The~~  
~~county clerk must dissociate any batch number that could trace a ballot back to the specific voter~~  
~~who cast it from the counted ballots no later than the final certification of the abstract of votes cast.~~  
NO BATCH OF BALLOTS COLLECTED IN PREPARATION FOR COUNTING AFTER SEPARATION OF VOTER IDENTITY MAY  
MATCH THE SELECTION OF ANY BATCH OF RECEIVED ENVELOPES OR REMOVED STUBS OR RECORDED LIST OF  
VOTERS. NOR CONTAIN BALLOTS OF UNIQUE BALLOT STYLE.

11 *[Current Rule 10.9 is amended and moved to new Rule 7.5.9. Amendments are shown*  
12 *above.]*

13 7.6 MISSING SIGNATURE

14 ~~29.1~~ ~~Missing Signature on Mail Ballot, Provisional Ballot or Mail-in Ballot Envelope~~

15 ~~29.1.1-7.6.1~~ If a mail, ~~mail-in~~, or provisional ballot return envelope lacks a signature,  
16 the election ~~judge~~ OFFICIAL must contact the elector in writing no later than two  
17 calendar days after election day. The designated election official must use the  
18 letter and form prescribed by the Secretary of State and keep a copy as part of the  
19 official election record. Nothing in this rule prohibits the designated election  
20 official from calling the elector. But a phone call may not substitute for written  
21 contact. If the designated election official calls any elector he or she must call all  
22 electors whose affidavits are unsigned.

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

24 ~~29.1.2-7.6.2~~ The letter shall MUST inform the eligible elector that ~~he/she~~ THE ELECTOR  
25 must come to the office of the ~~county clerk and recorder~~ DESIGNATED ELECTION  
26 OFFICIAL to sign the mail ~~ballot~~, OR provisional ballot, ~~or mail-in ballot~~ envelope  
27 no later than eight calendar days after election day. The letter shall MUST inform  
28 military, overseas, and other electors who are absent from the state that they may  
29 sign the affidavit and return the form by mail, fax, or email, and that the county  
30 must receive the form no later than eight calendar days after the election.

31 ~~29.1.3-7.6.3~~ The letter and missing signature affidavit form does not violate section 1-  
32 13-801, C.R.S.

33 ~~29.1.4-7.6.4~~ The letter or missing signature affidavit form must include the following  
34 language:

35 “Any person who knowingly violates any of the provisions of the election code  
36 relative to the casting of ballots or who aids or abets fraud in connection with any  
37 vote cast, or to be cast, or attempted to be cast ~~shall~~ be punished by a fine of

**Comment [S49]:** The original proposal is the wrong way to solve the problem- leaving the ballots in identifiable batches but attempting to conceal the batch identity before it becomes publicly accessible. The correct way is to render ballots anonymous to everyone including officials by following the above proposed rule.

1 not more than five thousand dollars or by imprisonment in the county jail for not  
2 more than eighteen months, or by both such fine and imprisonment. Section 1-13-  
3 803, C.R.S.”

4 7.7 SIGNATURE VERIFICATION PROCEDURES

5 ~~29.2-7.7.1 In accordance with section 1-8-114.5, C.R.S., for mail in ballots and section~~  
6 ~~7.5-107.3, C.R.S., for mail ballots, the election judges shall~~ **BIPARTISAN** ~~AN THE~~ ELECTION  
7 **JUDGES** ~~JUDGE OFFICIALS~~ **MUST** compare the signature on the self-affirmation on each  
8 respective return envelope with the signature stored in the statewide voter  
9 registration system SCORE. ~~Signatures shall require further~~ THE ELECTION **JUDGE**  
10 **OFFICIALS** **MUST** research THE SIGNATURE FURTHER if ~~any of the following~~  
11 ~~discrepancies are discovered~~ THERE IS:

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

13 ~~Code 2—~~ (B) A printed signature on one document and a cursive signature on the  
14 other document.

15 ~~Code 3—~~ (C) ~~Differences~~ A DIFFERENCE in the size or scale of the ~~signature~~  
16 SIGNATURES.

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

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

22 ~~Code 6—~~ (F) EVIDENCE THAT ballots or envelopes from the same household have  
23 been switched.

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

26 ~~29.3-7.7.2 If~~ IN CONDUCTING further research ~~is necessary,~~ the election **judge**  
27 **OFFICIALS** ~~shall~~ **MUST** check ~~the county clerk’s or election official’s file~~ SCORE  
28 for at least two additional documents signed by the voter, if available. THE **JUDGE**  
29 **OFFICIALS** **MAY** COMPARE additional information written by the voter on the return  
30 envelope, such as the voter’s address and date of signing. ~~may be compared for~~  
31 ~~similarities.~~ Any similarities noted when comparing ~~this~~ other information may  
32 be used as part of the signature verification decision process.

33 ~~29.3-1~~ (A) If it appears to the judges verifying the self-affirmation on the  
34 return envelopes that members of the same household ~~who have applied for~~  
35 ~~mail in ballots or have been sent mail ballots~~ have inadvertently switched  
36 envelopes or ballots, the ballot or ballots ~~shall~~ **MUST** be counted and no letter  
37 of advisement to the elector is necessary.

**Comment [S50]:** The replacement of “election judges with election officials is an extremely troubling change that ought to be loudly objected to including by the same election officials mentioned. Judges are named that for a reason. They are intended to represent a public interest that is separated from special official interests.

Here is the one of many places in the rules where the replacement really makes a difference. This should be “election judges of opposing parties”. The change to “officials” is another step in a slippery slope from a truly citizen run election to an election run by employees of the officials who derive their authority from the very election they have increasing control over. This is not wise and borders on the potentially corrupt.

**Comment [S51]:** Obviously my previous comments apply to many replacements of judges by officials- as well as the lack of specificity about balanced partisanship.



1        ~~29.4-7.7.3~~ Whenever IF THE ELECTION ~~JUDGE-OFFICIALS DISPUTE~~ ~~DISPUTES~~ THE a  
2 signature is disputed, the election judge shall ~~HE OR SHE-THEY~~ MUST document the  
3 discrepancy by completing AND THE RESEARCH STEPS TAKEN in a log. The log  
4 shall provide a record of the research steps taken to resolve the issue. The ~~JUDGE~~  
5 ~~OFFICIALS~~ MUST IDENTIFY THE ELECTOR IN THE log will identify the voter using a  
6 unique tracking number. This THE tracking number shall MAY not contain the  
7 voter's ELECTOR'S social security number; Colorado issued driver's license  
8 number, or the identification number issued by the Department of Revenue. THE  
9 LOG MAY NOT CONTAIN THE ELECTOR'S SIGNATURE. THE ~~JUDGE-OFFICIALS~~ MUST  
10 NOTE THE FINAL RESOLUTION AND BALLOT DISPOSITION ON THE RESEARCH LOG.

11 ~~29.5~~ The log shall be approved by the Secretary of State pursuant to section 1-1-109, C.R.S.

12 ~~29.6~~ There shall be no document containing the voter's signature attached to the research log.

13 ~~29.7~~ If both sets of election judges agree that the signatures do not match, the county clerk and  
14 recorder shall within two days after the election, send a letter to the eligible elector at the  
15 address indicated in the registration records and the address where the mail in ballot or  
16 mail ballot was mailed explaining the discrepancy in signatures and a form for the  
17 eligible elector to confirm that the elector returned a ballot to the county clerk and  
18 recorder. (Sections 1-7.5-107.3(2)(a) and 1-8-114.5(2)(a), C.R.S.) The voted ballot itself  
19 should not under any circumstances be returned with this letter.

20 ~~29.8-7.7.4~~ The election official must use the letter and the signature verification form  
21 approved by the Secretary of State. (SECTIONS 1-7.5-107.3(2)(A) AND 1-8-  
22 114.5(2)(A), C.R.S.) THE LETTER AND SIGNATURE VERIFICATION FORM DOES NOT  
23 VIOLATE SECTION 1-13-801 C.R.S.

24 ~~29.9~~ The letter and signature verification form does not violate section 1-13-801 C.R.S.

25 ~~29.10~~ The final signature verification resolution and ballot disposition shall be noted on the  
26 research log.

27 ~~29.11-7.7.5~~ Any ALL uncounted ballot BALLOTS shall MUST remain sealed in the return  
28 envelope and **AFTER CERTIFICATION, RECOUNT OR INVESTIGATION**, stored under seal with all other  
29 uncounted ballots **as part of the IN ACCORDANCE WITH section 1-7-802, C.R.S.,**  
30 **election record pursuant to IN ACCORDANCE WITH section 1-7-802, C.R.S., and**  
31 **may be removed only under the authority of a district attorney or by order of a**  
**court having jurisdiction.**

**Comment [S52]:** I lost control of the format here and had to reproduce the original . the uncounted ballots should go to storage after the certification, any recount or investigation.

32        7.7.6 USE OF BALLOT ENVELOPE SORTERS AND SIGNATURE CAPTURE DEVICES.

33            (A) IF THE COUNTY CLERK ~~AND RECORDER~~ USES A BALLOT SORTING AND  
34 SIGNATURE CAPTURE DEVICE, THE COUNTY MUST TEST THE DEVICE BEFORE  
35 USING IT IN AN ELECTION TO ENSURE THAT IT PROPERLY SORTS ENVELOPES,  
36 AND ACCURATELY AND CLEARLY CAPTURES THE SIGNATURE ON THE  
37 ENVELOPE FOR COMPARISON TO THE CORRECT VOTER RECORD.

1 ~~29.12-7.7.7~~ Use of AUTOMATED Signature Verification Devices UNDER SECTION 1-7.5-  
2 107.3(5)(B), C.R.S.

3 (A) IF THE COUNTY CLERK ~~AND RECORDER~~ USES A SIGNATURE VERIFICATION  
4 DEVICE FOR AUTOMATED SIGNATURE VERIFICATION ON BALLOT ENVELOPES,  
5 THE COUNTY MUST TEST THE DEVICE BEFORE USING IT IN AN ELECTION.

6 (1) THE TESTING MUST VERIFY THE ACCURACY OF THE DEVICE AND ENSURE  
7 THAT THE DEVICE WILL NOT ACCEPT A SIGNATURE THAT A ~~REASONABLE~~  
8 ~~REASONABLY~~ TRAINED ELECTION ~~JUDGE OFFICIAL~~ WOULD REJECT.

9 (2) THE COUNTY MUST PULL AND TEST A MINIMUM OF 150 BALLOT  
10 ENVELOPES RECEIVED IN THE ELECTION AND CONDUCT AN AUDIT OF THE  
11 MACHINE-VERIFIED SIGNATURES.

12 (A) A TEAM OF BI-PARTISAN ELECTION ~~JUDGES OFFICIALS~~ MUST  
13 MANUALLY REVIEW THE SIGNATURES IDENTIFIED ON THE AUTOMATED  
14 SIGNATURE RECOGNITION REPORT FOLLOWING THE PROCEDURES IN  
15 SECTION 1-7.5-107.3, C.R.S., AND THIS RULE.

16 (B) THE ~~JUDGES~~ ELECTION OFFICIALS CONDUCTING THE AUDIT MUST SIGN  
17 AND DATE THE AUTOMATED SIGNATURE RECOGNITION REPORT AND  
18 THE REPORT MUST BE MAINTAINED WITH ALL OTHER ELECTION  
19 RECORDS UNDER SECTION 1-7-802, C.R.S.

20 (B) IN ADDITION TO THE INITIAL TEST, THE COUNTY MUST CONDUCT A REGULAR  
21 AUDIT OF THE DEVICE DURING ITS USE.

22 (1) THE COUNTY MUST PULL A RANDOM SAMPLING OF NO FEWER THAN ONE IN  
23 EVERY FIFTY MACHINE-VERIFIED SIGNATURES DAILY.

24 (2) A TEAM OF BI-PARTISAN ELECTION ~~JUDGES OFFICIALS~~ MUST MANUALLY  
25 REVIEW THE SIGNATURES IDENTIFIED ON THE AUTOMATED SIGNATURE  
26 RECOGNITION REPORT FOLLOWING THE PROCEDURES IN SECTION 1-7.5-  
27 107.3, C.R.S., AND THIS RULE.

28 (3) THE ~~JUDGES~~ ELECTION OFFICIALS CONDUCTING THE AUDIT MUST SIGN  
29 AND DATE THE AUTOMATED SIGNATURE RECOGNITION REPORT AND THE  
30 REPORT MUST BE MAINTAINED WITH ALL OTHER ELECTION RECORDS  
31 UNDER SECTION 1-7-802, C.R.S.

32 (4) IF THE DEVICE FAILS THE AUDIT, THE COUNTY MUST IMMEDIATELY CEASE  
33 USE OF AUTOMATED SIGNATURE VERIFICATION AND NOTIFY THE  
34 SECRETARY OF STATE. THE SECRETARY OF STATE AND THE COUNTY  
35 MUST WORK IN COORDINATION TO IDENTIFY THE ISSUE AND IMPLEMENT A  
36 SOLUTION.

37 (C) THE COUNTY MUST ENSURE THAT THE DEVICE IS OPERATED ON A DEDICATED

1 AND SECURE NETWORK.

2 (1) THE COUNTY MAY CONNECT THE DEVICE TO THE COUNTY NETWORK FOR  
3 MAINTENANCE AND SUPPORT EXCEPT DURING AN ELECTION.

4 (2) THE DEVICE MUST BE SECURED BY THE COUNTY FIREWALL.

5 (3) THE COUNTY MUST MAINTAIN A MAINTENANCE AND SUPPORT LOG THAT  
6 INCLUDES THE NAME OF THE PERSON PROVIDING MAINTENANCE OR  
7 SUPPORT, THE DATE AND TIME THE DEVICE WAS ACCESSED, THE SPECIFIC  
8 REASON FOR ACCESS.

**Comment [S53]:** Note this device may not be controlled by the security measures that apply to vote tabulation equipment- but it should be. No network access during an election.

9 *[Current Rule 29 is amended and moved to new Rules 7.6 and 7.7. Amendments*  
10 *are shown above.]*

11 **7.7.8** IF A COUNTY USES A SIGNATURE CAPTURE DEVICE TO COMPARE A BALLOT  
12 ENVELOPE SIGNATURE TO A SIGNATURE MAINTAINED IN SCORE, THE SYSTEM  
13 MAY DISPLAY ONLY ONE VOTER'S SIGNATURE AT A TIME.

14 **7.8** VOTER SERVICE AND POLLING CENTERS

15 **7.8.1** 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 1-7.5-  
19 107(4.5), C.R.S., FOR ALL OTHER ELECTIONS.

20 (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 1-2-  
25 509, C.R.S., AT EVERY DESIGNATED VOTER SERVICE AND POLLING CENTER.

26 ~~7.1-7.8.2~~ ~~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,  
30 paper ballots, and voting booths or DRES, provisional voting area ~~or procedure,~~  
31 and a ballot box ~~if provided.~~

32 *[Current Rule 7.1 is amended and moved to new Rule 7.8.2. Amendments are shown*  
33 *above.]*

34 **7.8.3** VOTER CHECK-IN AT THE VOTER SERVICE AND POLLING CENTER

1 (A) EACH VOTER SERVICE AND POLLING CENTER MUST INCLUDE AND  
2 ADEQUATELY STAFF A DESIGNATED VOTER CHECK-IN TABLE OR AREA.

3 (B) THE CHECK-IN JUDGE MUST ASK EACH ELECTOR FOR AN ID PER CRS 1-1-  
4 104(19.4) AND ASK FOR CONFIRMATION OF PERMANENT ADDRESS TO VERIFY EACH THE ELECTOR'S  
REGISTRATION INFORMATION IN SCORE, -INCLUDING ADDRESS.

**Comment [S54]:** This is to qualify what "verify" means and to clarify the verbal interaction with the elector and the lookup in SCORE.

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

9 7.8.4 EXCEPT FOR VOTERS WITH DISABILITIES, THE MAXIMUM ALLOWABLE TIME IN A  
10 VOTING BOOTH IS 15 MINUTES IF THERE ARE VOTERS WAITING. THE SECRETARY  
11 OF STATE MAY ORDER ADDITIONAL TIME BASED ON THE LENGTH OF THE BALLOT.

12 [SECTION 1-7-115, C.R.S.]

13 *[Portions of current Rule 7.6 are included in new Rule 7.8.3.]*

14 7.8.5 ANY ELIGIBLE ELECTOR MAY VOTE IN-PERSON AT A VOTER SERVICE AND POLLING  
15 CENTER. ~~THE ELECTION JUDGE OFFICIAL MUST VOID MARK THE ELECTOR'S MAIL~~  
16 ~~BALLOT "SURRENDERED" IN SCORE BEFORE ISSUING AN IN-PERSON BALLOT.~~  
17 CENTER IN THE COUNTY IN WHICH HE OR SHE IS ELIGIBLE TO VOTE. THE ELECTION OFFICIAL MUST FLAG THE  
18 ELECTOR AS BALLOT "SURRENDERED" IN SCORE BEFORE ISSUING A BALLOT IN PERSON.

**Comment [S55]:** Note that ballots are not marked by election officials, and ballots do not belong to voters. My proposed text is far more accurate and necessary to avoid seeing electors attempt to vote out of county. Also "in-person ballot" is not defined. It should not differ from a mail ballot other than the contents of the stub and the way the stub is handled. Details like this are key to a good election practice.

17 ~~47.2~~ 7.8.6 If a voter leaves the voting area without completing the voting process,  
18 two judges of different affiliation ~~shall~~ MUST, to the extent possible, cover the  
19 voter's choices, and cast the ballot as the voter left it.

20 *[Current Rule 47.2 is amended and moved to new Rule 7.8.6. Amendments are shown*  
21 *above.]*

22 7.8.7 ~~Any individual who~~ IF AN ELECTOR votes AFTER THE CLOSE OF POLLS BECAUSE  
23 ~~in an election for federal office as a result of~~ a federal or state court ISSUES AN  
24 order EXTENDING ~~or any other order that is in effect 10 days before that election~~  
25 ~~and which extends~~ the time established for closing the polls by state law, ~~may~~  
26 ~~only vote in that election by casting a~~ THE ELECTOR MUST VOTE BY provisional  
27 ballot pursuant to state law and the rules and regulations prescribed by the  
28 ~~Secretary of State.~~ THE COUNTY CLERK MUST KEEP ALL SEALED PROVISIONAL BALLOT ENVELOPES  
29 CAST UNDER THIS RULE SEPARATE FROM SEALED PROVISIONAL BALLOT ENVELOPES NOT AFFECTED  
30 BY THE COURT ORDER.

**Comment [S56]:** Once the provisional ballots are removed from the envelopes, they must become anonymous and shortly thereafter counted. If this rule is intended to keep the already counted ballots that were once provisional separated because of extended voting, it should be made clear. At present that is not clear.

31 7.9 NO LATER THAN 90 DAYS BEFORE AN ELECTION, THE COUNTY CLERK ~~AND RECORDER~~ MUST  
32 DESIGNATE DROP-OFF LOCATIONS AND VOTER SERVICE AND POLLING CENTERS, AND  
33 COMPLETE AN ACCESSIBILITY SURVEY FOR ALL DROP-OFF AND ~~VOTER SERVICE AND~~  
34 ~~POLLING CENTER~~ VOTER SERVICE AND POLLING CENTER LOCATIONS ANNUALLY BEFORE  
35 DESIGNATING A LOCATION FOR USE.

36 7.9.1 FOR THE FIRST SURVEY OF A LOCATION, THE COUNTY CLERK MUST COMPLETE THE  
37 FULL ADA CHECKLIST FOR VOTER SERVICE AND POLLING ~~PLACES~~ CENTERS. THE  
38 COUNTY CLERK MUST COMPLETE THE ANNUAL VOTER SERVICE AND POLLING

1 PLACE-CENTER ACCESSIBILITY SURVEY FORM FOR EACH ELECTION AFTER THE  
2 INITIAL SURVEY IS COMPLETED. [SECTION 1-5-102, C.R.S.]

3 *[Portions of current Rules 7.7.1 and 7.7.2 are included in new Rule 7.9.1.]*

4 ~~7.7.3-7.9.2~~ **Barrier removal:** If, upon assessment, a location fails to meet the minimum  
5 accessibility requirements outlined in the ADA Checklist for Polling Places, the  
6 ~~designated election official~~ COUNTY CLERK must develop a barrier removal plan  
7 outlining the permanent and or temporary modifications that will be implemented  
8 THE COUNTY CLERK WILL IMPLEMENT TO BRING THE SITE INTO COMPLIANCE IN ORDER FOR  
9 ~~the location to be designated an official polling place location.~~ THE COUNTY  
10 CLERK MUST INDICATE ON THE SURVEY WHETHER THE MODIFICATIONS ARE  
11 TEMPORARY OR PERMANENT.

12 *[Current Rule 7.7.3 is amended and moved to new Rule 7.9.2. Amendments between the*  
13 *current and new rule language are shown above.]*

14 7.9.3 THE SECRETARY OF STATE MAY DENY AN APPLICATION FOR ACCESSIBILITY GRANT  
15 FUNDS IF A COUNTY CLERK FAILS TO ASSESS LOCATIONS AND TIMELY FILE  
16 COMPLETE ACCESSIBILITY SURVEYS, AND DEVELOP AND IMPLEMENT NECESSARY  
17 BARRIER REMOVAL PLANS IN ACCORDANCE WITH THIS RULE. THE SECRETARY WILL  
18 CONDUCT SITE VISITS TO ASSESS COMPLIANCE AND IDENTIFY ACCESSIBILITY  
19 BARRIERS. THE SECRETARY WILL SEEK INJUNCTIVE ACTION OR OTHER PENALTIES  
20 UNDER SECTION 1-1-107(2)(D), C.R.S., AS NECESSARY TO REMEDY VIOLATIONS OF  
21 THIS RULE.

22 *[Portions of current Rules 7.7.2(d) and 7.7.4 are included in new Rule 7.9.3.]*

23 7.10 VOTER SERVICE AND POLLING CENTER CONNECTIVITY

24 7.10.1 THE COUNTY MUST HAVE REALTIME ACCESS TO ~~THE STATEWIDE VOTER~~  
25 ~~REGISTRATION SYSTEM SCORE~~ AT EVERY VOTER SERVICE AND POLLING CENTER  
26 DESIGNATED BY THE COUNTY CLERK ~~AND RECORDER.~~

27 7.10.2 AT NO TIME MAY AN ELECTION ~~JUDGE OFFICIAL~~ OPEN BOTH THE SCORE VOTER  
28 REGISTRATION SCREEN AND THE VOTING MODULE ON A SINGLE WORKSTATION.

29 7.10.3 EVERY VOTER SERVICE AND POLLING CENTER DESIGNATED BY THE COUNTY CLERK  
30 ~~AND RECORDER~~ MUST MEET THE MINIMUM SECURITY PROCEDURES FOR  
31 TRANSMITTING VOTER REGISTRATION DATA AS OUTLINED IN SECTION 1-5-102.9,  
32 C.R.S., AND RULE ~~43-20.~~

33 7.11 ASSISTING VOTERS WITH DISABILITIES IN A VOTER SERVICE AND POLLING CENTER

34 ~~9.1-7.11.1~~ The ~~county clerk and recorder~~ DESIGNATED ELECTION OFFICIAL must post a  
35 sign at the ~~polling place or vote center~~ VOTER SERVICE AND POLLING CENTER that  
36 states:

**Comment [S57]:** I think readers of this paragraph deserve to know why this is a problem.

1 NOTICE  
2 VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

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

- 5 1. If you require assistance, please inform an election judge.
- 6 2. Any person, including an election judge, may assist you.
- 7 3. If you select a person other than an election judge, he or she must complete a  
8 Voter Assistance Form, which includes an oath that states:
- 9 I, ....., certify that I am the individual chosen by the elector to assist the  
10 elector in casting a ballot.'
- 11 4. The person you select may provide any assistance you need, including entering  
12 the voting booth, preparing the ballot, or operating the voting machine.
- 13 5. The person assisting you may not seek to persuade you or induce you to vote in a  
14 particular manner.
- 15 6. The election judge must record the name of each voter who receives assistance  
16 and the name of the person who provides assistance ~~in the pollbook or list of~~  
17 ~~eligible electors (or on the signature card if preprinted signature cards are used~~  
18 ~~in the place of a pollbook and list of eligible electors).~~

19 9-2-7.11.2 ~~When~~ IF a voter has spoiled two ballots and requests a third ballot, an  
20 election judge shall OFFICIAL MUST offer assistance in voting procedures and  
21 casting the ballot.

22 [Current Rule 9 is amended and moved to Rules 7.11. Amendments are shown above.]

23 Rule 8. Rules Concerning Watchers

24 248-2-8.1 Qualification of Watchers. Watchers shall MUST AFFIRM certify THAT they are qualified  
25 pursuant 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  
26 APPLICABLE. Watchers shall MUST take an THE oath as provided DESCRIBED in section 1-7-  
27 108(1), C.R.S. and shall, upon first entering the precinct place VOTER SERVICE AND  
28 POLLING CENTER or location, surrender THE CERTIFICATE OF APPOINTMENT to the election  
29 official or election judges SUPERVISOR JUDGE a certificate of appointment at each precinct  
30 polling place VOTER SERVICE AND POLLING CENTER or location where the watcher has  
31 been IS designated to act OBSERVEACT.

Comment [S58]: Watchers affirm not certify. Party officials certify watchers, not election officials.

Comment [S59]: Here we see that election judges and election official has a separate meaning, contradicting the attempt to combine many roles into "election official".

32 8.2-1-8.1.1 If a watcher leaves a precinct and the same watcher VOTER SERVICE AND  
33 POLLING CENTER LOCATION BUT returns later in the day to the same precinct  
34 LOCATION, another certificate of appointment is not necessary. and shall not be  
35 required. The original certificate of appointment will suffice.

Comment [S60]: "Act" was the correct verb and formerly in the rule. Watchers have a larger role than simply "observing" – namely correcting discrepancies etc.

1 ~~8.2.2~~ 8.1.2 If a watcher is replaced during the day, the watcher replacing the original  
2 watcher must have an original certificate of appointment for that precinct. A NEW  
3 WATCHER WHO IS REPLACING AN ORIGINAL WATCHER MUST PROVIDE AN ORIGINAL  
4 CERTIFICATE OF APPOINTMENT FOR THAT ~~VOTER SERVICE AND POLLING CENTER~~  
5 LOCATION.

6 ~~8.2.3~~ 8.1.3 ~~Certificate~~ A CERTIFICATE of appointment as a watcher is not transferable  
7 to another individual.

8 ~~8.3~~ 8.2 A political party attorneys are not allowed ATTORNEY MAY NOT BE in the polling place  
9 ~~VOTER SERVICE AND POLLING CENTER~~ LOCATION unless they are HE OR SHE IS A duly  
10 appointed as watchers WATCHER.

11 ~~8.4~~ Watchers are not allowed to have cell phones, cameras, recording devices, laptops or  
12 PDAs (Palm Pilot, Blackberry, etc.) in the polling place. A WATCHER MAY NOT HAVE A  
13 CELL PHONE, CAMERA, RECORDING DEVICE, COMPUTER, TABLET, OR OTHER PERSONAL  
14 ELECTRONIC EQUIPMENT IN THE VOTER SERVICE AND POLLING CENTER.

15 ~~8.5~~ 8.3 List of Eligible Electors. To assist Watchers in performing their tasks, the election  
16 official or election judge shall THE SUPERVISOR JUDGE MUST provide TO EACH WATCHER a  
17 list, log, check-in card, or other similar information of voters who have appeared in the  
18 precinct polling place APPEARING IN THE ~~VOTER SERVICE AND POLLING CENTER~~ LOCATION  
19 to vote. The WATCHER MAY NOT REMOVE THE information or documents shall not be  
20 removed from the polling place or voting location FROM THE ~~VOTER SERVICE AND~~  
21 ~~POLLING CENTER~~ LOCATION. Watchers A WATCHER may maintain a list of eligible  
22 electors who have voted by utilizing USING only that information provided by the election  
23 official or election SUPERVISOR judge except that they may bring with them into the  
24 polling place or location OR INFORMATION ON PAPER CARRIED a list of electors previously  
maintained by the watcher.  
25 [Section 1-7-108(3), C.R.S.]

**Comment [S61]:** Watchers deserve to be able to refer to at least paper documents brought with them to the polls.

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

28 ~~8.6~~ 8.4 Watchers are subject to the provisions of section 1-5-503, C.R.S.

29 ~~8.6.2~~ 8.4.1 The designated election official must position the voting equipment,  
30 voting booths, and the ballot box so that they are in plain view of the election  
31 officials and watchers.

32 ~~8.6.3~~ 8.4.2 Watchers are permitted to A WATCHER MAY witness and verify the conduct  
33 of elections and recount activities. WATCHERS MUST BE PERMITTED ACCESS THAT  
34 WOULD ALLOW THEM TO ATTEST TO THE ACCURACY OF ELECTION-RELATED  
35 ACTIVITIES, INCLUDING RECALL ELECTIONS. THIS INCLUDES PERSONAL VISUAL  
36 ACCESS AT A REASONABLE PROXIMITY TO READ DOCUMENTS, WRITINGS OR  
37 ELECTRONIC SCREENS AND REASONABLE PROXIMITY TO HEAR ELECTION-RELATED  
38 DISCUSSIONS. Witness and verify means to personally observe actions of ALL PARTIES INCLUDING  
election judges OFFICIALS in each step of the conduct of an election.  
39

**Comment [S62]:** Watchers may observe other watchers, etc.

1 (a) ~~The conduct of election ELECTIONS includes polling place and early voting~~  
2 ~~ELECTION-RELATED ACTIVITIES INCLUDE ALL ACTIVITIES IN A VOTER~~  
3 ~~SERVICE AND POLLING CENTER LOCATION and ballot PLUS ENVELOPE CREATION, processing and~~  
4 ~~counting., AND ELECTION ESTING, AUDITING, CANVASSING, RECOUNTING, AND RESULTS REPORTING SUCH AS:~~

**Comment [S63]:** This is one of many reasons why the definition of polling location is important. If polling location refers to places that voters cast ballots (VSPC plus drop off locations plus instances where teams pick up voted ballots) then this paragraph must separately include all locations where ballot return envelopes are being handled.

5 (1) OBSERVING VOTER CHECK-IN AND REGISTRATION ACTIVITIES.

6 (2) WITNESSING THE SIGNATURE VERIFICATION OF MAIL BALLOT  
7 ENVELOPES AT CLOSE ENOUGH DISTANCE TO VERIFY OR CHALLENGE  
8 THE SIGNATURE.

9 (3) WITNESSING THE DUPLICATION OF BALLOTS TO VERIFY ACCURACY  
10 OF VOTER INTENT.

11 (4) OBSERVING THE TABULATION PROCESS OR DISPLAY SCREENS OF  
12 VOTING EQUIPMENT AT ANY TIME THAT THE VOTER IS NOT IN THE  
13 IMMEDIATE VOTING AREA FOR PURPOSES OF VOTING OR CASTING HIS  
14 BALLOT.

15 (5) WITNESSING HAND COUNT TABULATIONS AS THEY ARE BEING  
16 CONDUCTED.

17 (6) VISUAL ACCESS TO ALL DOCUMENTS AND MATERIALS DURING THE  
18 LAT AND POST-ELECTION AUDIT.

19 (b) Watchers must remain outside the immediate voting area ~~WHILE AN~~  
20 ~~ELECTOR IS VOTING.~~

21 (c) Watchers may be present at each stage of the conduct of the election,  
22 including the ~~SETUP AND BREAKDOWN OF POLLING LOCATIONS AND~~  
23 ~~receiving BALLOT RECEIPT and bundling PROCESSING of the ballots~~  
24 ~~received by the designated election official.~~

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

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

30 ~~8.6.4.8.4.3 Watchers~~ A WATCHER may witness and verify activities described in  
31 ~~Article I~~ ARTICLE 1, Section 7, that are outside the immediate voting area,  
32 including ballot processing and counting. If ELECTION OFFICIALS ~~OR ELECTION~~  
33 ~~JUDGES~~ ARE CONDUCTING ELECTIONS ACTIVITIES IN SEPARATE ROOMS OR AREAS OF  
34 A BUILDING OR BUILDINGS, THE COUNTY CLERK ~~AND RECORDER~~ MUST ALLOW  
35 ADDITIONAL WATCHERS TO OBSERVE ~~ACTIVITIES~~ AND VERIFY EACH SEPARATE  
36 ACTIVITY IN EACH ROOM OR AREA IN THE BUILDING OR BUILDINGS. SEPARATE  
CERTIFICATES SHALL NOT BE REQUIRED. E.G "CENTRAL COUNT" IS A SUFFICIENT DESCRIPTION OF A LOCATION.

**Comment [S64]:** One obstacle to watching is complex and unstated rules for identifying locations for watching. With precinct counting it was simple and the law was written for this- but with 70% to 99% central count, the difficulty of identifying the polling location or counting facility is great and dependent on local authority.



1 ~~8.6.5~~ 8.4.4 Watchers appointed under ~~section 1-10.5-101(1)(a), C.R.S.,~~ THIS RULE 8  
2 may observe the canvass board while it performs its duties.

3 ~~8.6.6~~ 8.4.5 ~~Watchers~~ A WATCHER may track the names of electors who have cast  
4 ballots, challenge electors under section 1-9-203, C.R.S., and Rule ~~48-9~~, and  
5 submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule  
6 ~~31.8.7-13. What Watchers May Observe. Duly appointed Watchers~~ A WATCHER  
7 ~~may observe polling place voting, early voting ALL ACTIVITIES IN A VOTER~~  
8 ~~SERVICE AND POLLING CENTER LOCATION and the processing and counting of~~  
9 ~~precinct, provisional, mail, and mail-in ballots. For mail ballot elections, or mail-~~  
10 ~~in ballot processing, watchers~~ A WATCHER may be present at each stage of a  
11 ~~election including the receiving and bundling of the ballots, received by the~~  
12 ~~designated election official. Watchers~~ A WATCHER may be present during

13 ~~provisional ballot processing but may not have access to confidential voter~~ information.  
14 ~~A WATCHER MAY CHALLENGE INELIGIBLE PERSONS AND ASSIST IN THE CORRECTION OF DISCREPANCIES PER CRS 1-7-108.~~

15 *[Current Rule 8.6.1 is amended and moved to new Rule 1. Current Rule 8.6 is amended*  
16 *and moved to new Rule 8.4. Amendments are shown above.]*

17 ~~8.7.8.5~~ ~~Watcher oath.~~ In addition to the oath required by section 1-7-108(1), C.R.S., a watcher  
18 must affirm that he or she will not:

19 ~~8.7.1~~ 8.5.1 Attempt to determine how any elector voted or review confidential voter  
20 information;

21 ~~8.7.2~~ 8.5.2 Disclose any confidential voter information that he or she may observe; or

22 ~~8.7.3~~ 8.5.3 Disclose any results before the polls are closed and the designated election  
23 official has ~~formally~~ announced ANY UNOFFICIAL results.

24 ~~8.8.8.6~~ ~~Limitations of Watchers.~~ Watchers-A WATCHER may not:

25 ~~8.8.1~~ 8.6.1 Interrupt or disrupt OR INTERFERE WITH the processing, verification and  
counting of any ballots  
26 or any other stage of the election.

27 ~~8.8.2~~ 8.6.2 Write down any ballot numbers or any other identifying information about  
28 the electors.

29 ~~8.8.3~~ 8.6.3 ~~Handle~~ TOUCH OR HANDLE the poll books ~~POLLBOOKS~~, official signature  
30 cards, ballots, mail ballot envelopes, ~~mail in ballot envelopes~~, provisional ballot  
31 envelopes, voting or counting machines, or machine components.

32 ~~8.8.4~~ 8.6.4 ~~Interfere with the orderly conduct of any election process, including~~  
33 ~~issuance of ballots, receiving of ballots, and voting or counting of ballots.~~

34 ~~8.8.5~~ 8.6.5 ~~Interact with election officials or election judges as defined in section 1-1-~~  
35 ~~104(10) AND (47), C.R.S., except for the individual designated by the election~~  
36 ~~official~~ SUPERVISOR JUDGE.

**Comment [S65]:** Duplicated above

**Comment [S66]:** This is a key responsibility of watchers that is taken from statute and must appear in these rules.- the opportunities to challenge ineligible persons and assist in the correction of discrepancies. Both of these show that the watcher role is more than observation.

**Comment [S67]:** Since this is part of a gag order on watchers, it must be very clear when the gag is lifted if not 7PM on election day, then this is the next best. "formally announced" is utterly vague.

**Comment [S68]:** This is to eliminate the need for a paragraph 8.6.4 which is duplicative.

**Comment [S69]:** Duplicative and therefore overkill.

**Comment [S70]:** This severe limitation on interaction with election officials is obstructive of the watcher role, and it is a total gag order if the "Supervisor judge" has not designated anyone for this role. This rule had excluded election officials, but now election officials are inseparable from election judges. Obviously watchers need to be able to talk to election officials such as the clerk, official observers, and at times, election judges too.

1 8.6.6 USE A MOBILE PHONE TO MAKE OR RECEIVE A CALL IN ANY POLLING LOCATION OR  
2 OTHER PLACE ELECTION ACTIVITIES ARE CONDUCTED EXCEPT BY PERMISSION OF AN ELECTION OFFICIAL.

**Comment [S71]:** An absolute prevention of use of phone is unreasonable. By permission makes sense.

3 8.6.7 USE ANY ELECTRONIC DEVICE TO TAKE PICTURES, VIDEO, OR AUDIO RECORDING IN  
4 ANY POLLING LOCATION OR OTHER PLACE ELECTION ACTIVITIES ARE CONDUCTED EXCEPT BY PERMISSION OF AN ELECTION OFFICIAL.

**Comment [S72]:** Ditto

5 ~~8.9.1 8.8~~ ~~————— A major and OR minor political parties PARTY with candidates A~~  
6 ~~CANDIDATE on the ballot, OR A REGISTERED ISSUE COMMITTEE SUPPORTING OR OPPOSING A~~  
7 ~~BALLOT MEASURE OR QUESTION ON THE BALLOT may appoint one Watcher each to be~~  
8 ~~present OR MORE WATCHERS to observe polling place voting, early voting, and the~~  
9 ~~processing and counting of regular, provisional, mail and mail in ballots ELECTION~~  
10 ~~ACTIVITIES. See [sections 1-7-105 and 1-7-106, C.R.S. AND RULE 8.6.4.]~~

11 ~~8.10.8.7~~ ~~Official Observers Appointed by the Federal Government. THE~~  
12 ~~SECRETARY OF STATE MUST APPROVE Official Observers appointed by the federal~~  
13 ~~government. shall be approved by the Secretary of State and shall be OFFICIAL~~  
14 ~~OBSERVERS ARE subject to Colorado law and these rules as they apply to Watchers.;~~  
15 ~~however, they need not BUT AN OFFICIAL OBSERVER IS NOT REQUIRED TO be AN eligible~~  
16 ~~ELECTOR electors in the jurisdiction in which they act as Watchers. This Rule shall DOES~~  
17 ~~not apply to Official Observers appointed by the United States Department of Justice.~~  
18 ~~Official Observers appointed by the Secretary of State shall be ARE subject to the rules~~  
19 ~~and regulations as prescribed by the Secretary of State. Official Observers shall MUST~~  
20 ~~obtain A LETTER OF AUTHORITY from the Secretary of State, or his or her designee, duly~~  
21 ~~executed letters of authority. The Official Observers shall MUST surrender such THE letter~~  
22 ~~of authority to the COUNTY CLERK AND RECORDER designated election official in the~~  
23 ~~jurisdiction in which they act as Watchers.~~

24 *[Current Rule 8.10 is amended and moved to rule 8.7. Amendments are shown above.]*

25 ~~8.11.8.8~~ ~~Watchers, Official Observers and Media Observers at a Recount.~~  
26 ~~Watchers, Official Observers, and Media Observers may be present at DURING a recount.~~  
27 ~~Watchers, Official Observers, and Media Observers must be qualified and sworn IN for a~~  
28 ~~recount in the same manner as provided AS DESCRIBED in Rule 8.2 8.1 and are subject to~~  
29 ~~all other provisions related to the recount process. Any political party AND OR candidate~~  
30 ~~involved in the recount ~~OR~~ AND proponents ~~OR~~ AND opponents of an issue or question involved in the~~  
31 ~~recount may appoint one Watcher OR MORE WATCHERS to be present at any time during~~  
32 ~~the recount. The A candidate who is subject to a recount may appoint him or her self~~  
33 ~~HIMSELF OR HERSELF, or a member of the candidate's family by blood, or marriage, OR~~  
34 ~~CIVIL UNION, as a watcher at a recount. See sections [SECTIONS 1-7-105 and 1-7-106,~~  
35 ~~C.R.S. AND RULE 8.6.4.]~~

**Comment [S73]:** These three replacement of "or" to "and" are to be sure that both proponents and opponents are allowed to appoint watchers. Also the political party and the candidate

36 ~~8.12.8.9~~ ~~Media Observers. Media Observers with valid and current media~~  
37 ~~credentials may be present to witness early voting, election day voting and the processing~~  
38 ~~and counting of provisional, mail and mail in ballots ALL ELECTION ACTIVITIES. However,~~  
39 ~~at the discretion of the county clerk and recorder, Media Observers may be required A~~  
40 ~~COUNTY CLERK AND RECORDER MAY, IN HIS OR HER DISCRETION, REQUIRE A MEDIA~~  
41 ~~OBSERVER to appoint one member of the media as a pool reporter and one member as a~~

1 pool photographer to represent all media observers. ALL MEDIA OBSERVERS ARE SUBJECT  
2 TO ~~in accordance with~~ the Guidelines established by the Colorado Press Association in  
3 conjunction with the Colorado County Clerks' Association and the Secretary of State as  
4 ~~set forth herein~~ OUTLINED BELOW:

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

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

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

37 *The Colorado State Association of County Clerks and Recorders,*  
38 *Colorado Broadcasters' Association and Colorado Press Association are*  
39 *all committed to working together to ensure the media has access to*  
40 *election counts and recounts, but that access is afforded in manners that*

1 do not disrupt the counts and do nothing to compromise the integrity of  
2 the process. Your cooperation in following these standards will help us to  
3 meet all these goals.

4 *[Current Rules 8.11 and 8.12 are amended and moved to new Rules 8.8 and 8.9.*  
5 *Amendments are shown above.]*

6 ~~8.13-8.10~~ ~~Watchers at Vote Centers.~~ To assist Watchers in performing their tasks ~~when a~~  
7 ~~vote center election is held~~ AT A VOTER SERVICE AND POLLING CENTER LOCATION, the  
8 ~~designated election official shall~~ COUNTY CLERK MUST provide a list of all voters who  
9 have VOTED OR RETURNED A BALLOT IN THE COUNTY ~~appeared in the vote centers to vote.~~  
10 ~~This list shall be made~~ THE COUNTY CLERK MUST MAKE THE LIST available **AT LEAST DAILY** at the  
11 ~~designated election official's main office.~~ THE COUNTY CLERK MAY ALSO PROVIDE THE  
12 LIST ELECTRONICALLY. ~~THE CLERK MAY MAKE THE~~ Such list may be made available to a  
13 requesting Watcher(s) in the form of data files, paper, or reports, and furnished to all  
14 interested parties via email, paper reports, or faxed copies as may be available to the  
15 designated election official.

**Comment [S74]:** There was no requirement as to the frequency of the availability of this important list.

16 ~~8.14-8.11~~ A ~~designated election official shall~~ THE COUNTY CLERK MUST certify the  
17 appointment of all eligible watchers duly designated by a political party, candidate or  
18 committee pursuant to UNDER sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.

19 ~~8.15-8.12~~ Removal of Watchers.

20 ~~8.15.1-8.12.1~~ A ~~designated election official~~ COUNTY CLERK OR DESIGNEE may remove a  
21 watcher upon finding that the watcher:

- 22 (a) Commits or encourages fraud in connection with his or her duties;  
23 (b) Violates any of the limitations outlined in Rule ~~8-8~~ 8.6;  
24 (c) Violates his or her oath; or  
25 (d) Is abusive or threatening toward election officials or voters.

26 ~~8.15.2-8.12.2~~ Upon removal of a watcher, the ~~designated election official~~ COUNTY  
27 CLERK must inform the political party, candidate, or committee who appointed the  
28 watcher.

29 ~~8.15.3-8.12.3~~ A removed watcher may be replaced by an alternate watcher duly  
30 designated in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S. Any  
31 ~~designated election official~~ COUNTY CLERK who removes a watcher must, to the  
32 best of the ~~official's~~ CLERK'S ability, expeditiously certify the appointment.

33 ~~8.16-8.13~~ Watchers may be designated to observe ~~more than one~~ precinct or polling place  
34 ~~SOME OR ALL~~ VOTER SERVICE AND POLLING CENTER LOCATIONS. ~~but in no event shall more than one~~  
35 ~~watcher be designated for any single polling place.~~ See section 1-7-106, C.R.S.  
FOR EXAMPLE A WATCHER MAY BE DESIGNATED TO ACT AT "ALL ELECTION ACTIVITIES" OR "ALL POLLING  
LOCATIONS" OR "ALL CENTRAL BALLOT AND ENVELOPE PROCESSING"

**Comment [S75]:** Polling locations unlike precincts do not have numbers, thus they are not so easy to identify. This will add some complexity to election watching- therefore the phrase "all polling locations" or "all election activities" should be available for use. My examples should help in recognition of this new problem.

1 8.178.14 Watchers may be appointed to observe recall elections held pursuant to UNDER  
2 article 12, title I, C.R.S., and shall MUST be designated in accordance with sections 1-7-  
3 106 and 1-7-107, C.R.S. AND THIS RULE 8.

**Comment [S76]:** Rule 8 included for completeness.

4 *[Current Rules 8.13-8.17 are amended and moved to new Rules 8.10-8.14. Amendments*  
5 *are shown above.]*

## 6 **Rule 9. VOTING CHALLENGES**

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

**Comment [S77]:** The interaction with potential electors is very well prescribed here but fails to require the official to explain the reason why they are being offered a provisional ballot- namely they have been deemed ineligible. It is almost insulting to allow a provisional ballot to be offered without explanation.

18 9.2 CITIZENSHIP  
19 A. ARE YOU A CITIZEN OF THE UNITED STATES?

**Comment [S78]:** If this information is not collected for the provisional ballot resolution at a later time, it will be impossible to track the reason for the use of the provisional ballot for these challenged electors.

20 SATISFACTORY ANSWER: YES.  
21 IF THE PERSON CHALLENGED ANSWERS YES TO THIS AND SATISFACTORILY TO THE OTHER TWO CHALLENGE  
QUESTION TYPES, AN ELECTION JUDGE OFFICIAL  
22 MUST OFFER THE PERSON A REGULAR BALLOT.

**Comment [S79]:** This represents an essential change that applies to each challenge question prototype where a response leads to offering a ballot. This seems to be a major oversight in the rules. I will not flag the other locations where this change needs to be made.

23 UNSATISFACTORY ANSWER: NO.  
24 IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION ~~JUDGE OFFICIAL~~  
25 MUST ADVISE THE PERSON OF THEIR LIKELY INELIGIBILITY AND OFFER THE PERSON A PROVISIONAL BALLOT.

**Comment [S80]:** Without the advice, a false impression of eligibility may be created.

26 9.3 RESIDENCY

27 \_\_\_\_\_ A. Have you WILL YOU HAVE resided in this state and precinct COLORADO  
for DURING the \_\_\_\_\_ PAST thirty 22 days BEFORE ELECTION DAY immediately preceding this election?

29 Satisfactory response ANSWER: Yes, he/she THE ELECTOR has WILL HAVE resided in this state  
30 COLORADO and precinct for the entire thirty-22-day period immediately preceding  
31 this election DAY. (In other words, his/her HIS OR HER primary home or place of abode  
32 was IS AND WILL BE in this state COLORADO and precinct during the entire thirty-22-day period in  
33 accordance with sections 1-1-104(43) and 1-2-102, C.R.S.)

**Comment [S81]:** It is the working in 1-2-102 that leads to this strange language. The statute is worded from the perspective of election day, but the elector may register to vote and vote on any day prior to election day that a polling location is open as well.

**Comment [S82]:** Another replacement of "the election" with "election day".

34 IF THE PERSON CHALLENGED ANSWERS YES, Proceed CONTINUE to challenge  
35 question B.

**Comment [S83]:** A further extrapolation of the meaning of residency during the 22 days prior to "the election".

1 Unsatisfactory response-ANSWER: No, for some portion of the thirty-22-day period  
2 immediately preceding this election DAY, he/she THE ELECTOR has not resided in this  
3 state COLORADO and precinct.

Comment [S84]: "election day" instead of "the election"

4 IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION JUDGE OFFICIAL  
5 MUST CONTINUE TO CHALLENGE QUESTION B- Offer the elector a provisional  
6 ballot.

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

Comment [S85]: I think past 22 days is incorrect as this refers to 22 days prior to the date of attempted registration, not 22 days before "the election" which is the phrase used in the law:

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

1-2-102(b) The person has resided in this state twenty-two days immediately prior to the election at which the person intends to vote."

14 IF THE PERSON CHALLENGED ANSWERS NO, Offer THE ELECTION JUDGE  
15 OFFICIAL MUST OFFER the elector PERSON a regular ballot.

Note that the law is written as if the person was registering on election day. In law, "the election" typically refers to election day- a phrase that is also becoming inconsequential with many forms of early and late voting.

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

Comment [S86]: See above.

19 Offer the elector a regular ballot.

20 UNSATISFACTORY Response requiring follow up questions-ANSWER: Yes, he/she  
21 THE ELECTOR has been absent from this state COLORADO during the thirty-22-day  
22 period immediately preceding this election, and has maintained a home or  
23 domicile elsewhere.

Comment [S87]: See above

24 IF THE PERSON CHALLENGED ANSWERS YES, THE ELECTION JUDGE OFFICIAL  
25 MUST Proceed CONTINUE to challenge question C.

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

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

30 IF THE PERSON CHALLENGED ANSWERS YES, THE ELECTION JUDGE OFFICIAL  
31 MUST Proceed CONTINUE to challenge question D.

32 Unsatisfactory response-ANSWER: No, when he/she THE ELECTOR left, he/she HE  
33 OR SHE did not intend to return.

34 IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION JUDGE OFFICIAL  
35 MUST Offer OFFER the elector person a provisional ballot.

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

3 Satisfactory ~~response~~—ANSWER: Yes, while absent, ~~he/she~~—THE ELECTOR ~~looked~~  
4 ~~upon and regarded~~ CONSIDERED ~~this state as~~ COLORADO TO BE ~~his/her~~ HIS OR HER  
5 home.

6 *IF THE PERSON CHALLENGED ANSWERED YES, ~~Proceed~~ CONTINUE to challenge*  
7 *question E.*

8 Unsatisfactory ~~response~~—ANSWER: No, while absent, ~~he/she~~—THE ELECTOR did not  
9 ~~LOOK UPON AND REGARD~~ CONSIDER ~~this state as~~ COLORADO TO BE ~~his/her~~ HIS OR  
10 HER home.

11 *IF THE PERSON CHALLENGED ANSWERS NO, THE ELECTION ~~JUDGE OFFICIAL~~*  
12 *MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a provisional ballot.*

13 D. ~~Did you, w~~While YOU WERE absent, DID YOU vote in any other state or ~~any~~  
14 territory of the United States?

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

17 *THE ELECTION ~~JUDGE OFFICIAL~~ MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a*  
18 *regular ballot.*

19 Unsatisfactory ~~response~~—ANSWER: Yes, while absent, ~~he/she~~—THE ELECTOR ~~did vote~~  
20 VOTED in another state or territory of the United States.

21 *THE ELECTION ~~JUDGE OFFICIAL~~ MUST ~~Offer~~ OFFER the ~~elector~~ PERSON a*  
22 *provisional ballot.*

23 9.4 AGE

24 A. WILL YOU BE 18 YEARS OF AGE OR OLDER ON ELECTION DAY?

25 SATISFACTORY ANSWER: YES.

26 *IF THE PERSON CHALLENGED ANSWERS ~~YES~~, AN ELECTION ~~JUDGE OFFICIAL~~*  
27 *MUST OFFER THE PERSON A REGULAR BALLOT.*

**Comment [S88]:** See above

28 UNSATISFACTORY ANSWER: NO.

29 *IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION ~~JUDGE OFFICIAL~~*  
30 *MUST ~~OFFER~~ THE PERSON A PROVISIONAL BALLOT.*

**Comment [S89]:** See above- I have not flagged all the locations where these challenge questions need to change .

31 ~~48.2~~ ~~If the person challenged answers unsatisfactorily or refuses to answer the challenge~~  
32 ~~questions, the elector shall be offered a provisional ballot.~~

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

2 **Rule 10. CANVASSING AND RECOUNT**

3 ~~41.1~~ Definitions

4 ~~41.1.1~~ “Canvass board” means a committee composed of the county clerk and recorder  
5 and the registered electors appointed by the major parties in accordance with  
6 section ~~1-10-101~~, C.R.S.

7 ~~41.1.2~~ “Canvass workers” means workers appointed or hired by the designated election  
8 official to assist in the preparation and conduct of the canvass.

9 ~~41.1.3~~ “Statement of Ballots Form” means the form used at the polling location that  
10 accounts for all ballots at that location and includes all information required by  
11 this rule.

12 *[Current Rule 41.1 is moved to new Rule 1]*

13 ~~41.2~~ 10.1 Appointment to the Canvass Board

14 ~~41.2.1~~ 10.1.1 In all cases, the canvass board must consist of an odd number of members,  
15 and each member has equal voting rights.

16 ~~41.2.2~~ 10.1.2 For a partisan election, each major party may have no more than two  
17 representatives on the canvass board. The board must include an equal number  
18 of representatives from each major party, unless a major party fails to certify  
19 representatives for appointment.

20 ~~41.2.3~~ 10.1.3 Each major party representative on the canvass board must be registered to  
21 vote in the county where the representative will serve and affiliated with the  
22 party he or she represents.

23 ~~41.2.4~~ 10.1.4 A candidate for office and members of the candidate’s immediate family  
24 may not serve on the canvass board.

25 ~~41.3~~ 10.2 Duties of the Canvass Board

26 ~~41.3.1~~ 10.2.1 The canvass board must make its determinations by majority vote in  
27 accordance with section ~~1-10-101.5(3)~~ 1-10-101.5(1)(c), C.R.S.

28 ~~41.3.2~~ 10.2.2 The canvass board’s duties are:

29 (a) Conduct the canvass in accordance with section ~~1-10.5-101-1-10-101.5~~,  
30 C.R.S., including:

31 (i) Account and balance the election and certify the official abstract of  
32 votes;

**Comment [S90]:** While reasonable, this odd number of canvass board members is not a statutory requirement. All this does is solve the problem of a lack of majority on a canvass board... a requirement for voting that was recently added without considering the consequences. Previously canvass boards would have acted by consensus.



- 1 (i-2). Reconcile the number of ballots counted to the number of ballots  
 2 cast; and
- 3 (iii-3) Reconcile the number of ballots cast to the number of voters who  
 4 voted by reviewing the reconciled detailed ballot logs and Statement of  
 5 Ballots;

6(b) Observe the post-election audit AND INVESTIGATE AND REPORT ON RESOLUTION OF COMPLAINTS  
 in accordance with section 1-7-514(4), C.R.S., and Election Rule ~~1-5-4~~11.4.3(k);

8 (c) In coordination with the county clerk ~~and recorder~~  
 9 REPORT THE AUDIT, AND investigate and report discrepancies found in the audit under section 1-7-  
 10 514(2), C.R.S.; and

11 (d) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and  
 12 ~~Election~~ THIS Rule 14. The canvass board's role in conducting a recount  
 13 includes AMONG OTHER ROLES, selecting ballots for the random test, ~~observing~~ MANAGING OR  
CONDUCTING the recounting of ballots, and certifying the results.

15 ~~41.3.3~~ 10.2.3 If the board identifies a discrepancy in the Statement of Ballots, the Board  
 16 may review the ~~particular~~ ballots ~~at issue~~ to identify, correct, and account for  
 17 the ~~error~~.

18 ~~41.3.4~~ 10.2.4 ~~The canvass board may not perform duties typically reserved for election~~  
 19 ~~judges, including:~~

- 20 ~~(a) Determining voter intent;~~
- 21 ~~(b) evaluating~~ EVALUATING voter eligibility; and
- 22 ~~(c) Requesting new logs or reports that were not created to conduct the election.~~

23 ~~41.4~~ 10.3 Detailed Ballot Log

24 ~~41.4.1~~ 10.3.1 The designated election official must keep a detailed ballot log that  
 25 accounts for every ballot issued and received beginning when ballots are  
 26 ordered and received INCLUDING MAIL, PROVISIONAL, ON DEMAND, EMERGENCY, AND UOCAVA. The  
 election judges ~~OFFICIALS~~ must reconcile the log at the conclusion of each workday.

28 ~~41.4.2~~ 10.3.2 The designated election official must keep and reconcile BALLOT daily  
 29 logs of ~~mail in, mail, and early voting~~ ballots.

30 ~~41.4.3~~ 10.3.3 The designated election official must indicate in the detailed log the  
 31 number of paper ballots that are sent to AND RETURNED FROM each polling location ~~for use on~~  
~~election~~ EACH day REPORTED BY BALLOT STYLE.

33 ~~41.4.4~~ 10.3.4 The designated election official must keep required logs in ~~either~~

**Comment [S91]:** The rules seem to be attempting to overlook this important role of canvass boards, and transfer the responsibility to the SOS. Meanwhile the end of precinct polling begs for additional citizen oversight opportunities and responsibilities.

**Comment [S92]:** I was involved in writing the statute that requires a report of the audit to be written by the canvass board and published by the SOS. It is not only a report of the result of discrepancies and deserves to be included in rule explicitly, if not more explicit than I have made it here. In fact the statute is more explicit than what I have written here.

**Comment [S93]:** Recent rulemaking has sought to delimit the function of the canvass board in conducting a recount. My proposed change forces a re-reading of statute instead of reliance upon these functions mentioned here, only part of the statutory role.

**Comment [S94]:** There is no statutory limitation to "observation" at all. Quite the contrary.

**Comment [S95]:** This recently approved rule unnecessarily inhibits the access by the canvass board to the ballots- the most essential record of the election for integrity purposes- particularly regarding the 3 major functions of the canvass board in certification, audit and recount.

**Comment [S96]:** This restriction on the canvass board is not supported by Statute. The members of the canvass board are included in the definition of election official in CRS 1-1-104(10) as follows:

"(10) "Election official" means any county clerk and recorder, election judge, member of a canvassing board, member of a board of county commissioners, member or secretary of a board of directors authorized to conduct public elections, representative of a governing body, or other person contracting for or engaged in the performance of election duties as required by this code."

Note that among these, the most problematic of election officials from the point of view of the necessary independence of either audit or recount are in fact the county commissioners at...

**Comment [S97]:** Because of Colorado's election complexity all must be mentioned. Unfortunately "mail ballot" may no longer have meaning and may need to be defined.

**Comment [S98]:** Obviously not just on election day. Note this requirement seems to be repeated in 10.4.1

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1 AN EASILY ACCESSIBLE electronic or manual format.

2 ~~41.5~~ 10.4 Election ~~Day~~ Tracking Process

3 ~~41.5.1~~ 10.4.1 The designated election official must supply each polling location with a

4 Statement of Ballots Form. ~~Combined precincts may use one form.~~ The form

5 must include a place for the ~~judges~~ ELECTION OFFICIALS to account for the

6 following information FOR EACH DAY VOTING TAKES PLACE, LISTED BY BALLOT STYLE:

7 (a) The name or number(s) of the ~~precinct or vote center~~ POLLING LOCATION;

8 (b) The number of ballots AND BALLOT PACKETS provided to the polling location;

9 (c) The number of ballots cast WITHOUT SIGNED ENVELOPES;

10 (d) The number of unvoted ballots AND MAIL BALLOT PACKETS ON HAND;

11 (e) The number of damaged or spoiled ballots; and

12 (f) The number of voted provisional ballots.

(G) THE NUMBER OF UNVOTED MAIL BALLOTS OR PACKETS SURRENDERED.

(H) THE NUMBER OF MAIL BALLOT PACKETS ISSUED TO ELECTORS.

(I) THE NUMBER OF VOTED DRE BALLOTS

(J) THE NUMBER OF VOTED UOCAVA BALLOTS

(K) THE NUMBER OF VOTED EMERGENCY BALLOTS

(L) THE NUMBER OF VOTED MAIL BALLOT PACKETS RECEIVED

(M) THE NUMBER OF BALLOTS PRINTED ON DEMAND.

13 ~~41.5.2~~ 10.4.2 The election ~~judge~~ OFFICIALS must reconcile the total number of voted

14 ballots with the number of voters who voted.

15 ~~41.5.3~~ 10.4.3 The election ~~judge~~ OFFICIALS must verify that the total number of voted

16 ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is

17 the same as the number of total ballots supplied to the polling location.

18 ~~41.5.4~~ 10.4.4 The election ~~judge~~ OFFICIALS must reconcile the number of people who

19 signed ~~the pollbook~~ SIGNATURE CARDS to the total of the number of ballots cast.

20 ~~41.5.5~~ 10.4.5 If there is a discrepancy in the numbers on the Statement of Ballots form,

21 the ~~judge~~ ELECTION OFFICIALS must explain the discrepancy in writing (for

22 example, the voter signed in but left the polling ~~place~~ LOCATION without voting,

23 etc.).

24 ~~41.5.6~~ 10.4.6 The ~~judge~~ ELECTION OFFICIALS must return the completed Statement of

25 Ballots form to the designated election official with the other precinct supplies

26 and mail a duplicate copy to the designated election official's office AT THE END OF ELECTION DAY

OR IN CASE OF LATE ARRIVING UOCAVA BALLOTS, 8 DAYS AFTER ELECTION DAY.

27 ~~41.6~~ 10.5 Designated Election Official's Disposition of Forms

28 ~~41.6.1~~ 10.5.1 The designated election official must review the Statement of Ballots form

29 for completion and accuracy.

30 ~~41.6.2~~ 10.5.2 If the designated election official or the canvass board discovers a problem

31 with the Statement of Ballots form that cannot be easily resolved, they may

32 contact the election ~~judges~~ OFFICIALS for an explanation or correction.

- Comment [S99]:** Easy accessibility for canvass board and public would obviously be an electronic format. I hope this rule written this way will favor electronic delivery.
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- Comment [S100]:** The title of this section is incorrect- "election day" is not the day election processing is done any more.
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- Comment [S101]:** When the rule was written this made sense as a precinct polling place report. Now with vote center style voting and the rise of coordinated special districts, it is ballot style that must be specified as the defining subset and with elections operating on many days other than election day, a daily report is necessary.
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- Comment [S102]:** Many new and different numbers must be reported from polling locations. I may not have included all of the new items here yet.
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- Comment [S103]:** All these roles should be performed by election judges. This shift to "officials" is highly troubling and will lead to lower integrity and oversight of and citizen involvement in the election over time. Already there are reports of elections planned under 1303 to use no election judges at all.
- Comment [S104]:** ditto
- Comment [S105]:** This language is sorely out [...]
- Comment [S106]:** ditto
- Comment [S107]:** ditto
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- Comment [S108]:** ditto
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- Comment [S109]:** this change is required by [...]

1 41.7 10.6 Procedures for ~~the Day of the~~ Canvass

2 41.7.1 10.6.1 The designated election official must provide ~~the following~~ information to

3 the canvass board UPON REQUEST. BUT AT A MINIMUM INCLUDING:

4(a) The name of each ~~CONTEST candidate, office,~~ and votes received INCLUDING UNDER AND OVER

5 VOTES BY VOTING METHOD, BY VOTING DEVICE AND BY PRECINCT;

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

7 ~~(c) The number of voters who voted early;~~

8 (B) THE STATEMENT OF BALLOTS FORM FOR EACH DAY OF VOTING AND EACH POLLING LOCATION AND THE

9 SIGNATURE CARDS FROM EACH POLLING LOCATION;

10 ~~(d-c) The number of mail in or mail ballots cast, including the number OF~~

11 ~~accepted and rejected MAIL BALLOTS BY REJECTION CODE; and~~

12 ~~(e-D) The number of provisional ballots counted-CAST, INCLUDING THE NUMBER~~

13 ~~ACCEPTED AND REJECTED BY REJECTION CODE.~~

14 (E) A DESCRIPTION OF ANY KNOWN ANOMALIES, DISCREPANCIES, EXCEPTIONS OR DEFECTS IN THE ELECTION.

15 1141.7.2 10.6.2 Any written OR ELECTRONIC documentation ~~regarding official numbers, MAY BE is-~~

16 included as part

17 of the canvass.

18 10.6.3 THE CANVASS BOARD MUST MEET TO BEGIN CONSIDERATION OF ALL OF ITS FUNCTIONS NO LATER THAN 7

19 DAYS AFTER ELECTION DAY;

20 41.8 10.7 Official Abstract AND REPORTING TO THE SECRETARY OF STATE

21 41.8.1 10.7.1 ~~The designated election official must include the number of eligible~~

22 ~~ACTIVE REGISTERED voters AND THE NUMBER OF REGISTERED VOTERS (ACTIVE~~

23 ~~AND INACTIVE) on election day on the official abstract.~~

24 41.8.2 10.7.2 The canvass board must use the official abstract in a format approved by

25 the Secretary of State.

26 41.8.3 10.7.3 The official COUNTY abstract must include, by precinct/ OR ballot style ~~or~~

27 ~~vote center,~~ where applicable:

28 (a) THE TOTAL NUMBER OF ACTIVE REGISTERED ELECTORS AT 7PM ON ELECTION DAY;

29 (b) THE TOTAL NUMBER OF REGISTERED ELECTORS (ACTIVE AND INACTIVE) AT 7PM ON

30 ELECTION DAY;

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

(b) ~~The total active registered electors in the precinct and the total for the~~

~~jurisdiction holding the election;~~

(c) The total number of electors ~~voting in each precinct and the total for the~~

~~jurisdiction holding the election;~~ BALLOTS CAST IN THE ELECTION

(d) ~~The number of voters who voted early;~~

(e) ~~The number of emergency registrations;~~

- Comment [S110]:** Canvass should usually take more than one day for obvious reasons (audit, investigations, research, late counted ballots, etc.) "Day of Canvass is long obsolete although some counties attempt to require the canvass to be performed in a single day, sometimes the last day it is allowed to be performed, thus drastically limiting the function of the canvass board.
- Comment [S111]:** This requires the clerk to perform the function that explains why that role is part of the canvass board... not to control its process and outcome but to provide the essential information. Recent rules changes have sought to circumscribe the exact information that the canvass board may request. These limitations have damaged the function of the canvass board and made the elected official, elected by the election, only more responsible for an oversight function that they
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- Comment [S112]:** This makes sure the reports contain sufficient detail for understanding the ba
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- Comment [S113]:** These are crucial records of the election needed for canvass board review.
- Comment [S114]:** By rejection code report is a very good window into the integrity of the electic
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- Comment [S115]:** Ditto
- Comment [S116]:** This is a crucial requirement for election transparency to the citizen board tha
- Comment [S117]:** Increasingly, electronic documentation is taking precedence over writte
- Comment [S118]:** "regarding official numbers" is a vague limitation apparently offering the local
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- Comment [S119]:** A requirement for the canvass board to meet in a timely manner so tha
- Comment [S120]:** Because of same day election day registration, a time is required. 7PM
- Comment [S121]:** Ditto
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- 1 (f) The number of ~~mail in or~~ mail ballots counted and the number rejected **BY REJECTION CODE**;
- 2 (g) The number of provisional ballots counted and the number rejected listed by
- 3 each rejection code; and
- 4 (h) The number of damaged and spoiled ballots.

**Comment [S122]:** Rejection code reporting was included for provisional ballots, why not mail ballot rejections? Does "mail ballot" have a definition. Look into adding one if not.

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5 10.7.4 THE STATE PORTION OF THE ABSTRACT, WHICH THE COUNTY MUST TRANSMIT TO

6 THE SECRETARY OF STATE, MUST INCLUDE:

- 7 (A) THE TOTAL NUMBER OF ACTIVE REGISTERED ELECTORS **AT 7PM** ON ELECTION
- 8 DAY;
- 9 (B) THE TOTAL NUMBER OF REGISTERED ELECTORS (ACTIVE AND INACTIVE) **AT 7PM** ON
- 10 ELECTION DAY;
- 11 (C) THE STATEMENT OF VOTES COUNTED BY RACE AND BALLOT QUESTION OR
- 12 ISSUE **INCLUDING UNDER AND OVER VOTES**;
- 13 (D) THE TOTAL NUMBER OF BALLOTS CAST IN THE ELECTION; AND
- 14 (E) THE CANVASS ENR UPLOAD REQUIRED UNDER **RULE RULE** 11.11.4.

**Comment [S123]:** Because of same day, election day registration the time is needed- 7PM

**Comment [S124]:**

**Comment [S125R124]:** Ditto

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**Comment [S126]:** Under and overvotes show important information about the election quality and are used to balance contests with single choice options against the number of ballots received and voters casting ballots.

- 15 ~~41.9~~ 10.8 The COUNTY Abstract is the Official Permanent Record.
- 16 ~~41.9.1~~ 10.8.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.
- 17 ~~41.9.2~~ 10.8.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.

20 ~~41.10~~ 10.9 Appointment of Canvass Workers.

- 21 10.9.1 The designated election official **SUBJECT TO THE APPROVAL OF THE CANVASS BOARD**
- 22 may appoint canvass workers to help prepare and
- 23 conduct the canvass.

**Comment [S127]:** The canvass board needs a certain amount of independence to operate effectively. When the DEO appoints workers not acceptable to the canvass board, this independence can be severely damaged.

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- 24 ~~41.11.1~~ 10.10.1 After the canvass, the designated election official must give VOTE credit to each voter ~~who votes by mail, at an early voting site, or at a polling location.~~
- 25
- 26
- 27 ~~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:
- 28
- 29 (a) Each voter received credit for voting; and
- 30 (b) All ~~pollbooks and~~ signature cards are accounted for.

1 ~~41.11.3~~ 10.10.3 All research concerning discrepancies must be explained ~~and~~  
2 TO THE SATISFACTION OF THE CANVASS BOARD AND documented.

**Comment [S128]:** There is no criterion for quality of this explanation, but the canvass board can properly be asked to provide it.

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3 ~~41.12~~ 10.11 Written Complaints.

4 10.11.1 The designated election official must provide the canvass board with any written  
5 complaint submitted by a registered elector about a voting device.

6 ~~41.12.1~~ 10.11.2 If the complaint is resolved, the designated election official must provide  
7 the details of the resolution

8 ~~41.12.2~~ 10.11.3 If the complaint is pending resolution when the board meets to conduct  
9 the canvass, the designated election official must provide a proposal for how the  
10 issue will be resolved.

11 ~~41.13~~ 10.12 Role of Watchers.

12 10.12.1 Watchers appointed under section ~~1-10.5-101(1)(a)~~ 1-10-101(1)(a), C.R.S., may  
13 observe the board while it performs its duties, subject to Rule 8.

14 ~~41.14~~ 10.13 Role of the Secretary of State.

15 10.13.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may  
16 provide guidance and investigate imperfections as outlined below.

17 ~~41.14.1~~ 10.13.2 The county clerk ~~and recorder~~ or the canvass board may request  
18 that the Secretary of State provide guidance and support to the canvass board in  
19 the exercise of the board's duties.

20 ~~41.14.2~~ 10.13.3 If, in the course of assisting a canvass board, the Secretary of State  
21 discovers an imperfection that the Secretary believes may affect the conduct of  
22 other canvass boards, the Secretary may provide notice to other counties  
23 regarding the nature of the imperfection.

24 ~~41.14.4~~ 10.13.4 Imperfect returns or failure to certify.

25 (a) If the canvass board fails to certify or certifies imperfect returns that have  
26 no reasonable potential to change the outcome of any race or ballot  
27 measure, the Secretary of State and county clerk must certify the election  
28 and order recounts, if any, in accordance with Part 1, Article 11 of Title 1,  
29 C.R.S.

30 (b) If the canvass board fails to certify or certifies imperfect returns that have  
31 a reasonable potential to change the outcome of any race or ballot  
32 measure, the Secretary of State will conduct an investigation to identify  
33 the nature of, and advise the county clerk ~~and recorder~~  
34 AND CANVASS BOARD in correcting, the  
35 inaccuracy.  
36

**Comment [S129]:** CRS is clear on this collaboration of canvass board and clerk (who is also on the canvass board and therefore a redundant inclusion).

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

3 ~~14.3~~ 10.14 RECOUNT GENERALLY.

4 10.14.1 The purpose of a recount is to RE-TABULATE THE BALLOTS WITH BEST POSSIBLE  
5 ACCURACY AND ATTENTION TO EXPRESSIONS OF VOTER INTENT. ~~review the ballots to~~  
6 ~~assure they were counted properly. Unless directed otherwise by the Secretary of~~  
7 ~~State, all procedures of election night shall be followed as closely as possible~~  
8 ~~during the recount, including an examination of the ballots.~~

**Comment [S130]:** This expression of purpose of the recount is key to its proper execution. Without the attention to accuracy and voter intent, the recount is purposeless.

8 10.14.2 FOR STATEWIDE OR FEDERAL RACES, BALLOT ISSUES OR BALLOT QUESTIONS, THE  
9 COUNTY CLERK ~~AND RECORDER~~ MUST COORDINATE SCHEDULING THE RECOUNT  
10 THROUGH THE SECRETARY OF STATE'S OFFICE SO THAT IT CAN ENSURE ADEQUATE  
11 OBSERVER COVERAGE.

12 10.15 RECOUNT COST ESTIMATES AND REIMBURSEMENTS

13 10.15.1 A COUNTY MUST SUBMIT A REQUEST FOR REIMBURSEMENT FOR A MANDATORY  
14 RECOUNT IN A STATEWIDE OR FEDERAL RACE USING THE SECRETARY OF STATE  
15 APPROVED FORM. THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR MEALS  
16 OR NORMAL OVERHEAD COSTS OR REGULAR EMPLOYEE COMPENSATION. THE  
17 COUNTY MUST INCLUDE ITEMIZED COSTS FOR REASONABLE EXPENDITURES,  
18 INCLUDING:

- 19 (A) MAILINGS AND NOTICES;
- 20 (B) ELECTION JUDGES, TEMPORARY STAFF, CANVASS BOARD PAY, AND  
21 OVERTIME PAY; AND
- 22 (C) COPIES AND OTHER OFFICE EXPENSES RELATED TO THE RECOUNT.

23 10.15.2 REQUESTED RECOUNTS

24 (A) THE COUNTY CLERK MUST PROVIDE AN ITEMIZED COST ESTIMATE IN  
25 ACCORDANCE WITH SECTION 1-10.5-106, C.R.S., UPON SUBMISSION OF A  
26 FORMAL REQUEST FOR A RECOUNT.

27 (B) IN PREPARING A COST ESTIMATE FOR A REQUESTED RECOUNT, THE COUNTY  
28 MUST USE THE SECRETARY OF STATE APPROVED FORM. THE ESTIMATE MUST  
29 INCLUDE REASONABLE ITEMIZED COSTS FOR CONDUCTING THE RECOUNT.  
30 THE COUNTY MAY NOT REQUEST REIMBURSEMENT FOR NORMAL OVERHEAD  
31 COSTS.

- 32 (C) ~~ANY OTHER COSTS AGREED TO BY THE REQUESTING PARTY.~~
- 33 (D) THE COUNTY CLERK MUST SUBMIT A COST ESTIMATE TO THE SECRETARY OF  
34 STATE WHEN THE CLERK PROVIDES IT TO A REQUESTING PARTY.

**Comment [S131]:** This is an open invitation for requests for reimbursement for extraneous costs that could become obstacles to a recount. This loophole for creation of obstacles need not be opened here.

1 10.16 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND RULE 10.2.2(D), THE CANVASS  
2 BOARD'S ROLE IN CONDUCTING A RECOUNT INCLUDES BUT IS NOT LIMITED TO SELECTING  
3 BALLOTS FOR THE TEST, CONDUCTING OR MANAGING  
OBSERVING THE RECOUNTING OF BALLOTS, AND CERTIFYING THE RESULTS.

4 ~~14.4~~ 10.17 ~~General Provisions~~ WATCHERS AND OBSERVERS

5 ~~14.4.1~~ 10.17.1 The Secretary of State may ~~have~~ APPOINT ~~an~~ official ~~observer~~  
6 OBSERVERS ~~at every recount location~~ IN ANY RECOUNT.

7 ~~14.4.2~~ Any candidate who is subject to the recount may be present and observe the  
8 recount at any recount location or designate one Watcher to observe the recount  
9 at any recount location. ~~Watchers must provide the election official with a~~  
10 certificate signed by the candidate, except that an officer of the county party  
11 may be accepted as a candidate's watcher without a certificate if no other person  
12 is designated by the candidate for that location.

13 ~~14.4.3~~ 10.17.2 Each candidate, ~~his or her watcher,~~ OR THE CANDIDATE'S<sup>2</sup> WATCHERS,  
14 ~~members of the media~~ OBSERVERS, and official observers as defined in Rule 8.1,  
15 may be present in the room when a AND WITNESS THE recount is conducted IN  
16 ACCORDANCE WITH RULE 8. ~~During the recount the candidate, watcher,~~  
17 ~~members of the media, and official observers may not interfere with the recount~~  
18 ~~process.~~

19 ~~14.4.4~~ 10.17.3 The recount board, candidates, AND watchers, ~~members of the media, and~~  
20 ~~official observers will~~ MUST take an oath.

21 10.17.4 COMPLAINTS. A WATCHER MAY SUBMIT A COMPLAINT IN WRITING TO THE  
22 COUNTY CLERK OR DESIGNEE. WRITTEN COMPLAINTS DURING A RECOUNT WILL  
23 BE ADDRESSED IN ACCORDANCE WITH RULE ~~4.13~~.

24 10.18 TESTING RECOUNT EQUIPMENT

25 10.18.1 THE CANVASS BOARD MUST REVIEW THE POST-ELECTION AUDIT BEFORE  
26 SELECTING THE EQUIPMENT FOR TESTING UNDER SECTION 1-10.5-102(3), C.R.S.  
27 TO THE EXTENT FEASIBLE, THE BOARD MUST SELECT EQUIPMENT FOR TESTING  
28 THAT WAS NOT INCLUDED IN THE POST-ELECTION AUDIT.

10.18.2 THE CANVASS BOARD COUNTY CLERK MUST TEST ALL SCANNERS THAT WILL BE USED IN THE  
30 RECOUNT. THE PURPOSE OF THE TEST IS TO ENSURE THAT THE RESOLUTION BOARD AND  
31 TABULATION MACHINES WORKING TOGETHER ARE CAPABLE OF COUNTING SUFFICIENTLY ACCURATELY TO  
ENSURE A CORRECT OUTCOME OF THE ELECTION IN CONSIDERATION OF A VERY NARROW VICTORY MARGIN.  
PROPERLY. THIS MEANS THAT THE MOST DIFFICULT TO COUNT BALLOTS MUST BE COUNTED ACCURATELY.

32 (A) THE TEST DECK MUST INCLUDE 50 BALLOTS OR 1% OF THE TOTAL NUMBER  
33 OF BALLOTS CAST IN THE ELECTION, WHICHEVER IS GREATER, ~~EXCEPT THAT THE TOTAL NUMBER OF~~  
~~BALLOTS TESTED MAY NOT EXCEED THE TOTAL NUMBER OF BALLOTS TESTED IN THE LOGIC AND-~~  
~~ACCURACY TEST BEFORE THE ELECTION.~~ THE BALLOTS MUST BE ~~MARKED-SELECTED~~ TO TEST EVERY  
OPTION IN THE CONTEST INCLUDING ACTUAL VOTER MARKS THAT ARE DIFFICULT TO COUNT BY MACHINE  
FOR THE RACE OR MEASURE THAT WILL BE RECOUNTED.

**Comment [S132]:** Like the rules for canvass, here we see a gradual encroachment of the independent ability of the canvass board to review and correct for any errors and weaknesses in the original counting done under control of the election official. Clearly the recount must be operated in a manner different in the respect of being better (more accurate) than the original count. We know that the original count is not perfect, since for example that detected undervotes on ballots are not even examined.

**Comment [S133]:** Here the rule should extrapolate "conducting" from statute into "conducting" in case of a small county or "managing" in case of a large county. Remember the election official is a member of the canvass board.

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**Comment [S134]:** There is no statutory support for the canvass board being limited to "observing" the recount. That would be substantially inconsistent with the statutory responsibility- "conducting". Have no doubt, what we are seeing here is an asymmetric conflict between the power of the official in operating the election v. the limited and incrementally dropping power of the public to offset that special interest in partisanship or simply re-election.

**Comment [S135]:** Wrong citation.

**Comment [S136]:** FYI I don't know how this paragraph makes any sense but it is from statute.

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**Comment [S137]:** This recount must be independent from the weaknesses and errors if any of the original count. The canvass board is the only source of that independence other than the SOS.

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**Comment [S138]:** This is a careful statement of purpose that lays out the reasons for the extra care to be taken with the recount.

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**Comment [S139]:** The creation of a new test deck or use of the original LAT deck are bad ideas. It is essential that this LAT use actual election ballots, including ones that are problematic in marking, and that the LAT be substantially more accurate and more precise than the one used for the election, and in an case good enough to achieve the accuracy needed to ensure the outcome. This depends on the victory margin of the eventual count. The way to get there is to select poorly marked ballots for the LAT, and use a substantial number of them, higher than the percentage that appear in the election. I can see no excuse for the limitation on the number of tes...

**Comment [S140]:** This provision allows for the extra precision of the new LAT by challenging the system with real ballot marks that are known to be difficult to capture.

1 (1) ~~IN A MANDATORY RECOUNT, THE CANVASS BOARD MUST SELECT THE~~  
2 ~~BALLOTS TO BE TESTED FROM THE PRE-ELECTION PUBLIC LOGIC AND~~  
3 ~~ACCURACY TEST DECK, BALLOTS VOTED IN THE CONTEST.~~

4 (2) ~~IN A REQUESTED RECOUNT, THE PERSON REQUESTING THE RECOUNT~~  
5 ~~MAY MARK UP TO 25 BALLOTS. ANY OTHER CANDIDATE OR COMMITTEE IN THE CONTEST RACE~~  
6 ~~MAY ALSO MARK UP TO 25 BALLOTS TO BE ADDED TO THE TEST BALLOTS. THE CANVASS BOARD~~  
7 ~~MUST RANDOMLY SELECT BALLOTS FROM THE PRE-ELECTION PUBLIC LOGIC AND ACCURACY TEST~~  
8 ~~DECK TO ENSURE THE MINIMUM NUMBER OF TEST BALLOTS REQUIRED BY THIS RULE.~~

10 (B) ~~SWORNELECTION~~ JUDGES ~~OR STAFF~~ MUST HAND TALLY THE TEST BALLOTS FOR  
11 COMPARISON TO THE TABULATION RESULTS.

12 (C) THE TEST IS LIMITED TO THE ~~CONTEST RACE OR MEASURE~~ THAT IS RECOUNTED.  
13 ~~(D) THE TEST DECK MUST BE ENTERED INTO THE OPTICAL SCANNER TWICE BEFORE RESULTS ARE COMPARED.~~

1310.18.3 THE ~~COUNTY CLERK~~ ~~CANVASS BOARD~~ MUST TEST THE VVPAT RECORDS FROM ~~1.5%~~ OF THE  
14 ~~DRES~~ ~~RANDOMLY SELECTED WITH DICE~~ THAT HAD VOTES CAST FOR THE ~~CONTEST RACE OR MEASURE~~ BEING  
15 RECOUNTED.

15 (A) ~~SWORN ELECTION~~ JUDGES ~~OR STAFF~~ MUST MANUALLY ~~VERIFY~~ ~~COMPARE~~ THE RESULTS ON THE  
16 MACHINES SELECTED FOR THE TEST.

17 (B) THE TEST IS LIMITED TO THE ~~CONTEST~~ ~~RACE OR MEASURE~~ THAT IS RECOUNTED.

18 10.19 COUNTING ~~OF~~ BALLOTS

19 10.19.1 IN ACCORDANCE WITH SECTION 1-10.5-102(3)(B), C.R.S., IF THERE ARE NO  
20 DISCREPANCIES IN THE TEST UNDER RULE ~~14.6~~-10.18, THE RECOUNT MUST BE  
21 CONDUCTED IN THE SAME MANNER AS THE BALLOTS WERE COUNTED IN THE  
22 ELECTION EXCEPT AS OUTLINED IN THIS RULE.

23 ~~14.6.5~~ 10.19.2 A clear audit trail ~~shall~~ MUST be maintained throughout the recount  
24 including, but not limited to, a log of seal numbers on transfer cases or ballot  
25 boxes ~~as defined in section 1-7-505, C.R.S., and the corresponding numbered~~  
26 ~~seal used as a replacement for the original seal, upon completion of the recount~~  
27 ~~of ballots within that~~ FOR EACH transfer case or ballot box.

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

30 10.19.3 BALLOTS MUST BE REVIEWED FOR VOTER INTENT USING THE STANDARDS IN RULE  
31 18.

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

- Comment [S141]:** Mandatory and requested recount both can use voter marked ballots.
- Comment [S142]:** As previously explained, it is the real ballots in the election that need to be tested.  
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- Comment [S143]:** This may require replacement of "committee" with the correct description. Recounts are not only of races.  
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- Comment [S144]:** if the candidates have concerns over the machine capability they may test those concerns with these 25 ballots. This is good. Regardless of mandatory or requested recount.  
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- Comment [S145]:** It is a very bad idea to use the pre-election LAT deck- this causes the recount to be dependent on the accuracy of the original test that may have allowed the original count to be in error.
- Comment [S146]:** Sworn? Election judges are the appropriate actors... not "staff" whatever that means.
- Comment [S147]:** This is not a function that should be left to staff. Resolution of voter intent is needed here, so an appropriately bipartisan and overseen process should be used. I don't know the meaning of "sworn judges".  
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- Comment [S148]:** "contest" is the defined term.
- Comment [S149]:**
- Comment [S150R149]:** This new proposal will add to the precision of the LAT with very little extra need for time. The hand count of the test ballots is simply multiplied by two. If there is lack of reliability in vote mark capture, this improvement on the te...  
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- Comment [S151]:** Why only 1%? 5% is the ...
- Comment [S152]:**
- Comment [S153]:** Using dice is a way to have ...
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- Comment [S154]:** See above comment on ...
- Comment [S155]:** "verify" presumes accurac ...
- Comment [S156]:** "contest" is a simpler defi ...



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

10.19.4 TO RECOUNT BALLOTS ON OPTICAL SCANNERS:

(A) ~~IF THE ORIGINAL COUNT METHOD WAS CENTRAL COUNT,~~ THE COUNTY MUST CREATE A NEW ELECTION DATABASE THAT BECOMES A PART OF ELECTION SETUP RECORDS.

(B) ~~IF THE ORIGINAL COUNT WAS BY PRECINCT COUNT,~~ THE COUNTY MUST USE FORMAT ONE OR MORE ~~BLANK~~ PROM CARTRIDGES, ROM CARTRIDGES, OR MEMORY CARDS NOT ALREADY USED IN THE ELECTION.

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

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

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”:

- (A) BACK UP THE OFFICIAL ELECTION DATABASE.
- (aB) Open Ballot Now with an unused ~~MBB~~ (Mobile Ballot Box) (MBB) from the election and create a Ballot Now recount database.
- (bC) Scan and resolve all recount ballots following original election procedures ACCORDING TO THIS RULE ~~14~~ 10.
- (c) ~~Use the Audit Trail Report and Original Scan Batch Reports with notes to ensure that resolution action follows the original resolution.~~
- (d) Save all recount ~~CVRs~~ (Cast Vote Records) to the MBBS (~~Mobile Ballot Box~~) after verifying that the number of ballots processed matches the number of ballots cast in the recount contest(s).
- (e) Open a new recount election in “Tally” and process the recount MBBS following the tabulation procedures above.
- (f) Compare recount results to original results and document any differences.
- (g) Backup the test database and the official recount database ~~following the “Archive” procedures.~~

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

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**Comment [S157]:** It is unclear why a new election database is not being created for a precinct counted election. Otherwise, the county is dependent on any remaining stock of unused memory cards. In any case this rule about the blank memory cards makes little sense. And the election database could have been created with an error of some kind. And central count is no longer defined. The county should make a new database (actually then part of “election records” ) and new memory cards, etc.

**Comment [S158]:** Existing records of the election must be kept as required and not destroyed by the recount process.

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**Comment [S159]:** No need for this word “precinct”.

**Comment [S160]:** I see no reason to leave this vague and up to the county officials or canvass boards. Oversight will be much easier if all ballots are recounted in the same place with the same methods.

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1 *shown above.]*

2 10.19.6 TO RECOUNT BALLOTS BY HAND COUNT.

3 (A) IF THE TABULATION OF THE ORIGINAL COUNT WAS CONDUCTED BY HAND  
4 COUNT, ~~OR THE TEST IN RULE 10.18.2 PRODUCED DISCREPANCIES~~, THE RECOUNT MUST BE CONDUCTED BY HAND  
5 COUNT.

**Comment [S161]:** How did this important path in the recount process get left out? Of course a hand count is essential if the machine cannot accurately capture the votes on the actual ballots voted in the election.

6 ~~14.5.4~~(B) Ballots ~~shall~~ MUST be counted ~~into groups~~ IN BATCHES of 25 to  
7 ensure that the number of ballots recounted matches the number originally  
8 counted.

9 ~~14.5.5~~(C) Votes ~~shall~~ MUST be counted by individual hash marks in 25-count  
10 sections by two different judges.

11 *[Current Rules 14.5.4 and 14.5.5 are amended and moved to new Rules*  
12 *10.19.6(a) and (b). Amendments between the current and new rule language are*  
13 *shown above.]*

14 10.19.7 FOR TABULATION OF DREs, IF THERE ARE NO DISCREPANCIES IN THE TEST UNDER  
15 RULE ~~14.6~~ 10.18.3, THE COUNTY CLERK MUST UPLOAD THE MEMORY CARDS.

16 10.19.8 TABULATION OF BALLOTS CAST ~~BY ONE METHOD~~ MUST BE COMPLETED THROUGH  
17 A PRECISE, CONTROLLED PROCESS THAT ENSURES EACH CONTAINER OF BALLOTS  
18 IS ~~RECOUNTED~~, RETABULATED AND RESEALED, ~~AND RETABULATED~~ BEFORE  
19 TABULATION OF THE NEXT ~~METHOD~~ CONTAINER BEGINS. ~~EXCEPT THAT, IF MAIL-IN~~  
20 ~~BALLOTS WERE ORIGINALLY COUNTED WITH EARLY VOTING BALLOTS, THE~~  
21 ~~RECOUNT MUST BE CONDUCTED IN THE SAME MANNER.~~

22 ~~14.6.6~~ 10.19.9 The number of ballots counted by a ~~METHOD~~ AND precinct according to the  
23 ~~election night report shall~~ FINAL **CERTIFIED** RESULTS FOR THAT RACE OR MEASURE MUST BE  
24 available during the recount for comparison purposes.

**Comment [S162]:** "Final" is not defined. Certified is.

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

27 10.20 CANVASS AND REPORTING RESULTS

28 ~~14.6.7~~ 10.20.1 Totals of recounted ballots ~~shall be processed, counted, and~~ MUST BE  
29 reported in summary form as follows:

30 (a) Sum total of votes cast for each ~~candidate, ballot issue or ballot question~~  
31 ~~subject to the recount~~ RACE OR MEASURE RECOUNTED, under-votes, and over-  
32 ~~votes for all precincts~~ FOR EACH ~~LOCATION~~ **TABULATION DEVICE AND BY PRECINCT**;

**Comment [S163]:** "Location" is meaningless here. Device and precinct reports are important to judge tabulation quality, as of course are over and under votes.

33 (b) Sum total of votes cast for each ~~candidate, ballot issue or ballot question~~  
34 ~~subject to the recount, under votes and over votes for all mail in ballots (a~~  
35 ~~combined total, not totaled by individual precincts or location, unless your~~  
36 ~~system allows);~~

1 (c) ~~Sum total of votes cast for each candidate, ballot issue or ballot question,~~  
2 ~~subject to the recount, under votes, and over votes for all early voting~~  
3 ~~locations (a combined total, not totaled by individual precinct or locations,~~  
4 ~~unless the voting system so allows);~~

5 (d) ~~Determine the grand total of ballots cast in early, mail in, and precinct~~  
6 ~~voting.~~

7 ~~(E-B) THE TOTALS MUST BE A COMBINED TOTAL, NOT TOTALED AND BY INDIVIDUAL~~  
8 ~~PRECINCTS OR AND BATCHES IF LOCATION, UNLESS THE TABULATION SYSTEM ALLOWS.~~

~~(C) THE RECOUNT IS SUBJECT TO A RANDOM AUDIT PURSUANT TO CRS 1-7-514.~~

9 *[Current Rules 14.5.1 and 14.6.7 are amended and moved to new Rule 10.20.1.*  
10 *Amendments are shown above.]*

11 10.20.2 IN ACCORDANCE WITH SECTION 1-10.5-107, C.R.S., AND THIS RULE 10, THE  
12 CANVASS BOARD MUST AMEND, IF NECESSARY, AND RE-SUBMIT THE ABSTRACT OF  
13 VOTES CAST.

14 **Rule 11. Rules Concerning Voting Systems**

15 11.1 Voting system access.

16 ~~11.2.1 The county clerk and recorder shall not program or operate the voting system~~  
17 ~~subject to section 1-5-607, C.R.S.~~

18 ~~11.2.2 11.1.1 Any election setup materials shall be stored by the THE county clerk and~~  
19 ~~recorder DESIGNATED ELECTION OFFICIAL MUST SECURELY STORE ELECTION SETUP~~  
20 ~~RECORDS under security with access limited to the person or persons so authorized~~  
21 ~~in writing by the county clerk and recorder. NO PERSON MAY ACCESS THE RECORDS~~  
22 ~~WITHOUT THE CLERK'S WRITTEN AUTHORIZATION.~~

23 ~~11.2.3 11.1.2 Employees of the county clerk and recorder THE COUNTY CLERK MUST~~  
24 ~~DEPUTIZE EMPLOYEES who are authorized by the county clerk and recorder to~~  
25 ~~prepare or maintain the voting system or election setup materials shall RECORDS~~  
26 ~~MUST be deputized by the county clerk and recorder for this specific purpose and~~  
27 ~~so sworn prior to 60 DAYS BEFORE the first election DAY. of the calendar year in which they will~~  
28 ~~be performing one or more of these activities.~~

29 ~~11.2.4 11.1.3 The county clerk and recorder shall request an Internet Criminal History~~  
30 ~~Check (ICHC) from the Colorado Bureau of Investigation (CBI) for all full time,~~  
31 ~~part time, permanent and contract employees of the county who staff the counting~~  
32 ~~center and OR who have any access to the electromechanical voting systems or~~  
33 ~~electronic vote tabulating equipment. At the direction of the county clerk and~~  
34 ~~recorder, an ICHC check may be conducted on election judges. The county clerk~~  
35 ~~and recorder shall request the ICHC once per calendar year for such employees~~  
36 ~~prior to the first election of the year. IN ACCORDANCE WITH SECTION 24-72-305.6,~~  
37 ~~C.R.S., ALL PERMANENT AND TEMPORARY COUNTY STAFF AND ALL VENDOR STAFF~~  
38 ~~WHO HAVE ACCESS TO THE VOTING SYSTEM OR ANY VOTING OR COUNTING~~

**Comment [S164]:** Precinct reports allow comparison of similar demographics and batch reports are used for auditing.

**Comment [S165]:** For the same reason we do an audit of the original counts, the audit of the recount is necessary to make sure that it is sufficiently accurate. A risk limiting audit will be particularly suited to a recount when ballots are all counted centrally.

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**Comment [S166]:** This designation is important and requires a deadline so that oversight can be performed by the public. The record of designation must become a public record and of course preferably published.

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1 EQUIPMENT MUST PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN ~~RULE~~  
2 ~~RULE 6.4.~~

3 ~~11.2.5 If the ICHC indicated that the employee or contract employee has been found~~  
4 ~~guilty of a crime involving breach of trust, fraudulent, coercive, or dishonest~~  
5 ~~practices or demonstrating incompetence, untrustworthiness, or election offenses~~  
6 ~~pursuant to sections 1-13-101 et seq., C.R.S., the county clerk and recorder shall~~  
7 ~~MUST prohibit such employee or contract employee from preparing, programming,~~  
8 ~~operating, using or having any access whatsoever to electromechanical voting~~  
9 ~~systems or electronic vote tabulating equipment at any time during that person's~~  
10 ~~employment.~~

11 ~~11.2.6 Vendors or their authorized representatives shall provide a criminal history check~~  
12 ~~to the county clerk and recorder for any employee of the vendor who has any~~  
13 ~~access to electromechanical voting systems or electronic vote tabulating~~  
14 ~~equipment. The vendor shall provide the criminal history check ICHC to the~~  
15 ~~county clerk and recorder once per calendar year for such employees prior to the~~  
16 ~~first election of the year.~~

17 11.2 Performance Bond.

18 11.2.1 ~~Effective upon the date of the adoption of this rule, A voting system provider or~~  
19 ~~service provider that provides election setup or tabulation services to one or more~~  
20 ~~counties shall MUST:~~

21 (a) ~~Provide the services by~~ ENTER INTO A WRITTEN FILE A COPY OF THE contract,  
22 STATEMENT OF WORK, PURCHASE ORDER, OR SIMILAR DOCUMENT, AND FILE  
23 ~~a copy of which shall be kept on file with the county clerk and recorder~~  
24 ~~and the Secretary of State.~~

25 (b) Post a performance bond, executed by a corporate surety licensed to  
26 transact business in the State of Colorado. The county under contractual  
27 obligation with the ~~voting system provider or service provider that~~  
28 ~~provides election setup or tabulation services shall MUST be designated as~~  
29 ~~the NAMED beneficiary of the bond; and. THE BOND AMOUNT MUST BE THE~~  
30 ~~GREATER OF \$10,000 OR THE FULL AMOUNT OF THE CONTRACT WITH THE~~

31 ~~STATE OR~~ BENEFICIARY COUNTY AND THE BOND MUST BE ON FILE 30 DAYS BEFORE  
32 WORK STARTS.

Comment [S167]: It might not only be county.

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33 (c) Provide proof ~~that a~~ OF THE performance bond ~~has been posted with~~ TO the  
34 Secretary of State and the office of the ~~designated election official~~  
35 ~~COUNTY CLERK AND RECORDER. The amount of the bond shall be the~~  
36 ~~greater of either \$10,000 or the full amount of the contract with the~~  
37 ~~beneficiary county.~~

38 11.3.2 Performance bonds shall be on file 30 (thirty) days prior to any work commencing  
39 under contract with the county.

1 11.2.3 The voting system provider shall MUST update all bond documents for each  
2 contract or election. performed.

3 11.3.4 Copies of the performance bond for the secretary of state's office shall be sent to:  
4 Colorado Department of State, Voting Systems Specialist, 1700 Broadway, Suite  
5 270, Denver, Colorado 80290, or to voting.systems@sos.state.co.us

6 11.3 Voting System Inventory.

7 11.3.1 The designated election official shall MUST maintain an inventory record for each  
8 electronic ~~vote tabulating device~~ used in an election. ~~Such records shall~~ THE  
9 RECORD MUST include, ~~but not be IS NOT limited to,~~ the manufacturer, make,  
10 model, serial number, hardware/firmware/software version or release number,  
11 hash value documentation where applicable, date of acquisition, description of  
12 any services, repairs, maintenance, upkeep, and version upgrades, and the dates of  
13 performance of such services as of the date of adoption of these rules THE  
14 SERVICES WERE PERFORMED.

**Comment [S168]:** This inventory needs to be made more broad to include ballot marking devices and signature checking equipment, ballot on demand, UOCAVA assistive systems and vote reporting systems, etc.

15 11.3.2 IF THE INVENTORY IS IN ELECTRONIC FORMAT, IT MUST BE EXPORTABLE TO A  
16 COMMA SEPARATED (CSV), EXCEL SPREADSHEET (XLS OR XLSX), OR ~~QUOTE OR~~  
17 ~~TAB~~QUOTE OR TAB SEPARATED (TXT) FILE BEFORE DELIVERY TO THE SECRETARY  
18 OF STATE.

19 11.4.2 ~~11.4.3~~ 11.3.3 The designated election official shall MUST furnish FILE THE  
20 INVENTORY WITH the Secretary of State with an extract or copy of the inventory  
21 NO LATER THAN ~~10 TEN~~ DAYS BEFORE THE ELECTION for use in the Logic and  
22 Accuracy Test and the Post-Election Audit Test. ~~The requirements for this extract~~  
23 ~~are:~~

24 (a) ~~Be in either electronic or paper format;~~

25 (b) ~~Contain information regarding: make, model, serial number, type (optical~~  
26 ~~scanner or DRE), AND specific location of use, and specific precincts~~  
27 ~~programmed on each device or card;~~

28 (c) ~~Inventories maintained in electronic format shall be exportable to an~~  
29 ~~industry standard file type — comma separated (CSV), excel spreadsheet~~  
30 ~~(XLS OR XLSX), or Quote or Tab separated (TXT) file prior to electronic~~  
31 ~~delivery to the Secretary of State; and~~

32 (d) ~~The designated election official shall send the inventory list to the~~  
33 ~~Secretary of State's office not less than ten (10) days prior to an election to~~  
34 ~~the attention of the Voting Systems Specialist. Inventory lists may be sent~~  
35 ~~BY MAIL, E-MAIL, OR FAX. in one of three means: E mail:~~  
36 ~~voting.systems@sos.state.co.us Subject line = County Number, County~~  
37 ~~Name, HARDWARE INVENTORY LIST; or Via facsimile to: 303-869-~~  
38 ~~4861 attn: Secretary of State, Voting Systems Specialist; or via First Class~~

1 Mail to Colorado Department of State/Attn: Voting Systems  
2 Specialist/1700 Broadway Suite 270/Denver, CO 80290.

3 11.4 ~~Voting System Testing. 11.5.1~~ THE CLERK MUST PERFORM A HARDWARE  
4 DIAGNOSTIC TEST, A LOGIC AND ACCURACY TEST, AND A POST-ELECTION AUDIT TEST. ~~Three~~  
5 ~~types of voting system testing: shall be performed for each election within a jurisdiction.~~  
6 ~~The three tests are:~~

- 7 ● ~~A Hardware Diagnostic Test;~~
- 8 ● ~~A Logic and Accuracy Test (LAT); and~~
- 9 ● ~~A Post Election Audit Test.~~

10 ~~11.5.2~~ 11.4.1 Hardware Diagnostic Test

11 11.5.2.1 (A) The ~~county clerk and recorder~~ shall commence ~~DESIGNATED~~  
12 ~~ELECTION OFFICIAL~~ MUST PERFORM the Hardware Diagnostic Test  
13 ~~prior to~~ BEFORE the election ON EACH DEVICE THAT THE CLERK  
14 WILL USE IN THE ELECTION, INCLUDING SPARE OR BACK UP DEVICES.  
15 THE TEST MUST INCLUDE THE FOLLOWING DEVICES AND PROVIDE  
16 THE FOLLOWING INFORMATION: ~~and allow time for each electronic~~  
17 ~~voting device within the county to be tested. Each device being~~  
18 ~~used in the election, including units identified as spare or backup~~  
19 ~~units, shall be tested to verify that mechanical components are~~  
20 ~~working correctly. This test shall include, but not be limited to, the~~  
21 ~~following tests:~~

- 22 (a) (1) All input and output devices;
- 23 (b) (2) Communications ports;
- 24 (c) (3) System printers;
- 25 (d) (4) System modems when applicable;
- 26 (e) (5) System screen displays;
- 27 (f) (6) Boot performance and initializations;
- 28 (g) (7) Firmware loads;
- 29 (h) (8) Software loads;
- 30 (i) (9) Display of firmware OR software hash value (MD5 or SHA-  
31 1) when possible;
- 32 (j) (10) Confirmation that screen displays are functioning; and

1 (k) (11) Date, time and calibration of systems.  
2 11.5.2.2 (B) THE ~~CLERK DESIGNATED ELECTION OFFICIAL~~ MUST SEAL each device  
3 tested ~~shall be sealed~~ upon the successful completion of the test  
4 AND RETAIN documentation of the seal information and all records  
5 ~~from testing must be maintained for each device~~ IN ACCORDANCE  
6 WITH SECTION 1-7-802, C.R.S.

7 11.4.2 Logic and Accuracy Test. ~~The designated election official shall conduct a~~  
8 ~~Logic and Accuracy Test according to the following requirements.~~

9 11.5.3.1 (A) The designated election official ~~shall~~ MUST create a Testing Board  
10 ~~consisting of at least two persons~~ AT LEAST ONE REGISTERED ELECTOR  
11 ~~AFFILIATED WITH THE~~ FROM REPRESENTING EACH OF THE MAJOR POLITICAL  
12 PARTIES, AS DEFINED IN SECTION 1-1-104(22), C.R.S., ~~AND ONE~~  
13 ~~REGISTERED ELECTOR FROM EACH OTHER major political party, IF~~  
14 APPOINTED BY THAT PARTY. TESTING BOARD MEMBERS MUST BE REGISTERED TO  
15 VOTE IN THE COUNTY.

16 11.5.3.2 (B) ~~Prior to the commencement of voting,~~ The designated election  
17 official ~~shall~~ MUST conduct the public Logic and Accuracy Test  
18 AT LEAST ONE WEEK BEFORE VOTING BEGINS AND ISSUE A PRIOR PUBLIC NOTICE OF THE SCHEDULE.

19 11.5.3.3 (C) THE DESIGNATED ELECTION OFFICIAL MUST ENSURE THAT THE Logic  
20 and Accuracy Test ~~shall be~~ IS open to ~~representatives of the press~~  
21 ~~and~~ THE MEDIA AND the public to the extent allowable ~~and pursuant~~  
22 ~~to~~ IN ACCORDANCE WITH section 1-7-509(2)(b), C.R.S. The  
23 designated election official may limit the number of  
24 representatives from each group ~~to accommodate for~~ BECAUSE OF  
25 space limitations ~~and~~ OR other considerations.

26 11.5.3.4 (D) ~~Testing Board Test Ballots~~ ~~In preparation for the Logic and~~  
27 ~~Accuracy Test,~~ The designated election official ~~shall~~ MUST provide  
28 ~~to each member of the Testing Board,~~ at least ~~twenty five (25)~~ 25  
29 CLEARLY-MARKED DESIGNATED FOR TEST PURPOSES BLANK ballots ~~that are clearly marked as~~  
test ballots TO EACH TESTING BOARD MEMBER ~~to be used for the Logic and Accuracy Test. TEST~~  
BALLOTS MUST BE TAKEN FROM ACTUAL BALLOT INVENTORY OR PRINTERS PROOFS AND SUBSEQUENTLY  
MARKED TO DESIGNATE THEM AS BALLOTS TO BE USED FOR TESTS.

32 11.5.3.5 (E) ~~The members of the~~ Testing Board MEMBERS ~~shall~~ MUST secretly  
33 ~~vote their position~~ BALLOTS IN ACCORDANCE WITH THE HOW THEY BELIEVE VOTERS WILL FOLLOW  
34 INSTRUCTIONS PRINTED ON THE BALLOTS and retain a record of the  
35 tally. ~~of their test votes. The test ballots shall MUST have a known~~  
36 ~~predetermined outcome by the members of the Testing Board's~~  
37 ~~secret vote and tally. Of the twenty five~~ AT LEAST 25 test ballots,  
two ~~shall~~ MUST be tested as audio ballots where applicable.

39 11.5.3.6 (F) ~~County Test Ballots~~ ~~In preparation for the Logic and Accuracy~~  
40 ~~Test,~~ The designated election official ~~shall~~ MUST prepare a

- Comment [S169]:** One from each party is not enough in most cases due to the hardship of testing DRE.
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- Comment [S170]:** Test board members need not be members of the party that appoints them nor registered in the county. They probably should be party members if the election official appoints them.
- Comment [S171]:** No reason for this at all... just obstructive to the freedom of a party to appoint the best test representatives.
- Comment [S172]:** As explained in the previous comment
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- Comment [S173]:** There may be a statutory requirement for this advance public notice.
- Comment [S174]:** Advance public notice of the testing is necessary. This should be made compatible with any statutory requirement (I have not looked it up).
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- Comment [S175]:** These test ballots must not be printed as "test" ballots or the test is rendered ineffective.
- Comment [S176]:** Under the corrected definition, blank is the correct term.
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- Comment [S177]:** This specifies enough to make the test ballots meaningful for the election quality and not simply a test of special test ballots.
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- Comment [S178]:** No ownership.
- Comment [S179]:** This caveat allows for a meaningful test, not just perfectly voted test ballots.
- Comment [S180]:** The test must not be limited in scope arbitrarily. If test board members choose to increase the accuracy of the test they should be allowed to do so.
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sufficient number of test ballots that represent every precinct which shall include AND every ballot style AND PRECINCT, IF APPLICABLE, allow for a sufficient number of ballots to mark every vote position for every candidate on every race including write-in candidates, allow for situations where a race may permit an elector to vote for two or more positions, WHERE APPLICABLE, and include overvotes and undervotes for each CONTEST race.

**Comment [S181]:** "Race" is not defined and not appropriate here.

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**Comment [S182]:** Future tense needed.

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**Comment [S183]:** "Type of ballot" is not clear. "voting method" may also not be clear but is closer. Voting device is clear.

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**Comment [S184]:** "audio presentation of the ballot" gets away from attempting to define audio as "the" ballot- this is getting dangerously close to that.

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**Comment [S185]:** With central count, vote tabulation is too late for this deadline. Perhaps a date linked to election day would be better.

11.5.3.7 (G) The test ballots shall TESTING BOARD MUST be tested TEST THE BALLOTS on each type of voting device utilized TO BE USED in a given THE election and each method of counting. TYPE OF VOTING METHOD, BALLOT INCLUDING AN The tests shall include testing of mail in ballot counting methods, election day counting methods MAIL, REGULAR, provisional, ballot, counting methods, early voting counting methods and audio PRESENTATION OF THE BALLOT ballots, if applicable.

11.5.3.8 (H) Conducting the Test.

11.5.3.8.1 (1) The designated election official and Testing Board shall MUST observe the tabulation of all test ballots by means of the voting device and compare the tabulation with the previously retained records of the test vote count The cause of AND MUST CORRECT any discrepancies shall be corrected prior to the start of BEFORE ANY USE IN VOTING OR vote tabulation.

11.5.3.8.2 (2) Prior to the start of testing, THE DESIGNATED ELECTION OFFICIAL MUST all devices used will have the public counter reset THE PUBLIC COUNTER to zero ON ALL DEVICES, and PRESENT ZERO TAPES presented to the Testing Board for verification. For any device capable of producing OR VERIFYING the trusted build hash value (MD5 or SHA-1) of the firmware or software, the DESIGNATED Election Official shall MUST verify and document the accuracy of the value to be included with the records for the device.

11.5.3.8.3 (3) THE DESIGNATED ELECTION OFFICIAL MUST MAKE an appropriate number of voting devices will be available and the Testing Board may witness the necessary programming and/or downloading of memory devices necessary to FOR THE test. the specific precincts.

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

(a) Mail in Ballots:



1 (1) ~~All county test ballots shall be counted on at least~~  
2 ~~one, but not more than three, mail in ballot vote~~  
3 ~~counting devices and have the predetermined total~~  
4 ~~verified to the machine total.~~

5 (2) ~~All Testing Board Member test ballots shall be~~  
6 ~~counted individually with reports generated to~~  
7 ~~verify the machine count to the predetermined hand~~  
8 ~~tally.~~

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

10 (1) ~~The Testing Board shall randomly select 20% but~~  
11 ~~not more than 10 ballots representing unique~~  
12 ~~precincts from the Testing Board's test ballots.~~

13 (2) ~~In the event a selected precinct contains a~~  
14 ~~combination of DRE and Optical Scan voting~~  
15 ~~devices, the Testing Board shall decide on the~~  
16 ~~percentage of ballots to be counted on each type of~~  
17 ~~device used for that precinct.~~

18 (3) ~~The precinct specific county test ballots will be~~  
19 ~~added to the testing board test ballots to be counted~~  
20 ~~on the specific precinct device. The testing board~~  
21 ~~shall manually verify the ballots to be counted prior~~  
22 ~~to any machine count.~~

23 (4) ~~The Testing Board shall verify the manual count to~~  
24 ~~the voting device count.~~

25 (c) (A) ~~Vote Center Count Ballots— Optical Scan SCANNERS:~~

26 (1) ~~All testing board~~ THE TESTING BOARD ~~test ballots~~  
27 ~~shall MUST be counted~~ COUNT TEST BALLOTS ~~on at~~  
28 ~~least one, but not more than 5 FIVE voting devices,~~  
29 ~~WHICH MUST REPRESENT AT LEAST ONE DEVICE USED~~  
30 ~~AT A VOTER SERVICE AND POLLING CENTER, AND ONE~~  
31 ~~CENTRAL COUNT DEVICE. IF THE COUNTY WILL USE A~~  
32 ~~SCANNER TO BE USED,~~ IN EACH VOTER SERVICE AND POLLING  
33 ~~CENTER, AT LEAST ONE MUST BE INCLUDED IN THE~~  
34 ~~TEST,~~ designated for Vote Center Counting and have  
35 ~~the predetermined total verified to the machine~~  
36 ~~AND AT LEAST ONE SCANNER TO BE USED FOR COUNTING BALLOTS VOTED OUTSIDE A POLLING LOCATION~~  
37 ~~total.~~

37 (2) ~~THE TESTING BOARD MUST USE DICE TO~~ RANDOMLY SELECT THE  
38 ~~MACHINES TO TEST.~~

**Comment [S186]:** If one scanner per any location, each is tested.

**Comment [S187]:** This makes sure a central count scanner is tested- even if it is not called a central count scanner.

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**Comment [S188]:** Specificity for what "randomly" means.

1 (2) (3) ~~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 DETERMINE IF the machine count IS IDENTICAL to the  
6 predetermined tally. ~~of the test ballots.~~

Comment [S189]: "verify" presumes accuracy, "determine if" is more appropriate.

7 (3) ~~The testing board shall randomly select the~~  
8 ~~machines to be tested.~~

9 (d) (B) ~~Vote Center Count Ballots—DREs:~~

10 (1) ~~All testing board~~ THE TESTING BOARD MUST COUNT  
11 ~~THE AT LEAST 25~~ test ballot VOTE PATTERNS ~~shall be counted on at least one, but~~  
12 ~~not more than 5 FIVE~~ DREs. designated for Vote  
13 Center Counting and have the predetermined total  
14 ~~TO BE USED IN EACH POLLING LOCATION, verified to the machine total.~~

Comment [S190]: "at least" to prevent enforcement of a limitation if the test board wishes to achieve more accuracy.

Comment [S191]: You can't vote a "ballot" on a DRE. You can vote a pattern. To make the test reliable, video of the test votes must be recorded and played back to resolve discrepancies in the vote counts. If we were serious about DRE we would require the video tape.

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Comment [S192]: If DRE are used at any location, one per each location is to be tested.

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Comment [S193]: Specifies what "randomly" means.

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Comment [S194]: These changes better specify the testing of two HAVA compliant devices using audio.

Comment [S195]: Vote patterns is correct in place of ballot.

Comment [S196]: As commented above

Comment [S197]: Ditto

Comment [S198]: To be clear, hand counted (and one hopes not by barcode.)

15 (2) THE TESTING BOARD MUST USE DICE TO RANDOMLY SELECT THE  
16 MACHINES TO TEST.

17 (3) THE TESTING BOARD MUST IDENTIFY AND TEST TWO HAVA COMPLIANT  
18 ~~ASSISTIVE DEVICES WITH BALLOTS AS VOTE PATTERNS USING AUDIO PRESENTATIONS OF THE~~ BALLOT S:

19 (2) (4) ~~All~~ THE TESTING BOARD MUST COUNT THE BOARD'S  
20 AND THE COUNTY'S test ballots BALLOT VOTE PATTERNS, BATCHES  
21 ~~shall be counted individually~~ SEPARATELY AND  
22 GENERATE REPORTS ~~with reports generated to verify~~  
23 DETERMINE IF THAT the machine count IS IDENTICAL to the  
24 predetermined tally ~~of the test ballots~~. FOR DRES  
25 WITH VVPAT DEVICES, THE TESTING BOARD MUST  
26 MANUALLY COUNT THE PAPER RECORD TO ~~VERIFY~~  
27 DETERMINE IF THAT THE PRE-DETERMINED TOTALS OF THE TESTING  
28 BOARD AND COUNTY TEST BALLOT BATCHES MATCH  
29 THE VVPAT HAND TABULATED TOTAL.

30 (3) ~~The testing board shall randomly select the~~  
31 ~~machines to be tested.~~

32 (e) ~~Early Voting and Provisional Ballots Counted on Optical~~  
33 ~~Scan Devices:~~

34 (1) ~~All test ballots shall be counted on at least one, but~~  
35 ~~not more than five, optical scan devices designated~~  
36 ~~for Early Voting or Provisional Ballot Counting and~~  
37 ~~have the predetermined total verified to the machine~~  
38 ~~total.~~

1 (2) ~~All test ballots shall be counted individually with~~  
2 ~~reports generated to verify the machine count to the~~  
3 ~~predetermined tally of the test ballots.~~

4 (f) ~~Early Voting and Provisional Ballots Counted on DREs:~~

5 (1) ~~All test ballots shall be counted on at least one, but~~  
6 ~~not more than five, DREs designated for Early~~  
7 ~~Voting or Provisional Ballot Counting and have the~~  
8 ~~predetermined total verified to the machine total.~~

9 (2) ~~All Testing Board Member test ballots shall be~~  
10 ~~counted individually with reports generated to~~  
11 ~~verify the machine count to the predetermined tally~~  
12 ~~of the Testing Board test ballots.~~

13 ~~11.5.3.8.5 DREs equipped with V VPAT devices shall be manually~~  
14 ~~verified (by hand) to determine that the pre-determined total of~~  
15 ~~the testing board ballots, matches the V VPAT total, which in~~  
16 ~~turn matches the machine total.~~

17 ~~11.5.3.8.6 At least two of the testing board ballots shall be identified as~~  
18 ~~Audio Ballots to be tested as such, and included with the count.~~

19 ~~11.5.3.8.7 (5) THE DESIGNATED ELECTION OFFICIAL MUST~~  
20 ~~KEEP all test materials, when not in use, shall be~~  
21 ~~kept in a metal DURABLE, SECURE box with~~  
22 ~~individual seals for each member of the Testing~~  
23 ~~Board. The designated election official may affix~~  
24 ~~his or her own seal in addition to those of the~~  
25 ~~Testing Board. The designated election official shall~~  
26 ~~MUST be the custodian of the box or boxes but shall~~  
27 ~~MAY not open and/or use the test materials outside~~  
28 ~~of the TESTING BOARD's presence EXCEPT TO FULFILL A RECORDS REQUEST. of the Testing~~  
29 ~~Board.~~

30 (6) AFTER TESTING, THE TESTING BOARD MUST WATCH  
31 THE DESIGNATED ELECTION OFFICIAL RESET AND  
32 PLACE A SEAL ON EACH VOTING DEVICE TESTED.

33 ~~11.5.3.8.8 (7) The Testing Board and the designated~~  
34 ~~election official shall MUST sign a written statement~~  
35 ~~attesting to the qualification OF THE ELECTION SETUP RECORDS TO FUNCTION CORRECTLY ON EACH~~  
~~SELECTED AND PRESUMABLY REPRESENTATIVE DEVICE. THIS REPORT SHALL INCLUDE of each device that~~  
~~was successfully tested, the number of the seal attached to the voting device at the end of the test,~~  
~~any problems discovered, and provide any other documentation as necessary to provide a full and~~  
~~accurate account of the condition of a given THE device AND THE ELECTION SETUP RECORDS.~~

**Comment [S199]:** No need for a seal for each test board member... Should we have a seal for each election judge in a polling place? Remember that these machines are left overnight just as the test data is.

**Comment [S200]:** Because it specifically says may not open, we must have a caveat for CORA request. Election officials may also wish to see test records. They can use a CORA request. Why are test records subject to such security, more than for ballots?

**Comment [S201]:** To clarify the language.

**Comment [S202]:** This clarifies the actual meaning of the LAT result. One hopes that this citizen LAT testing will be done also on ballot on demand and UOCAVA ballot processing and other equipment that is critical to election tabulation.

**Comment [S203]:** No need to limit it to "voting device" whatever that means.

**Comment [S204]:** The LAT is designed to assess the functionality of the election setup records (ballot programming) rather than the individual accuracy of the device. If the latter were true, more ballots would be tested.

1 11.5.3.8.9 Upon completion of the testing, the Testing Board shall witness  
2 the resetting and sealing of each tested voting device.

3 11.5.4 11.4.3 Post-Election Audit

4 11.5.4.1 (A) ~~Within forty eight (48) NO LATER THAN 48 hours of~~ AFTER the  
5 close of polls on election night, the Secretary of State shall MUST  
6 notify the designated election official which COMBINATION OF voting devices and  
7 ~~which CONTESTS race or races~~ on the ballots have been selected for auditing  
8 purposes WILL BE AUDITED (CRS 1-7-514) based on the submitted hardware  
9 inventory list referred to in Rule ~~11.4.2~~ 11.3.

10 11.5.4.2 (B) The selection of SECRETARY OF STATE WILL RANDOMLY SELECT  
11 equipment will be based on a random selection of five (5) percent  
12 of ~~precinct COUNT BALLOT SCANNERS scanner based voting~~  
13 USED FOR IN-PERSON VOTING equipment, at least one central count scanner/vote center, and five  
14 (5) percent of ~~Direct Record Electronic (DRE) DRE voting~~  
15 devices AND AT LEAST ONE SCANNER USED FOR BALLOTS RETURNED IN  
SIGNED ENVELOPES.

16 (1) IF FOR IN-PERSON VOTING ~~IF~~ THE COUNTY USED A SCANNER IN EACH VOTER SERVICE  
17 AND POLLING CENTER, AT LEAST ONE SUCH SCANNER MUST BE  
18 INCLUDED IN THE AUDIT.

19 (2) IF THE SECRETARY OF STATE RECEIVES CREDIBLE REPORTS  
20 OF EQUIPMENT MALFUNCTION, THE SECRETARY MAY SELECT  
21 ADDITIONAL EQUIPMENT FOR INCLUSION IN THE AUDIT AND  
MUST NOTIFY THE CANVASS BOARD OF ANY SUCH REPORTS FOR PURPOSES OF INVESTIGATION (CRS 1-7-514).

22 11.5.4.3 (C) Pursuant to IN ACCORDANCE WITH section 1-7-514, C.R.S., THE  
23 SECRETARY OF STATE MAY only SELECT devices used in the  
24 election. ~~shall be selected for the audit.~~

25 (D) THE SECRETARY OF STATE MUST RANDOMLY SELECT AT LEAST TWO A SUFFICIENT NUMBER OF  
26 RACES CONTESTS PER DEVICE FOR VERIFICATION AUDIT TO ENSURE THAT EACH RACE CONTEST  
27 OR MEASURE ON THE BALLOT IS AUDITED IN ACCORDANCE WITH  
28 SECTION 1-7-514, C.R.S.

29 11.5.4.4 For optical scanners used for any function of counting ballots VOTED IN PERSON, except for  
30 Central Count/vote center as defined herein, the designated election  
31 officials shall manually COUNT, verify all of the PAPER ballots that were counted on the  
32 randomly selected device(s) AND COMPARE RESULTS with the election summary report that was  
33 generated from the device(s) at the close of the polls. The Secretary of  
34 State shall randomly select a minimum of two (2) races per device to be  
35 manually verified to ensure that each office, issue, and question on the  
36 ballot is audited in accordance with section 1-7-514, C.R.S.

37 11.5.4.5 (E) For optical scanners used for the purpose of counting ballots in a  
38 USED TO COUNT BALLOTS REMOVED FROM RETURNED ENVELOPES  
Central Count/vote center environment as defined herein, the  
39 designated election officials shall MUST randomly select EITHER OF

Comment [S205]: To be accurate.

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Comment [S206]: Not just races

Comment [S207]: Citation.

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Comment [S208]: Make sure to include all

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Comment [S209]: A definition like this is

Comment [S210]: Ditto

Comment [S211]: This paragraph ought not

Comment [S212]: At minimum audit one

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Comment [S213]: CRS calls for the canvass

Comment [S214]: 4 edits here: two contest

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Comment [S215]: Reinstate this paragraph...

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1 ~~THE FOLLOWING AMOUNTS~~ BASED UPON THE TOTAL NUMBER OF  
2 ~~BALLOTS COUNTED ON THE SELECTED DEVICE:~~  
3 (1) ~~IF LESS FEWER THAN 500~~ BALLOTS WERE COUNTED, THEN ~~ALL~~  
4 ~~MINIMUM OF 20 PERCENT~~ OF THE BALLOTS COUNTED ON THE  
5 ~~DEVICE MUST BE AUDITED USING THE METHOD OF RULE 11.5.4.4.~~  
6 (2) ~~IF 500 OR MORE~~ BALLOTS WERE COUNTED ~~ON THE SELECTED DEVICE,~~ THEN ~~A MINIMUM~~  
7 ~~IF ELECTION NIGHT SUBTALLIES ARE AVAILABLE FOR SEPARATE MEMORY CARDS EACH REPRESENTING A~~  
8 ~~SUBSET OF THE BALLOTS COUNTED BY THE DEVICE. THEN SUFFICIENT MEMORY CARDS SHALL BE RANDOMLY~~  
9 ~~SELECTED USING DICE TO AUDIT 3% OF ALL THE BALLOTS REMOVED FROM RETURNED ENVELOPES CONTAINING~~  
10 ~~THE CONTEST COUNTED IN THE ELECTION AND THEN PAPER BALLOTS REPRESENTING THE CONTENTS OF~~  
11 ~~SELECTED MEMORY CARDS SHALL BE MANUALLY COUNTED FOR THE CONTESTS TO BE AUDITED AND RESULTS~~  
12 ~~COMPARED WITH THE ELECTION NIGHT SUBTALLIES FOR EACH SELECTED MEMORY CARD: OR (3) IF SEPARATE~~  
13 ~~MEMORY CARDS WERE NOT USED. THEN OF 100 BALLOTS PLUS FIVE (5) PERCENT OF THE DIFFERENCE~~  
14 ~~BETWEEN THE NUMBER OF BALLOTS REMOVED FROM RETURN ENVELOPES COUNTED CONTAINING THE~~  
15 ~~CONTEST IN THE ELECTION SHALL BE RANDOMLY SELECTED AND 500, BUT NOT MORE THAN 500. FIVE~~  
16 ~~hundred (500) ballots of all the~~  
17 ~~ballots counted on the specific audited device. If the~~  
18 ~~amount of ballots is less than five hundred (500) on the~~  
19 ~~audited device, then a minimum of twenty percent (20%) of~~  
20 ~~the ballots counted on the device will be manually verified.~~  
21 (E) ~~The DESIGNATED ELECTION OFFICIALS MUST RESET THE public~~  
22 ~~counter for that the voting device shall be reset to zero and~~  
23 ~~RECOUNT the ballots. shall be recounted on the voting device.~~  
24 (G) ~~IN ALL THREE CASES. A THE DESIGNATED ELECTION OFFICIALS MUST MANUALLY COMPARE/VERIFY~~  
25 ~~THE HAND COUNT TOTALS WITH THE new report will be generated from the electronic count of the~~  
26 ~~AND THE CANVASS BOARD AND COUNTY CLERK MUST REPORT INITIAL, INTERIM AND FINAL RESULTS OF THIS~~  
27 ~~COMPARISON PER CRS 1-7-514 ballots and shall be manually verified.~~  
28 (H) ~~The DESIGNATED ELECTION OFFICIAL MUST SEAL THE ballots and a~~  
29 ~~copy of the report shall be sealed in a separate container. and~~  
30 ~~secured with the remainder of the official election records for the~~  
31 ~~election. The Secretary of State shall randomly select a minimum~~  
32 ~~of two (2) races per device to be manually verified to ensure that~~  
33 ~~each office, issue, and question on the ballot is audited in~~  
34 ~~accordance with section 1-7-514, C.R.S.~~  
35 11.5.4.6 (I) ~~For Direct Record Electronic Devices (DREs) DRES that do not~~  
36 ~~meet the requirements of section 1-5-802, C.R.S. WITHOUT A~~  
37 ~~VVPAT, used for any function of counting ballots in an election,~~  
38 ~~the designated election officials will MUST manually verify COMPARE the~~  
39 ~~VOTE TOTALS, image of all the ballots contained in the Ballot Log or Ballot Audit~~  
40 ~~BALLOT LOG OR FILE OF CAST VOTE RECORDS, BALLOT AUDIT that were counted on the specific~~  
41 ~~THE device COUNTED ALONG with the report generated for that~~  
42 ~~specific device at the close of polls. which contains the election~~  
43 ~~summary report. The Secretary of State shall randomly select a~~  
44 ~~minimum of two (2) races per device to be manually verified to~~  
45 ~~ensure that each office, issue, and question on the ballot is audited~~  
46 ~~in accordance with section 1-7-514, C.R.S.~~  
47 11.5.4.6.1 (1) ~~For any device capable of producing OR VERIFYING the~~  
48 ~~trusted build hash value (MD5 or SHA-1) of the firmware~~

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**Comment [S216]:** This text separates the three situations- a simple small number of ballots in central count; a clerk who is using the sub tally by batch method for reporting so auditing of election night totals is possible (e.g. Eagle and Boulder); and third the case where the selected central count device has counted too many ballots on election night. In this final case only, the method proposed by the rule as provided will be used but for a substantial number of ballots, more than for the other two cases where the audit applies to election night totals.

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**Comment [S217]:** The simple case for a small county- only a max of 500 ballots to audit and they represent everything on the selected machine from election night. This is similar to the precinct case we are abandoning.

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**Comment [S218]:** Second case- like eagle or Boulder, batches are being used with separate memory cards and tallies taken from each on election night. In this case 3% of the ballots tabulated on the selected machine are tabulated (a bonus for using the better method).

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**Comment [S219]:** The third case- more than 500 ballots on a device used to count mail ballots...

**Comment [S220]:** There has never been a statutory basis for this cap and it severely negativ...

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**Comment [S221]:** Broadening the control away from the DEO over the audit but probably not ...

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**Comment [S222]:** Manual counting and comparison required- not just "verify".

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**Comment [S223]:** Specific reference to the election audit report that is required by statute o...

**Comment [S224]:** Comparing the vote totals is a better description.

**Comment [S225]:** Terminology problem here. This terminology deserves a definition and ...

**Comment [S226]:** Unnecessary word "along"

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1 or software, the designated election official shall MUST  
2 verify and document the accuracy of the value to be  
3 included with the records for the device prior to conducting  
4 the audit.

5 11.5.4.7 (J) For ~~Direct Electronic Devices (DREs)~~ DREs that WITH A VVPAT  
6 do meet the requirement of section 1-5-802, C.R.S., used for any  
7 function of counting ballots in an election, after the close of the  
8 polls, the ~~designated~~ election officials will MUST manually ~~verify~~ COMPARE A MANUAL COUNT OF all  
9 of the ENTIRE voter-verified paper VVPAT record produced with the  
10 report generated AT THE CLOSE OF POLLS for that specific device. which contains the election  
11 summary report. The Secretary of State shall randomly select a  
12 minimum of two races on each device to be manually verified to  
13 ensure that each office, issue, and question on the ballot is audited  
14 in accordance with section 1-7-514, C.R.S.

15 11.5.4.7.1(1) For any device capable of producing OR VERIFYING  
16 the trusted build hash value (MD5 or SHA-1) of the  
17 firmware or software, the designated election official shall  
18 MUST verify and document the accuracy of the value to be  
19 included with the records for the device prior to conducting  
20 the audit.

21 11.5.4.8 (K) AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE the  
22 actions of the random audit. as identified in this section are to be  
23 observed by at least two members of the canvass board. The  
24 designated election official may appoint additional deputized  
25 clerks to assist WITH in the functions of the audit.

26 11.5.4.9 (L) If there are discrepancies in the audit, the Canvass Board or the  
27 designated election official's deputized clerks shall OFFICIAL MUST:  
28 11.5.4.9.1(1) First, manually verify the results as many times as  
29 necessary to Confirm that there is no discrepancy ERROR OR FAILURE TO CAPTURE VOTER INTENT in  
the manual count;

31 11.5.4.9.2(2) Second, Take any additional steps as necessary to  
32 check for AND CAPTURE voter INTENT error, which shall MUST include but IS not  
33 be limited to A SEARCH FOR: overvotes, stray marks on the ballot, or other  
34 voter intent indicia; and

35 11.5.4.9.3(3) Third, review the situation and Take ANY action as  
36 necessary in accordance with the Canvass Board's powers  
37 as set forth DESCRIBED in part 1 of Article 10 of Title 1,  
38 Colorado Revised Statutes INCLUDING REPORTS OF AUDIT AND INVESTIGATIONS.

39 11.5.4.10 (M) At all times relevant to the Post Election DURING THE audit, the  
40 designated election official or the deputized clerks or the Canvass

**Comment [S227]:** Broadened the actor from DEO to officials for conducting the audit. Ideally it would be the canvass board- the entity with some independence.

**Comment [S228]:** A more precise description.

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**Comment [S229]:** This makes the comparison clear, as with the previous similar language.

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**Comment [S230]:** This is only ok if it means the election official is not in charge of the audit. However, other references suggest that clerk control was the intention. Worse it appears that the reference to the clerk is to make sure the clerk can do more than just "observe". Clearly the DEO must not be in charge of the audit as this spoils the independence of the audit intended to check the quality of the work of the DEO. This is a battle being fought between citizens who do not trust election officials and those same election officials who in a better world would not trust themselves and would want an independently conducted audit. Obviously we are not living in that better world right now. But I am asking the SOS to help take us there.

**Comment [S231]:** This is the standard against which the machine is to be compared for the audit. A mark that could not be detected by machine creates a discrepancy that the audit is intended to pick up. Thus a discrepancy is something the audit would accept as normal and in fact detection of discrepancy is the audit's actual reason to exist.

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**Comment [S232]:** More explanation of some ways to find voter intent.

**Comment [S233]:** This citation is only a brief portion of the statutory description of the canvass board duties, and excludes duties listed in 1-7-514 for audit which must be included.

**Comment [S234]:** I would have expected the rules to be more specific here about detailing the process the canvass board should take in response to 1-7-514. I am not going to write up that extrapolation of the statute but it is clearly needed.

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1 Board shall MUST take every precaution necessary to protect the CONSTITUTIONAL ANONYMITY,  
2 confidentiality of the CAST VOTER INTENT ON ALL ballots. cast by the electors.

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Comment [S235]: There is no definition of this term "cast". Confidentiality is not called for and will in fact hide failures to protect anonymity.

3 11.5.4.11 (N) Upon completion of AFTER the audit, the designated election  
4 official shall MUST promptly report the results of the audit to the  
5 Secretary of State's Office by 5:00 PM ON THE LAST DAY TO  
6 CANVASS. The report shall MUST be submitted following the  
7 completion of the audit and up to and including 5:00 pm on the last  
8 day of the canvass. The report shall MUST contain:

9 (a)-(1) The make, model, and serial number of the voting device  
10 DEVICES that was audited;

11 (b)-(2) The number of ballots originally counted by the EACH  
12 device OF AND the number of ballots audited as identified in  
13 paragraph (d) (4) of this section;

Comment [S236]: If the SOS recommended method of recount in place of audit is used, this will tell us what percentage of ballots were sampled.

14 (c)-(3) The VOTE TALLY count of the specific CONTESTS race or races as provided on the  
15 summary report printed at the close of polls or the report  
16 generated for the audit INCLUDING UNDER AND OVER VOTES;

Comment [S237]: "vote tally" is more technically correct. Count of contests could be taken to mean what it says ie. one or two, etc

Comment [S238]: "races" is not defined and incorrect.

17 (d)-(4) The VOTE TALLY count of the specific race RACES/CONTESTS as manually verified/COUNTED  
INCLUDING UNDER AND OVER VOTES;

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18 (e)-(5) Any other information required by section 1-7-514, C.R.S.  
INCLUDING A DESCRIPTION OF ANY INITIAL, INTERIM AND FINAL COUNTS CONDUCTED DURING THE AUDIT AND A  
REPORT OF ANY INVESTIGATIONS UNDERTAKEN PURSUANT TO THE AUDIT OR COMPLAINTS RECEIVED;

Comment [S239]: Inclusion of under and over makes the audit much more effective.

Comment [S240]: Under and over allow for full balancing of the audited ballots.

19 and

20 (f)-(6) The signature CANVASS BOARD MEMBERS' AND  
21 DESIGNATED ELECTION OFFICIAL'S SIGNATURES. of the  
22 canvass board and the designated election official.

Comment [S241]: Contests is correct instead of races. Races is not defined and incorrect.

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23 11.5.4.12 (o) The DESIGNATED ELECTION OFFICIAL MAY SEND THE report may be  
24 sent by REGULAR MAIL, E-MAIL, OR FAX. any of the following three  
25 methods: E mail: voting.systems@sos.state.co.us; Subject line =  
26 County Number, County Name, POST ELECTION AUDIT; or via  
27 facsimile to: 303 869 4861 attn: Secretary of State, Voting  
28 Systems Specialist; or via First Class Mail: to Colorado  
29 Department of State/ Attn: Voting Systems Specialist/1700  
30 Broadway Suite 270/Denver, CO 80290.

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Comment [S242]: Ditto the previous three comments.

Comment [S243]: It makes sense for the rules not to ignore this part of statute.

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31 *[Rule 11.6 is relocated to Rule 20.2.10]*

32 11.6 Procedures for Voter Verifiable Paper Audit Trail (V VPAT)

33 11.6.1 Security

34 11.6.1.1 The V VPAT record is considered an official record of the  
35 election, pursuant to section 1-5-802. All security procedures related to  
36 election ballots shall apply to V VPAT records.

Comment [S244]: Presumably redundant when DEO is on canvass board as required.

1 ~~11.6.1.2 The housing unit for any V VPAT record to be used in the election shall~~  
2 ~~be sealed and secured prior to any votes being cast for the election.~~  
3 ~~Documentation of the seal number(s) must be maintained and noted~~  
4 ~~prior to voting, and at the conclusion of voting.~~

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

8 ~~11.6.1.3 If a DRE with V VPAT is used during early voting, the seal number(s)~~  
9 ~~must be recorded at the beginning and end of each voting day.~~

10 ~~11.6.1.4 At the Close of the polls, the V VPAT records will be transferred to the~~  
11 ~~central office in the same manner as any paper ballots. In the absence of~~  
12 ~~paper ballots, the V VPAT records will be transferred to the central~~  
13 ~~office in the same manner as any memory cards containing electronic~~  
14 ~~ballots.~~

15 ~~11.6.2 Anonymity~~

16 ~~11.6.2.1 The Election Official shall put measures in place to protect the~~  
17 ~~anonymity of voters choosing to vote on DREs during the voting~~  
18 ~~periods. These measures shall include:~~

19 ~~(a) Encouraging poll workers to personally vote on DREs when~~  
20 ~~possible to ensure more than one vote will be cast on the device.~~

21 ~~(b) Appropriate marking in Poll Book or other voting list indicating~~  
22 ~~voters choice to vote on DRE with the words: "Voted DRE", or~~  
23 ~~similar in place of paper ballot information. No record shall be~~  
24 ~~kept indicating the order in which people voted on the DRE, or~~  
25 ~~which V VPAT record is associated with the voter.~~

26 ~~(c) When more than one DRE is available at a voting location, the~~  
27 ~~voter shall be given the choice as to which DRE they would like to~~  
28 ~~vote on, to the extent practical.~~

29 ~~(d) Encouraging or allowing any and all voters the opportunity to vote~~  
30 ~~on a DRE if desired.~~

31 ~~11.6.2.2 Any report or export (electronic or paper based) generated from an~~  
32 ~~Electronic Pollbook shall remove the date/time stamp from the record~~  
33 ~~and not use this field as a sort method. Any assignment of Record IDs,~~  
34 ~~Key ID, or Serial Number stored in the database of votes shall be~~  
35 ~~randomly assigned.~~



1 ~~11.6.2.3 Any Pollbook, electronic, paper or otherwise shall not be exposed to the~~  
2 ~~same people at the same place who have exposure to the V VPAT~~  
3 ~~records.~~

4 ~~11.6.2.4 The examination of the V VPAT record shall always be done by at least~~  
5 ~~two witnesses.~~

6 ~~11.6.3 Storage~~

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

9 ~~11.6.3.2 Individual spools containing V VPAT records must contain the~~  
10 ~~following catalog information affixed to the spool:~~

11 ~~(a) Date and Name of Election;~~

12 ~~(b) Name of Voting Location;~~

13 ~~(c) Date(s) and Time(s) of Voting;~~

14 ~~(d) Machine Serial Number of DRE Associated with the Record; and~~

15 ~~(e) Number of spools associated with this machine for this election (i.e.~~  
16 ~~“Spool 1 of 1”, or “Spool 1 of 2”, etc.).~~

17 ~~11.6.3.3 Light sensitive storage containers shall be used for the 25 month storage~~  
18 ~~period to ensure the integrity of the V VPAT paper record. Containers~~  
19 ~~shall be sealed, with record of the seal numbers maintained on file and~~  
20 ~~signed by two elections officials.~~

21 ~~11.6.3.4 A master catalog shall be maintained for the election containing the~~  
22 ~~complete total number of V VPAT spools used in the election.~~

23 ~~11.7 11.5 Escrow of County Election Setup. THE DESIGNATED ELECTION OFFICIAL MUST~~  
24 ~~SUBMIT ELECTION SETUP RECORDS TO THE SOS BY REGULAR MAIL NO LATER THAN 5:00 PM ON~~  
25 ~~THE SEVENTH DAY BEFORE VOTE TABULATION BEGINS AN ELECTION.~~

26 ~~11.7.1 No later than 5:00pm on the seventh (7th) day prior to any election, the~~  
27 ~~designated election official shall deposit a copy of the election setup records with~~  
28 ~~the Secretary of State’s office by mail.~~

29 ~~11.7.2 11.5.1 Jurisdictions that have contracted CONTRACT with either a Software~~  
30 ~~Service Bureau or a Vendor of Electronic Vote Counting Equipment~~  
31 ~~SOFTWARE SERVICE BUREAU OR AN VENDOR OF ELECTRONIC VOTE~~  
32 ~~COUNTING EQUIPMENT VENDOR may choose to have the VENDOR DELIVER~~  
33 ~~THE necessary election setup records. delivered to the Secretary of State’s~~  
34 ~~office within the specified time frame.~~

**Comment [S245]:** To be reasonably specific.

**Comment [S246]:** 7 days before election day is way too late for this escrow. Vote tabulation might begin 15 days before election day (and that is a dangerous mistake for integrity).

**Comment [S247]:** Surely this didn't mean 7 days before election day. Is the intention so the SOS can check the election setup records? If so it must happen before the results of counting are irrevocable.

1 ~~11.7.3~~ 11.5.2 Election Setup Records SETUP RECORDS shall MUST be contained within IN  
2 an electronic media format that is native to the jurisdiction's specific  
3 ballot creation and tabulation system. Acceptable media formats range  
4 from Tape, Diskette, Cartridge, CD-ROM, DVD-ROM, Floppy, External  
5 Hard Drive, or Flash Media INCLUDE TAPE, DISKETTE, CARTRIDGE, CD-  
6 ROM, DVD-ROM, FLOPPY, EXTERNAL HARD DRIVE, OR FLASH MEDIA.

7 ~~11.7.14~~ All copies of electronic media shall be sent to:

8 Colorado Secretary of State  
9 Attn: Voting Systems Specialist  
10 1700 Broadway Suite 270  
11 Denver, CO 80290

12 ~~11.7.5~~ 11.5.3 Jurisdictions will THE DESIGNATED ELECTION OFFICIAL MUST include a  
13 point of contact and method of contact (phone, fax, e-mail, etc.). to inform  
14 the jurisdiction that the Secretary of State's office has received the  
15 election setup records.

16 ~~11.7.6~~ 11.5.4 Within 24 hours of receipt of the election setup files RECORDS, the  
17 Secretary of State or his or her designee STATE'S OFFICE will contact the  
18 jurisdiction to confirm receipt. of the escrow files.

19 ~~11.7.7~~ 11.5.5 The Secretary of State's office will store the ELECTION setup files  
20 RECORDS in a secured, fire proof, limited-access location. or container.

21 ~~11.7.8~~ ~~11.5.6~~ All parties shall MUST treat as confidential all escrowed materials and any  
22 other related information that comes into their possession, control, or  
23 custody, pursuant to this rule.

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Comment [S248]: This is far too all encompassing and harmful to public access and should be deleted. At most it can say that intellectual property included in any escrow that is legally privately owned and properly protected shall be kept confidential.

24 *[Rule 11.8 is amended and moved to New Rule 45.12]*

25 ~~11.8~~ Escrow of Voting System Software by Voting System Provider

26 ~~11.8.1~~ Voting System Providers must place in escrow a copy of the election software and  
27 supporting documentation being certified with either the Secretary of State or an  
28 independent escrow agent approved by the Secretary of State. See section  
29 1-7-511, C.R.S.

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30 ~~11.8.2~~ Within ten days of the Voting System provider receiving notification of  
31 examination of voting equipment as part of the certification process, the Voting  
32 System Provider shall arrange for the completion of escrow requirements as  
33 indicated by this rule.

34 ~~11.8.3~~ Voting System Provider shall sign a sworn affidavit that the election software in  
35 escrow is the same as the election software used in its voting systems in this state.  
36 An annual update of the affidavit will be on file in a secured location with the  
37 Secretary of State's office.

1 ~~11.8.4 A complete copy of the certified election software including any and all~~  
2 ~~subsystems of the certified software shall be maintained in escrow.~~

3 ~~11.8.5 Any changes to current configurations or new installations must be approved~~  
4 ~~through the certification program of the Secretary of State.~~

5 ~~11.8.6 In addition to the requirements listed below, the Voting System Provider must~~  
6 ~~include a cover/instructions sheet for any escrow material to include the Voting~~  
7 ~~System Provider Name, Address and pertinent contact information, Software~~  
8 ~~Version, Hardware Version, Firmware Revision Number and other uniquely~~  
9 ~~identifying numbers of the software submitted for certification.~~

10 ~~11.8.7 Election Software Source Code, maintained in escrow, shall contain internal~~  
11 ~~documentation such that a person reasonably proficient in the use of the~~  
12 ~~programming language can efficiently use the documentation to understand the~~  
13 ~~program structure, control techniques, and error processing logic in order to~~  
14 ~~maintain the Source Code should it be removed from escrow for any reason.~~

15 ~~11.8.8 System documentation shall include instructions for converting the escrowed~~  
16 ~~Source Code into Object Code, organized and configured to produce an~~  
17 ~~executable system, if warranted.~~

18 ~~11.8.9 System documentation shall include technical architecture design, analysis, detail~~  
19 ~~design, testing and an installation and configuration guide.~~

20 ~~11.8.10 — A set of schematics and drawings on electronic vote casting and counting~~  
21 ~~equipment purchased or in use by the county clerk and recorder shall be on file~~  
22 ~~with the Secretary of State.~~

23 ~~11.8.11 — All parties shall treat as confidential the terms of this Section including all~~  
24 ~~escrow materials and any other related information that comes into their~~  
25 ~~possession, control or custody pursuant to this section.~~

26 ~~11.8.12 — Copies of Electronic media and supporting documentation for Escrow~~  
27 ~~within the Secretary of State shall be sent to:~~

28 ~~Colorado Secretary of State~~  
29 ~~Attn: Voting Systems Specialist~~  
30 ~~1700 Broadway Suite 270~~  
31 ~~Denver, CO 80290~~

32  
33 ~~11.8.13 — Any cost of using an alternative third party escrow agent shall be borne by~~  
34 ~~the Voting System provider.~~

35 11.6 THE DESIGNATED ELECTION OFFICIAL MUST RETAIN ALL TESTING RECORDS AND  
36 DOCUMENTATION FOR 25 MONTHS.

37 11.7 METHODS OF SUBMISSION ARE:

1 11.7.1 BY REGULAR MAIL TO:

2 COLORADO SECRETARY OF STATE  
3 ATTN: VOTING SYSTEMS  
4 1700 BROADWAY – SUITE 200  
5 DENVER, CO 80290

6 11.7.2 BY EMAIL TO:

7 VOTING.SYSTEMS@SOS.STATE.CO.US

8 11.7.3 BY FAX TO:

9 303-869-4861

10 11.8 RULES CONCERNING ACCESSIBLE VOTING SYSTEMS

11 ~~34.2~~ 11.8.2 ~~No~~ A political subdivision ~~shall~~ MAY NOT purchase or lease ~~direct~~  
12 ~~recording electronic DRE voting systems or other~~ voting systems  
13 ~~equipped for individuals~~ USE BY PEOPLE with disabilities at each polling  
14 ~~place unless such voting system(s) THEY are fully certified pursuant to~~  
15 ~~standards and guidelines recommended by the National Institute of~~  
16 ~~Standards and Testing (NIST) and adopted by the U.S. Election Assistance~~  
17 ~~Commission (EAC) IN ACCORDANCE WITH THE 2002 VOTING SYSTEM~~  
18 ~~STANDARDS PROMULGATED BY THE FEDERAL ELECTION COMMISSION.~~

19 *[Rule 34 is amended and moved to New Rule 11.9. (Amendments are shown above)]*

20 11.9 RULES CONCERNING NOTICE OF VOTING SYSTEM MALFUNCTION

21 ~~36.1~~ 11.9.1 A vendor or ~~the political subdivision~~ DESIGNATED ELECTION OFFICIAL ~~if no~~  
22 ~~private vendor supports their system~~ must give notice to NOTIFY the  
23 Secretary of State within 24 hours of a REPORTED OR ACTUAL malfunction  
24 of its voting/election system ~~(including, but not limited to, software,~~  
25 ~~firmware, hardware, or other equipment) in preparation for and on an~~  
26 ~~election held in this state.~~ THE NOTICE MUST INCLUDE A DESCRIPTION,  
27 DATE, AND THE NAMES OF THOSE WHO WITNESSED THE MALFUNCTION, AS  
28 WELL AS THE PROCEDURES FOLLOWED ~~PRIOR TO BEFORE~~ THE  
29 MALFUNCTION, AND ANY ERROR MESSAGES DISPLAYED. The notice may be  
30 verbal, but ~~must also be in~~ A writing MUST FOLLOW.

31 ~~36.2~~ Following the notice, the Secretary of State shall determine whether further  
32 information on the malfunction is required. At the request of the Secretary of  
33 State, a vendor (or the political subdivision, if no private vendor supports their  
34 system) must submit a report to the Secretary of State's office detailing the  
35 reprogramming (or any other actions) necessary to correct a voting system  
36 malfunction in preparation for and on an election held using the vendor's system.  
37 The report shall address whether permanent changes are necessary to prevent  
38 similar malfunctions in the future. If the malfunction requires a programming or  
39 election setup change to the database or other parts of the voting system, the

**Comment [S249]:** I doubt this makes sense at this point, although I think it is consistent with current statute.

1 designated election official shall submit an updated electronic copy of the election  
2 system database to the Secretary of State's office as set forth in Rule 11.

3 11.9.2 IF THE SECRETARY OF STATE REQUIRES ADDITIONAL INFORMATION THE VENDOR OR  
4 THE DESIGNATED ELECTION OFFICIAL MUST SUBMIT A REPORT TO THE SECRETARY  
5 OF STATE'S OFFICE DETAILING THE REPROGRAMMING OR ANY OTHER ACTIONS  
6 NECESSARY TO CORRECT A VOTING SYSTEM MALFUNCTION.

7 (A) THE REPORT MUST ADDRESS WHETHER PERMANENT CHANGES ARE  
8 NECESSARY TO PREVENT SIMILAR MALFUNCTIONS IN THE FUTURE.

9 (B) IF THE MALFUNCTION REQUIRES A PROGRAMMING OR ELECTION SETUP  
10 CHANGE TO THE DATABASE OR OTHER PARTS OF THE VOTING SYSTEM, THE  
11 DESIGNATED ELECTION OFFICIAL MUST SUBMIT AN UPDATED ELECTION  
12 SETUP RECORD TO THE SECRETARY OF STATE'S OFFICE AS SET FORTH IN  
13 RULE 11.8.

14 ~~36.3~~ (C) The report shall MUST be submitted within 30 days after the date of  
15 the request by the Secretary of State. ~~Notwithstanding the foregoing, if~~ If  
16 an election is scheduled within 60 days of the date of request by the  
17 Secretary of State, the Secretary of State may set an emergency deadline  
18 for filing the report. ~~The request may be verbal, but must also be in~~  
19 ~~writing.~~

20 ~~36.4~~ (D) Failure to submit a report within the required period shall ~~is be~~  
21 grounds to decertify the system.

22 ~~36.5~~ (E) The political subdivision holding the election in which the voting  
23 system malfunction occurred may submit the report in lieu of a report  
24 from the system's vendor.

25 ~~36.6~~ (F) A copy of this report will be attached to the system's most recent  
26 certification on file in the Secretary of State's office.

27 ~~36.7~~ (G) The Secretary of State's office will distribute a copy of this report  
28 to all counties using the voting system in question.

29 *[Rule 36 is amended and moved to New Rule 11.10. Amendments are shown above]*

30 11.10 PURCHASES AND CONTRACTS

31 11.10.1 IN ACCORDANCE WITH SECTION 1-5-623(3), C.R.S., A POLITICAL  
32 SUBDIVISION MAY NOT PURCHASE, LEASE, TRANSFER, OR RECEIVE A NEW AN  
33 ELECTRONIC VOTING DEVICE BY WHICH VOTES ARE CAPTURED AND RECORDED,  
34 ELECTRONICALLY INCLUDING A TOUCH SCREEN OR SYSTEM OR ANY RELATED COMPONENT OF A  
35 DEVICE OR SYSTEM WITHOUT APPROVAL FROM THE SECRETARY OF STATE.

36 ~~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~~

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**Comment [S250]:** I inserted a version of the  
original definition of electronic voting device, but  
added the word "captured". I am not sure what the  
original intention of the definition is, or what the  
intended scope of this paragraph is. Is it to include  
optical scanners? At present it seems not to.

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1 are is eligible for purchase, lease, or rent for use by jurisdictions within the State  
2 of Colorado providing if the contract contains the following items:

- 3 (a) ~~The voting system is certified for use within the state;~~
- 4 (b) (A) The contract contains training and maintenance costs ~~for the jurisdiction;~~  
5 and
- 6 (c) (B) ~~The contract identifies components contained in the certified~~ THE voting  
7 system COMPONENTS and ~~appears complete with all accessories necessary~~  
8 APPEAR COMPLETE AND CAPABLE OF ~~for~~ successfully conducting an  
9 election ~~within the laws and rules of the State of~~ IN Colorado.

10 ~~45.12.2~~ 11.10.3 The Secretary of State ~~shall~~ WILL maintain ~~on file~~ a list of all  
11 components used and purchased ~~for use~~. The list ~~shall~~ WILL include, at a  
12 minimum, the name of the jurisdiction, the date of purchase, the serial number(s)  
13 of voting devices and name of the voting systems that ~~was~~ WERE purchased.

14 *[Rule 45.12 is amended and moved to New Rule 11.10. Amendments are shown above]*

15 11.11 ELECTION NIGHT REPORTING (ENR). THE COUNTY MUST REPORT ELECTION NIGHT  
16 RESULTS FOR ALL PRIMARY, GENERAL, COORDINATED AND RECALL ELECTIONS.

17 11.11.1 A DATA ENTRY COUNTY MUST PROGRAM THE ELECTION TO SUPPORT THE  
18 EXPORTING OF ELECTION NIGHT RESULTS IN ACCORDANCE WITH THE FOLLOWING  
19 ENR VENDOR'S DATA UPLOAD REQUIREMENTS:

- 20 (A) LIST CONTEST NAMES AND CANDIDATE NAMES EXACTLY AS PROVIDED ON  
21 THE CERTIFIED LIST.
- 22 (B) PROVIDE CONTEST NAMES IN ALL UPPERCASE LETTERS.
- 23 (C) FOR COUNTIES THAT USE THE ES&S AND PREMIER VOTING SYSTEMS,  
24 ARRANGE THE CONTESTS IN THE ORDER PRESCRIBED BY SECTION 1-5-  
25 403(5), C.R.S.
- 26 (D) CAPITALIZE CANDIDATE NAMES (E.G., JOHN A. SMITH).
- 27 (E) PRESENT A PRECINCT NAME AS A TEN-DIGIT PRECINCT NUMBER.
- 28 (F) FOR COUNTIES THAT USE THE HART VOTING SYSTEMS, USE THE  
29 "SPLIT\_NAME" FIELD SPLIT PRECINCT NAMING PURPOSES.
- 30 (G) CREATE A "PROVISIONAL" PRECINCT.
- 31 (H) USE ONLY THE PARTY CODES CERTIFIED BY THE SECRETARY OF STATE.
- 32 (I) DO NOT INCLUDE THE PARTY NAME OR CODE IN THE CANDIDATE NAME  
33 FIELD.

1 11.11.2 ~~NO LATER THAN EIGHT DAYS BEFORE THE ELECTION,~~ A COUNTY MUST SEND  
2 THE FOLLOWING INFORMATION TO THE SECRETARY OF STATE, AT THE ADDRESS IN  
3 RULE 11.8:

**Comment [S251]:** Either use my definition of "the election" or change this to "election day" or something more appropriate.

4 (A) A DATA ENTRY COUNTY MUST EMAIL A SAMPLE OR "ZERO" FILE.

5 (B) A MANUAL ENTRY COUNTY MUST SEND A LIST OF ALL BALLOT CONTENT  
6 ~~CONTESTS TITLES, CANDIDATES, AND PARTY AFFILIATION.~~

7 11.11.3 THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS AND UPLOAD  
8 THEM TO THE ENR SYSTEM A MINIMUM OF THREE TIMES ON ELECTION NIGHT:

9 (A) AFTER THE CLOSE OF POLLS BUT NO LATER THAN 7:30 PM.

10 (B) AT OR AROUND 9:00 PM.

11 (C) ~~AT THE CONCLUSION OF TABULATION, THE~~ THE COUNTY MUST INDICATE  
12 THAT ~~ELECTION NIGHT~~ REPORTING IS COMPLETE IN THE ENR SYSTEM FOR  
13 ELECTION DAY AFTER THE COUNTY UPLOADS THE LAST RESULTS ON  
14 ELECTION NIGHT.

**Comment [S252]:** Somewhere "election night" should be defined.

15 11.11.4 AFTER CANVASS THE COUNTY MUST EXPORT OR PRODUCE ELECTION RESULTS,  
16 AND CHECK THE APPROPRIATE BOX IN THE ENR SYSTEM TO INDICATE THAT THE  
17 CANVASS UPLOAD IS COMPLETE.

## 18 Rule 12. RECALL

### 19 ~~32.2~~-12.1 Signature requirements

20 ~~32.2.1~~12.1.1 For petitions to recall school district directors the petition must be signed  
21 by the eligible electors of the director's district equal in number to at least 40%  
22 of the ballots cast in the district in the last preceding election at which the  
23 director to be recalled was elected as indicated by the pollbook or abstract for  
24 the election. See section 1-12-105, C.R.S.

25 ~~32.2.2~~12.1.2 When determining the number of required valid signatures for an elected  
26 office for which electors were allowed to vote for more than one candidate in a  
27 single race, the signature requirements shall be ~~is~~ based on the number of ballots  
28 cast for that race as indicated by the ~~pollbook or~~ abstract for the election.

29 ~~32.6 12.2~~ In accordance with section 3 of article XXI of the Colorado constitution and  
30 section 1-12-117 (1), C.R.S., for partisan recall elections involving a state officer, in  
31 order to appear on the ballot a successor candidate must file a nomination petition with  
32 the Secretary of State no later than ten calendar days after the Governor sets the election  
33 date. A write-in candidate must file an affidavit of intent to run as a write-in candidate no  
34 later than the fifteenth day before the election.

35 ~~32.6 12.3~~ In accordance with section 3 of article XXI of the Colorado constitution and  
36 section 1-12-117(1), C.R.S., for partisan recall elections involving a state officer, in order

1 to appear on the ballot a successor candidate must file a nomination petition with the  
2 Secretary of State no later than ten calendar days after the Governor sets the election date.  
3 A write in candidate must file an affidavit of intent to run as a write in candidate no later  
4 than the fifteenth day before the election.

5 *[Current Rule 32.6, adopted on a temporary basis on July 22, 2013, is moved to new Rule 12.3]*

6 **Rule 13. ELECTION AND HAVA COMPLAINTS**

7 13.1 ELECTION COMPLAINT PROCEDURES

8 13.1.1 ANY PERSON WHO HAS PERSONALLY WITNESSED A VIOLATION OF TITLE 1, C.R.S.  
9 MAY FILE AN ELECTION COMPLAINT.

10 13.1.2 AN ELECTION COMPLAINT MUST INCLUDE THE APPROVED SECRETARY OF STATE'S  
11 ELECTION COMPLAINT COVER SHEET.

12 13.1.3 PROCESSING AND DOCKETING ELECTION COMPLAINTS

13 (A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ~~ELECTION~~  
14 ~~DIVISION STAFF THE SECRETARY'S DESIGNEE~~ WILL REVIEW THE COMPLAINT  
15 TO DETERMINE IF IT SATISFIES RULE ~~31.2~~-13.1.2 AND SUFFICIENTLY  
16 ALLEGES A VIOLATION.

17 (1) IF THE COMPLAINT DOES NOT MEET THE CRITERIA, ~~ELECTION DIVISION~~  
18 ~~STAFF THE SECRETARY'S DESIGNEE~~ WILL NOTIFY THE COMPLAINANT  
19 OF THE DISCREPANCY.

20 (2) IF A COMPLAINT MEETS THE CRITERIA, ~~ELECTION DIVISION STAFF THE~~  
21 ~~SECRETARY'S DESIGNEE~~ WILL ASSIGN A COMPLAINT NUMBER, NOTIFY  
22 THE COMPLAINANT, AND SEND A COPY OF THE COMPLAINT TO THE  
23 PERSON OR ENTITY ALLEGED TO HAVE COMMITTED A VIOLATION.

24 (B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE  
25 COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A  
26 WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

27 13.1.4 AMENDING AN ELECTION COMPLAINT

28 (A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER  
29 FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING  
30 COMPLAINT.

31 (B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

32 13.1.5 INVESTIGATION

33 (A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE ~~31.3.2~~-13.1.3, ~~ELECTION~~



1 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL INVESTIGATE THE  
2 COMPLAINT.

3 (B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE INVESTIGATION IS  
4 REQUIRED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL  
5 BEGIN INVESTIGATING BEFORE THE RESPONSE PERIOD HAS CLOSED. IN  
6 MAKING THE DETERMINATION, THE SECRETARY WILL CONSIDER WHETHER  
7 THE ISSUE HAS THE POTENTIAL TO AFFECT AN UPCOMING ELECTION.

8 (C) DEPENDING ON THE VIOLATION ALLEGED, ~~ELECTION DIVISION STAFF~~ THE  
9 SECRETARY'S DESIGNEE MAY:

- 10 (1) REVIEW DOCUMENTS;  
11 (2) VISIT THE COUNTY;  
12 (3) CONDUCT INTERVIEWS;  
13 (4) TEST EQUIPMENT; OR  
14 (5) TAKE OTHER STEPS NECESSARY.

15 (D) WHILE AN INVESTIGATION IS ONGOING, COUNTY CLERKS ~~AND RECORDERS~~  
16 AND STAFF MUST ACCOMMODATE REQUESTS BY ~~ELECTION DIVISION STAFF~~  
17 THE SECRETARY'S DESIGNEE IN THE TIMEFRAME REQUESTED BY STAFF.

18 13.1.6 RESOLUTION OF ELECTION COMPLAINTS

19 (A) AFTER AN INVESTIGATION AND HEARING, IF APPLICABLE, ~~ELECTION~~  
20 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL:

- 21 (1) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE;  
22 (2) REFER THE COMPLAINT TO A PROSECUTING AUTHORITY UNDER  
23 ARTICLE 13 OF TITLE 1, C.R.S.; OR  
24 (3) FIND A VIOLATION, ~~AND~~ RECOMMEND A RESOLUTION, AND ~~(B)~~  
25 ~~ELECTION DIVISION STAFF WILL~~ FORWARD THE RECOMMENDATION  
26 FOR RESOLUTION TO THE SECRETARY OF STATE, WHO WILL ADOPT,  
27 AMEND, OR REJECT THE RECOMMENDATION.

28 13.1.7 THE SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION

29 13.2 HELP AMERICA VOTE ACT (HAVA) COMPLAINT PROCEDURES

30 13.2.1 ANY PERSON WHO ~~HAS BEEN PERSONALLY AGGRIEVED BY OR HAS PERSONALLY~~  
31 ~~WITNESSED~~ BELIEVES THAT A VIOLATION OF TITLE III OF ~~THE HELP AMERICA~~  
32 ~~VOTE ACT (HAVA)~~ HAS OCCURRED, IS OCCURRING, OR IS ABOUT TO OCCUR, MAY  
33 FILE A HAVA COMPLAINT WITH THE SECRETARY OF STATE.

1 13.2.2 A HAVA COMPLAINT MUST INCLUDE THE APPROVED SECRETARY OF STATE'S  
2 HAVA COMPLAINT COVER SHEET.

3 13.2.3 PROCESSING AND DOCKETING HAVA COMPLAINTS

4 (A) WITHIN THREE BUSINESS DAYS OF RECEIVING A COMPLAINT, ~~ELECTION~~  
5 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL REVIEW THE COMPLAINT  
6 TO DETERMINE IF IT SATISFIES RULE ~~31.2~~-13.2.1 AND SUFFICIENTLY  
7 ALLEGES A VIOLATION.

8 (1) IF THE COMPLAINT DOES NOT INCLUDE A COVER SHEET ~~ELECTION~~  
9 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL NOTIFY THE  
10 COMPLAINANT OF THE DISCREPANCY.

11 ~~(2) IF A COMPLAINT DOES NOT SUFFICIENTLY ALLEGE A VIOLATION OF~~  
12 ~~TITLE III OF HAVA, ELECTION DIVISION STAFF WILL DISMISS THE~~  
13 ~~COMPLAINT WITHOUT PREJUDICE.~~

14 ~~(3) IF A COMPLAINT MEETS BOTH THE CRITERIA, ELECTION DIVISION~~  
15 ~~STAFF THE SECRETARY'S DESIGNEE~~ WILL ASSIGN A COMPLAINT  
16 NUMBER, NOTIFY THE COMPLAINANT, AND SEND A COPY OF THE  
17 COMPLAINT TO THE PERSON OR ENTITY ALLEGED TO HAVE COMMITTED  
18 A VIOLATION.

19 (B) AFTER NOTIFICATION, THE PERSON OR ENTITY ALLEGED TO HAVE  
20 COMMITTED THE VIOLATION WILL HAVE 15 BUSINESS DAYS TO SUBMIT A  
21 WRITTEN RESPONSE TO THE SECRETARY OF STATE'S OFFICE.

22 13.2.4 AMENDING A HAVA COMPLAINT

23 (A) A COMPLAINANT MAY AMEND A COMPLAINT WITHIN SEVEN DAYS AFTER  
24 FILING IF HE OR SHE DISCOVERS NEW FACTS RELATING TO THE EXISTING  
25 COMPLAINT.

26 (B) AN AMENDMENT MAY NOT CONTAIN ALLEGATIONS OF A NEW VIOLATION.

27 13.2.5 INVESTIGATION

28 (A) AFTER THE RESPONSE PERIOD OUTLINED IN RULE ~~31.3.2~~-13.2.3, ~~ELECTION~~  
29 ~~DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL INVESTIGATE THE  
30 COMPLAINT.

31 (B) IF THE SECRETARY OF STATE DETERMINES AN IMMEDIATE INVESTIGATION IS  
32 REQUIRED, ~~ELECTION DIVISION STAFF~~ THE SECRETARY'S DESIGNEE WILL  
33 BEGIN INVESTIGATING BEFORE THE RESPONSE PERIOD HAS CLOSED. IN  
34 MAKING THE DETERMINATION, THE SECRETARY WILL CONSIDER WHETHER  
35 THE ISSUE HAS THE POTENTIAL TO AFFECT AN UPCOMING ELECTION.

- 1 (C) DEPENDING ON THE VIOLATION ALLEGED, ~~ELECTION DIVISION STAFF THE~~  
2 ~~SECRETARY'S DESIGNEE~~ MAY:
- 3 (1) REVIEW DOCUMENTS;
  - 4 (2) VISIT THE COUNTY;
  - 5 (3) CONDUCT INTERVIEWS;
  - 6 (4) TEST EQUIPMENT; OR
  - 7 (5) TAKE OTHER STEPS NECESSARY.
- 8 (D) WHILE AN INVESTIGATION IS ONGOING, COUNTY CLERKS ~~AND RECORDERS~~  
9 ~~AND STAFF~~ MUST ACCOMMODATE REQUESTS BY ~~ELECTION DIVISION STAFF~~  
10 ~~THE SECRETARY'S DESIGNEE~~ IN THE TIMEFRAME REQUESTED BY STAFF.

11 13.2.6 HEARING AND RESOLUTION OF HAVA COMPLAINTS

- 12 (A) IF THE COMPLAINANT REQUESTS, THE SECRETARY OF STATE OR HIS OR HER  
13 DESIGNEE WILL HOLD A HEARING.
- 14 (B) AFTER THE INVESTIGATION AND HEARING, IF ANY, ~~ELECTION DIVISION~~  
15 ~~STAFF THE SECRETARY'S DESIGNEE~~ WILL:
- 16 (1) DISMISS THE COMPLAINT AS NOT SUPPORTED BY CREDIBLE EVIDENCE;
  - 17 (2) REFER THE COMPLAINT TO A PROSECUTING AUTHORITY UNDER  
18 ARTICLE 13 OF TITLE 1, C.R.S.;
  - 19 (3) FIND A VIOLATION, ~~AND~~ RECOMMEND A RESOLUTION, ~~(c)~~  
20 ~~ELECTION DIVISION STAFF WILL~~ FORWARD THE RECOMMENDATION  
21 FOR RESOLUTION TO THE SECRETARY OF STATE, WHO WILL ADOPT,  
22 AMEND, OR REJECT THE RECOMMENDATION.

23 13.2.7 THE SECRETARY OF STATE'S DETERMINATION IS A FINAL AGENCY ACTION.

24 *[Current Rule 31 is repealed and complaint rules are moved to new Rule 13 as shown above.]*

25 **Rule 14. ~~Rules Regulating~~ Voter Registration Drives**

26 ~~44.1~~ 14.1 Statement of Intent

27 ~~44.1.1~~ 14.1.1 In accordance with ~~section 1-2-701, C.R.S., et seq.~~ PART 7, ARTICLE 2 OF  
28 ~~TITLE 1, C.R.S.~~, the organizer of a Voter Registration Drive ("VRD") shall MUST  
29 file a Statement of Intent AND TRAINING ACKNOWLEDGMENT FORM with the  
30 Secretary of State to conduct a voter registration drive. ~~on a form prescribed by~~  
31 ~~the Secretary of State.~~ The ~~Statement of Intent shall~~ STATEMENT OF INTENT AND  
32 TRAINING ACKNOWLEDGMENT FORM MUST include the following information:

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

10 ~~44.1.2~~ 14.1.2 ~~Any amendments to the Statement of Intent shall be filed in writing. A~~  
11 VRD ORGANIZER MUST FILE AMENDMENTS TO THE STATEMENT OF INTENT AND  
12 TRAINING ACKNOWLEDGMENT FORM with the Secretary of State no later than  
13 three business days after the change(s) occurs. Amendments may be made by fax,  
14 email, mail or in person.

15 ~~44.1.3~~ 14.1.3 The Secretary of State ~~shall~~ WILL immediately attempt to verify the  
16 information provided in the Statement of Intent AND TRAINING  
17 ACKNOWLEDGMENT FORM prior to issuing a number to the VRD organizer. The  
18 Secretary of State may deny a number to the ~~voter registration drive~~ VRD  
19 organizer if the information provided on the Statement of Intent cannot be  
20 verified.

21 ~~44.1.4~~ 14.1.4 The last day for a VRD to file a Statement of Intent AND TRAINING  
22 ACKNOWLEDGMENT FORM with the Secretary of State shall be ~~IS THE 22ND days~~  
23 ~~before the A COORDINATED, PRIMARY, OR General Election in a given calendar~~  
24 ~~year.~~

25 ~~44.2~~ 14.2 Training

26 ~~44.2.1~~ 14.2.1 ~~In order to be issued~~ TO RECEIVE a VRD number, the organizer VRD ~~shall~~  
27 MUST successfully complete the online training and test provided by the Secretary  
28 of State, and submit a Statement of Intent ~~along with a~~ AND Training  
29 Acknowledgment form to the Secretary of State.

30 ~~44.2.2~~ 14.2.2 ~~In addition to training for the organizer, the Secretary of State shall make~~  
31 ~~available information for the organizer to train individual circulators. Organizers~~  
32 ~~shall provide training to all circulators. Organizers shall obtain and maintain on~~  
33 ~~file~~ ~~RETAIN~~ signed attestations from each circulator that he or she will adhere to  
34 all the requirements of the Secretary of State election rules and the Colorado  
35 Revised Statutes pertaining to elections, and that they are aware of the penalties  
36 associated with the mishandling of voter registration application forms. The  
37 organizers shall furnish the circulator attestations to the secretary of state  
38 ~~SECRETARY OF STATE upon request.~~ BEGINNING JANUARY 1, 2014, A CIRCULATOR

1 MUST SUCCESSFULLY COMPLETE THE ONLINE TRAINING AND TEST PROVIDED BY THE  
2 SECRETARY OF STATE.

**Comment [S253]:** Contrary to other testimony I believe this is reasonable if the training is created in English and Spanish

3 (A) THE SECRETARY OF STATE WILL ISSUE A COMPLETION CERTIFICATE WHEN  
4 THE CIRCULATOR COMPLETES THE TRAINING AND TEST.

5 (B) A COMPLETION CERTIFICATE IS VALID UNTIL THE END OF THE CALENDAR  
6 YEAR IN WHICH IT WAS ISSUED.

7 (C) A CIRCULATOR MUST PRESENT THE COMPLETION CERTIFICATE TO THE VRD  
8 ORGANIZER BEFORE CIRCULATING WITH THE VOTER REGISTRATION DRIVE  
9 VRD.

10 (D) A VRD CIRCULATOR MAY PRESENT THE COMPLETION CERTIFICATE TO MORE  
11 THAN ONE VRD ORGANIZER.

12 (E) ~~THE TRAINING MUST BE OFFERED IN BOTH ENGLISH AND SPANISH.~~

**Comment [S254]:** Spanish training required as an option to the circulator.

13 ~~44.2.3~~ 14.2.3 The mandatory training provided by the Secretary of State shall will  
14 include, but not be limited to:

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15 (a) The use of the VRD Application;

16 (b) Information on where to obtain the VRD Application;

17 (c) Information on how to ensure that a VRD Application is filled out  
18 completely; including which fields are optional and which are required,  
and how to fill out the circulator portion of the Application;

19 (d) Notice of statutory deadlines relating to Voter Registration Applications  
20 and VRDs;

21 (e) The requirements for when and where DELIVERING the COMPLETED Voter  
22 Registration Applications must be turned in;

23 (f) Penalties for violating statutory prohibitions including fraud, intimidation,  
24 mishandling Applications, failing to turn in Applications and other  
25 penalties relevant to VRDs;

26 (g) The handling and treatment of confidential information on the Voter  
27 Registration Applications; and

28 (h) Notice that circulators shall not CANNOT be paid per Voter Registration  
29 Application, but if compensated, shall THEY MUST be paid by the hour or  
30 day.

31 ~~44.2.4~~ 14.2.4 The training shall be IS provided online., BUT IF a VRD organizer OR  
32 CIRCULATOR prefers, he or she may schedule a time to view the training at the  
33 office of the Secretary of State's OFFICE.

1 ~~44.2.5~~ 14.2.5 After completing the training, the VRD organizer must complete the  
2 training test and answer the questions 100% correctly before THE SECRETARY OF  
3 STATE WILL ISSUE a VRD number ~~will be issued~~.

4 ~~44.2.6~~ 14.2.6 After completing the training and test, the VRD organizer ~~shall~~ MUST sign  
5 a STATEMENT OF INTENT AND TRAINING ACKNOWLEDGMENT ~~Training~~  
6 ~~Acknowledgment~~ FORM confirming that the training and test have been  
7 completed and that he or she ~~has been duly~~ WAS informed of rules, laws and  
8 penalties relating to voter ~~registration~~ REGISTRATION drives.

9 ~~44.2.7~~ 14.2.7 A ~~Voter Registration Drive~~ VRD organizer must complete the training and  
10 test every calendar year in which he or she intends to conduct a VRD.

11 ~~44.3~~ 14.3 Number Assigned

12 ~~44.3.1~~ 14.3.1 After successful completion of the required training and test, and  
13 submission of the ~~required forms~~ STATEMENT OF INTENT AND TRAINING  
14 ACKNOWLEDGMENT FORM, the Secretary of State ~~shall~~ WILL assign a unique  
15 number to the VRD. After issuing a unique number to the VRD, the Secretary of  
16 State ~~shall~~ WILL:

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

22 ~~44.3.2~~ 14.3.2 All assigned VRD numbers are valid through December 31 of the year that  
23 the number is assigned.

24 ~~44.4~~ 14.4 Voter Registration Drive Voter Application Forms

25 ~~44.4.1~~ 14.4.1 The Secretary of State ~~shall~~ WILL approve a standard Colorado Voter  
26 Registration DRIVE Application Form ~~to be used by the VRD that shall include a~~  
27 ~~tear off receipt. (a)~~—The VRD may also use the National Mail Voter  
28 Registration Form. ~~Because the National Mail Voter Registration Form does not~~  
29 ~~include a tear off receipt, the applicant and VRD are afforded greater protection~~  
30 ~~when the standard Colorado form is used.~~

31 ~~44.4.2~~ 14.4.2 ~~The Secretary of State and county clerks shall make available the official,~~  
32 ~~approved Colorado Voter Registration Drive Application Forms to the VRD~~  
33 ~~organizer—A VRD ORGANIZER CAN OBTAIN COLORADO VOTER REGISTRATION~~  
34 ~~DRIVE APPLICATION FORMS FROM COUNTY CLERKS AND RECORDERS AND THE~~  
35 ~~SECRETARY OF STATE.~~

1       ~~44.4.3~~ 14.4.3 The organizer ~~shall be~~ IS responsible for placing the VRD number on the  
2       application form ~~and the receipt portion of the standard Colorado form.~~

3       ~~44.4.4~~ The person circulating the Voter Registration Application Forms shall ensure that  
4       the tear off receipt on the standard Colorado Application is completed and given  
5       to the applicant. The person circulating the voter application forms shall advise  
6       the applicant that the receipt may be needed when he or she votes.

7       ~~44.4.5~~ 14.4.4 The VRD organizer MUST RECEIVE A VRD NUMBER BEFORE HE OR SHE CAN  
8       is not eligible to receive the approved Colorado Voter Registration ~~drive~~ DRIVE  
9       Application Forms. ~~until the organizer has completed training, signed the~~  
10      ~~statement of intent, completed and signed the Acknowledgement, and been~~  
11      ~~assigned a number.~~

12      ~~44.4.6~~ 14.4.5 Any voter registration drive that provides a voter registration application  
13      on its website or a link to such voter registration form must direct the applicant to  
14      return the completed form directly to the county clerk ~~and recorder~~ of the  
15      applicant's legal residence. No ~~voter registration drive~~ VRD may provide a voter  
16      registration form on its website or a link to such voter registration form which  
17      instructs or directs, in any way, the applicant to return the completed form to  
18      anyone or any group other than directly to the county clerk ~~and recorder~~ of the  
19      applicant's legal residence or, in the case of overseas electors or UOCAVA  
20      electors, the county clerk ~~and recorder~~ or the Secretary of State.

21      ~~44.5~~ — Repealed.

22      ~~44.6~~ 14.5      Voter Registration Drive Complaints and fines

23      ~~44.6.1~~ 14.5.1 Any person, including the Secretary of State, who believes a VRD  
24      organizer or circulator has not complied with the requirements of section 1-2-701  
25      et seq., C.R.S., or this Rule ~~44-14~~ may file a written complaint with the Secretary  
26      of State.

27      ~~44.6.2~~ 14.5.2 A written complaint filed with the Secretary of State ~~shall~~ MUST contain  
28      the following information:

- 29              ~~a-~~(A) The complainant's name;
- 30              ~~b-~~(B) The complainant's full residence address and mailing address (if different  
31              from residence);
- 32              ~~e-~~(C) A description of the alleged violation, which may include a reference to  
33              the particular statute or rule;
- 34              ~~d-~~(D) The name and assigned number of the VRD, if known;
- 35              ~~e-~~(E) The date and location of the alleged violation, if known; and

- 1            ~~f-~~(F) Other applicable or relevant information
- 2            ~~44.6.3 Repealed.~~
- 3            ~~44.6.4~~ 14.5.3 The Secretary of State ~~shall~~ WILL review all complaints submitted in  
4            writing and conduct such investigations as may be necessary and appropriate. If  
5            the Secretary of State determines that a violation has occurred, the Secretary of  
6            State ~~shall~~ WILL impose a fine in accordance with section 1-2-703, C.R.S., and  
7            notify the VRD organizer of:
- 8            ~~44.6.4.1~~(A) The date and factual basis of each act with which the VRD  
9            organizer is being charged;
- 10           ~~44.6.4.2~~(B) The particular provision of the statute violated; and
- 11           ~~44.6.4.3~~(C) The amount of the fine imposed.
- 12           ~~44.6.5~~ 14.5.4 Notification of violation ~~shall~~ WILL be sent by certified or registered mail,  
13           return receipt requested, to the last known address of the VRD organizer.
- 14           ~~44.6.6~~ 14.5.5 The VRD organizer may appeal a fine and ~~shall have~~ HAS ~~thirty (30)~~ 30  
15           days following receipt of notification to submit a written response setting forth the  
16           reason(s) that the VRD organizer is appealing the fine. The VRD organizer may  
17           request, within the ~~thirty (30)~~ 30 days, a hearing with the ~~secretary~~ SECRETARY of  
18           ~~state~~ STATE to dispute the fine.
- 19           ~~44.6.7~~ 14.5.6 Within ~~thirty (30)~~ 30 days after receipt of the written response, or hearing  
20           procedures, the ~~secretary~~ SECRETARY of ~~state~~ STATE ~~shall~~ WILL issue an order  
21           affirming or dismissing the imposed fine.

22           *[Current Rule 44 is amended and moved to new Rule 14. Amendments between the current and*  
23           *new rule language are shown below.]*

24           **Rule 15. ~~Rules Concerning~~ Preparation, Filing, and Verification of Statewide Initiative**  
25           **Petitions**

- 26           15.1 PETITION ENTITY license, registration, ~~and~~ filing, AND CIRCULATION. ~~procedures.~~
- 27           15.1.1 ~~In accordance with section 1-40-135, C.R.S., any person or issue committee~~ A  
28           PETITION ENTITY that intends to ~~compensate~~ PAY petition circulators must obtain a  
29           petition entity license, PAY A FEE, and register with the Secretary of State ~~prior to~~  
30           ~~compensating any circulator~~ BEFORE CIRCULATING PETITIONS. THE LICENSE  
31           APPLICATION MUST INCLUDE:
- 32           15.1.2 ~~To apply for a license the designated agent of a petition entity must pay a fee and~~  
33           ~~submit a signed application including:~~



- 1           a.-(A) The PETITION ENTITY’S name, address, telephone number, and email  
2           address; ~~of the petition entity;~~
- 3           b.-(B) The DESIGNATED AGENT’S name AND; ~~of the designated agent;~~
- 4           e. — ~~An affirmation that the entity will not pay any circulator more than 20% of~~  
5           ~~his or her compensation on a per signature or per petition basis; and~~
- 6           d.-(C) An affirmation that ~~at least one representative of the entity~~ THE  
7           DESIGNATED AGENT has read and understands ~~Colorado petition laws as~~  
8           ~~outlined in~~ article 40 OF title 1, C.R.S., and has completed the SECRETARY  
9           OF STATE’S circulator training program. ~~provided by the Secretary of State.~~

10       ~~15.1.3~~ 15.1.2 BEFORE COMPENSATING A CIRCULATOR, ~~To register with the Secretary of~~  
11       ~~State,~~ the designated agent ~~of a licensed petition entity~~ must REGISTER WITH THE  
12       SECRETARY OF STATE BY SUBMITTING ~~submit~~ a signed ~~registration~~ form ~~in~~  
13       ~~accordance with section 1 40 135(5)(a), C.R.S., and provide~~ THAT INCLUDES a list  
14       of the PROPOSED INITIATIVES ~~initiative numbers that~~ the petition entity will  
15       circulate.

16       ~~15.1.4~~ A registration form must be submitted for each new initiative petition that will be  
17       circulated prior to compensating any circulator for that petition.

18       ~~15.1.5~~ 15.1.3 A petition entity license expires if the ~~IF~~ A petition entity fails to register at  
19       ~~least one~~ A proposed ~~measure~~ INITIATIVE over any two-year period, THE LICENSE  
20       EXPIRES. The Secretary of State will notify a petition entity that its license has  
21       expired within 30 days ~~from~~ AFTER the date of expiration.

22       ~~15.1.6~~ 15.1.4 A petition entity ~~whose license has expired~~ may renew its AN EXPIRED  
23       license WITHOUT A FEE by submitting a NEW license application. ~~in accordance~~  
24       ~~with Rule 15.1.2. No fee is required to submit an application to renew an expired~~  
25       ~~license.~~

26       ~~15.1.7~~ Determinations regarding the denial of an application or revocation of a license  
27       will be made, or the resolution of alleged violations involving petition entities  
28       shall be addressed, ~~in accordance with the requirements of section 1 40 135,~~  
29       ~~C.R.S.~~

30       ~~15.1.8~~ At the time the petition is filed, the proponents shall file with the Secretary of  
31       State a copy of the list of circulators and a copy of the list of notaries required by  
32       section 1 40 111(4), C.R.S., as well as the campaign finance disclosure report  
33       required by section 1 40 121(1), C.R.S.

34    15.2   Petition representatives.

35       15.2.1 ~~No petition shall be accepted which lists proponents other than the two identified~~  
36       ~~as petition representatives pursuant to section 1 40 104, C.R.S.~~ A PETITION

1 SECTION MUST LIST THE NAMES OF THE TWO PROPONENTS OR THE NAMES OF THE  
2 TWO DESIGNATED REPRESENTATIVES, AS DEFINED IN 1-40-104, C.R.S.

3 15.2.2 THE TERM "PERSON RESPONSIBLE," AS USED IN ~~For the purposes of~~ section 1-40-  
4 118(2.5)(a), C.R.S., ~~the "person responsible" includes but is not necessarily~~  
5 ~~limited to any~~ MEANS A person ~~or entity~~ who circulates a petition, or causes a  
6 petition to be circulated, and who commits, authorizes, or knowingly permits  
7 fraud as defined in sections 1-40-111(3)(a) and 1-40-135(2)(c), C.R.S., ~~resulting~~  
8 ~~in the collection of~~ THAT RESULTS IN invalid signatures or petition sections.

9 15.3 Petition circulation.

10 15.3.1 ~~Proponents may begin circulating a petition for signatures at any time~~ PETITION  
11 CIRCULATION MAY BEGIN after the TITLE BOARD'S final decision of the title board,  
12 including disposition of any REHEARING motion, ~~for rehearing or the expiration of~~  
13 ~~AND~~ AFTER the time for filing a REHEARING motion, ~~for rehearing,~~ and after the  
14 Secretary of State has approved the PETITION format. ~~of the petition as provided in~~  
15 ~~section 1-40-113(1), C.R.S., whether or not an appeal is filed with the Supreme~~  
16 ~~Court pursuant to section 1-40-107(2).~~ If an appeal is filed with the Supreme  
17 Court, the six-month period specified in section 1-40-108(1), C.R.S., ~~shall begin~~  
18 BEGINS on the date ~~that the first signature is affixed to the petition~~ IS FIRST SIGNED  
19 or on the date ~~that the SUPREME COURT'S decision of the Supreme Court becomes~~  
20 final, whichever date occurs IS first. Signatures ~~shall be counted only if affixed to~~  
21 ~~the petition during the period provided in this rule~~ GATHERED OUTSIDE OF THIS  
22 PERIOD ARE INVALID.

23 15.3.2 The petition circulator ~~shall~~ MUST provide ~~his or her~~ A permanent residence  
24 address ~~as defined in paragraph (a) of this rule~~ on the circulator affidavit. ~~In~~  
25 ~~addition to providing his or her permanent residence address,~~ If the circulator is  
26 not a permanent COLORADO resident, ~~of Colorado as described in section 1-2-~~  
27 ~~102(1)(a)(i), C.R.S., and paragraph a of this rule,~~ the circulator ~~shall~~ MUST also  
28 provide the address in Colorado where he or she is temporarily living. ~~as of the~~  
29 ~~date the affidavit is signed.~~

30 ~~a-~~(A) For purposes of Article 40 of Title 1, C.R.S., and this rule, a circulator's  
31 permanent "residence" or "domicile" means his or her principal or primary  
32 home or place of abode in which a circulator's habitation is fixed and to  
33 which the circulator, whenever absent, has the present intention of  
34 returning after a departure or absence, regardless of the duration of the  
35 absence. A permanent "residence" or "domicile" is a permanent building  
36 or part of a building and may include a house, condominium, apartment,  
37 room in house, or mobile home. Except as provided in paragraph (b) of  
38 this rule, ~~no~~ A vacant lot, business address, or post office box ~~shall be~~  
39 ~~considered~~ IS NOT a permanent "residence" or "domicile". (Sections 1-2-  
40 102(1)(a)(i) and 1-40-121(1)(b), C.R.S.)

1           b.(B) ~~For the purposes of petition circulator residence address,~~ A homeless  
2           circulator ~~shall~~ MUST provide the address or location where he or she is  
3           living ~~as of~~ the date the affidavit is signed. The circulator must provide a  
4           physical location; a post office box may not be provided.

5           e.(C) For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-  
6           121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator's permanent residence  
7           address that does not comply with this Rule 15.3.2 is ~~considered~~ a "false  
8           address".

9   15.4 ~~Only one filing of a petition or an addendum is allowed.~~ PROPONENTS MAY FILE A  
10   PETITION OR ADDENDUM ONLY ONCE, AND ~~After a petition or an addendum is filed, the~~  
11   ~~petition or the addendum~~ may not be supplemented with SUPPLEMENT additional  
12   signatures AFTER FILING THE PETITION OR ADDENDUM, EVEN IF THE ADDITIONAL  
13   SIGNATURES ARE OFFERED BEFORE THE DEADLINE TO SUBMIT THE ORIGINAL PETITION OR  
14   ADDENDUM. ~~If additional signatures are submitted after the original filing, such~~  
15   ~~signatures shall not be counted, even if such signatures are submitted within the time~~  
16   ~~permitted by law for the filing of the original petition or addendum.~~

17 ~~17.1-15.5~~ ~~General procedures concerning verification of petitions.~~ PETITION RECEIPT BY  
18   SECRETARY OF STATE.

19 ~~17.1.1-15.5.1~~ ~~No petition shall be accepted which~~ EXCEPT AS SPECIFIED IN RULE 15.2.1,  
20   THE SECRETARY OF STATE WILL NOT ACCEPT A PETITION THAT lists proponents  
21   other than those authorized by law.

22 ~~17.1.2-15.5.2~~ ~~When the petitions are received, each section shall be date stamped and~~  
23   ~~consecutively numbered with a four digit number.~~ UPON RECEIPT OF A PETITION,  
24   SECRETARY OF STATE STAFF WILL ~~DATE STAMP AND~~ CONSECUTIVELY NUMBER  
25   PETITION SECTIONS WITH A FOUR-DIGIT NUMBER. ~~The number may be printed by~~  
26   ~~a printer, hand-stamped with a manual stamp, or handwritten.~~

27 ~~17.1.3~~ ~~Each petition shall be either an individual sheet for signatures or multiple sheets~~  
28   ~~that are stapled together.~~

29 ~~17.1.4-15.5.3~~ STAFF WILL INSPECT each PETITION section ~~shall be checked~~ for evidence  
30   of disassembly. If it appears that the section was disassembled, THE SECRETARY  
31   OF STATE WILL REJECT all ~~entries~~ SIGNATURES in the section. ~~shall be rejected.~~

32 ~~17.1.5-15.5.4~~ STAFF WILL CONSECUTIVELY NUMBER EACH LINE ~~the lines~~ on each petition  
33   section. ~~shall be consecutively numbered.~~ FOR PURPOSES OF THIS RULE, "LINE"  
34   MEANS the block of information ~~which consists of~~ THAT CONTAINS the ~~printed~~  
35   last name, first name, middle initial, county, signing date, street address, city,  
36   and signature OF A PETITION SIGNER. ~~is considered a line.~~

37 ~~17.1.6-15.5.5~~ If the number of ~~entries~~ LINES is less than the ~~total~~ number of signatures  
38   required to certify the measure to the ballot, THE SECRETARY OF STATE WILL  
39   ISSUE a statement of insufficiency. ~~shall be issued.~~

1 ~~17.1.7~~ 15.5.6 STAFF WILL COUNT each line with writing ~~shall be counted~~ on each petition  
2 SECTION. FOR PURPOSES OF THIS RULE, AN "ENTRY" MEANS A COUNTED LINE  
3 WITH WRITING. ~~and shall be considered an entry.~~ AT THE BOTTOM OF EACH  
4 PAGE, STAFF WILL WRITE the number of entries ~~for each~~ ON THAT page ~~of the~~  
5 ~~section shall be written on the page~~ and, ON THE FACE OF EACH PETITION  
6 SECTION, STAFF WILL WRITE the total NUMBER entries for ~~the~~ THAT section. ~~shall~~  
7 ~~be written on the face of the petition section.~~

8 a.(A) STAFF WILL NOT COUNT BLANK OR COMPLETELY CROSSED-OUT LINES. A  
9 ~~line that has WITH no writing or marks on it OR A LINE WITH COMPLETELY~~  
10 ~~CROSSED-OUT WRITING ON IT AS AN ENTRY. shall not be considered an entry.~~

11 b. ~~A line that has writing on it but is completely crossed out shall not be~~  
12 ~~considered an entry.~~

13 e.(B) STAFF WILL COUNT a line ~~which has~~ WITH INCOMPLETE writing, A PARTIAL  
14 CROSS OUT, OR WITH WHAT APPEARS ON ITS FACE TO BE AN INVALID  
15 SIGNATURE AS AN ENTRY. ~~on it but is incomplete or on its face contains an~~  
16 ~~invalid signature or which is partially crossed out shall be considered an~~  
17 ~~entry to be included in this count.~~

18 ~~17.1.8~~ 15.5.7 ~~Additional signatures submitted after the original filing of an initiative~~  
19 ~~petition or addendum, or candidate petition shall be rejected, even if such~~  
20 ~~signatures are submitted to the designated election official within the time~~  
21 ~~permitted by law for the original filing.~~ THE SECRETARY OF STATE WILL NOT  
22 ACCEPT OR COUNT ADDITIONAL SIGNATURES AFTER PROPONENTS FILE THE  
23 ORIGINAL PETITION OR ADDENDUM.

24 ~~17.2~~ 15.6 ~~Checking the circulator's~~ CIRCULATOR affidavit.

25 15.6.1 ~~17.2.1~~ The circulator's affidavit shall be checked for each entry. ~~If the affidavit~~  
26 ~~is not attached and completed, all entries in the section shall be rejected.~~ IF A  
27 PETITION SECTION DOES NOT HAVE A COMPLETED CIRCULATOR AFFIDAVIT, THE  
28 SECRETARY OF STATE WILL REJECT THE ENTIRE SECTION.

29 15.6.2 ~~17.2.2~~ The notary clause at the end of the affidavit shall be checked for each  
30 entry. ~~If any information is missing, or if the date on the notary clause is not the~~  
31 ~~same date as the circulator signed the affidavit, all entries in the section shall be~~  
32 ~~rejected.~~ IF A PETITION SECTION DOES NOT HAVE A COMPLETED NOTARY CLAUSE,  
33 OR IF THE DATE OF THE NOTARY CLAUSE DIFFERS FROM THE DATE THE  
34 CIRCULATOR SIGNED THE AFFIDAVIT, THE SECRETARY OF STATE WILL REJECT THE  
35 ENTIRE SECTION.

36 ~~17.2.3~~ 15.6.3 ~~The circulator's affidavit shall be checked to assure it has been completed~~  
37 ~~in accordance with the statutory requirements listed below. If the affidavit was~~  
38 ~~not completed in accordance with the requirements listed below, all entries in~~  
39 ~~the section shall be rejected.~~

1 a. ~~For candidate petitions, the circulator's affidavit shall be completed in~~  
2 ~~accordance with section 14-905(1) and (2), C.R.S.~~

3 b. ~~For initiative petitions, the circulator's affidavit shall be completed in~~  
4 ~~accordance with section 14-111(2), C.R.S.~~

5 ~~15.5-15.7~~ PETITION verification. ~~by Random Sample.~~

6 ~~15.5.1-15.7.1~~ Each petition section shall be verified according to the procedures set forth  
7 ~~in Rule 17.1. VERIFICATION BY RANDOM SAMPLE.~~

8 ~~15.5.2-15.7.2~~ Preliminary count and RANDOM NUMBER generation. ~~of random numbers.~~

9 a.(A) After COUNTING the entries ~~have been counted for~~ ON each petition section,  
10 ~~a data entry clerk shall enter the following data into the database;~~  
11 SECRETARY OF STATE STAFF WILL ENTER the petition identification  
12 number, the petition section number, the page number and the number of  
13 entries on the page INTO THE DATABASE.

14 b.(B) STAFF WILL THEN CREATE a record ~~shall then be created~~ for each entry  
15 ~~which record shall contain~~ THAT CONTAINS the petition identification  
16 number, petition section number, page number, and the entry number.  
17 STAFF WILL TALLY the total number of entries. ~~submitted for the petition~~  
18 ~~shall be tallied.~~

19 e.(C) If the number of entries is less than the total number of signatures required  
20 to certify the measure to the ballot, THE SECRETARY OF STATE WILL ISSUE a  
21 statement of insufficiency. ~~shall be issued.~~

22 d. ~~A series of random numbers shall be generated by the database which is~~  
23 ~~the greater of four thousand (4,000) signatures or five percent (5%) of the~~  
24 ~~total number of entries.~~

25 ~~15.5.3~~ Verification of Selected Entries

26 a. ~~The random numbers selected shall be matched with the appropriate~~  
27 ~~petition section, page number, and entry number.~~

28 b. ~~Each entry generated shall be checked for validity in accordance with Rule~~  
29 ~~17.1.~~

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

33 15.7.3 RANDOM SAMPLE. THE DATABASE WILL GENERATE A SERIES OF RANDOM NUMBERS  
34 EQUAL TO 4,000 SIGNATURES OR FIVE PERCENT OF THE TOTAL NUMBER OF  
35 SIGNATURES, WHICHEVER IS GREATER. STAFF WILL CHECK THE VALIDITY OF THE

1 RANDOM SIGNATURES IN ACCORDANCE WITH THIS RULE. STAFF WILL MAINTAIN A  
2 MASTER RECORD OF EACH ACCEPTED SIGNATURE AND REJECTED ENTRY, AS WELL  
3 AS A RECORD OF EACH REJECTED SIGNATURE ALONG WITH THE REASON CODE FOR  
4 THE REJECTION EACH REJECTED ENTRY.

5 ~~15.5.4 15.7.4~~ Checking the circulator's affidavit. The circulator's affidavit shall be  
6 checked for each entry in accordance with Rule 17.2. STAFF WILL VERIFY THAT  
7 THE CIRCULATOR'S AFFIDAVIT MEETS THE STANDARDS OF THIS RULE 17-15. If the  
8 affidavit is not attached and completed, all entries in the section shall be rejected.

9 ~~15.5.5~~ Checking individual signatures. Each individual signature shall be checked in  
10 accordance with Rule 17.3.

11 ~~15.5.6 15.7.5~~ Computation of total accepted signatures.

12 a.(A) STAFF WILL KEEP a tally shall be made of the number of accepted  
13 signatures and the number of rejected signatures.

14 b.(B) The Secretary of State shall WILL determine the range of signatures by  
15 multiplying the constitutionally required number of signatures by 0.90 to  
16 compute DETERMINE ninety percent (90%) of the required signatures and  
17 by 1.10 to compute DETERMINE one hundred and ten percent (110%) of the  
18 required signatures. This number shall be calculated after the general  
19 election at which the Secretary of State was elected.

20 e.(C) After completing a petition, the number of signatures checked shall then  
21 be divided into the number of accepted signatures. This number will be  
22 the percentage of accepted signatures which were submitted. STAFF WILL  
23 THEN DIVIDE THE NUMBER OF ACCEPTED SIGNATURES BY THE TOTAL  
24 NUMBER OF SIGNATURES SUBMITTED TO DETERMINE THE PERCENTAGE OF  
25 ACCEPTED SIGNATURES.

26 d.(D) The percentage calculated in paragraph c of this Rule 15.5.6 shall then be  
27 multiplied by the total number of entries which were previously tallied.  
28 This number will be the number of presumed valid signatures which were  
29 submitted. STAFF WILL THEN MULTIPLY THE PERCENTAGE OF ACCEPTED  
30 SIGNATURES BY THE TOTAL NUMBER OF SIGNATURES SUBMITTED TO  
31 DETERMINE THE NUMBER OF SIGNATURES PRESUMED TO BE VALID.

32 e.(E) If the number generated is:

33 (i) Ninety percent (90%) or less of the constitutionally required  
34 number of signatures as calculated in paragraph b of this Rule  
35 15.5.6, then the Secretary of State shall WILL issue a statement of  
36 insufficiency. If the number generated is

1 ~~(ii) One hundred and ten percent (110%) or more of the~~  
2 ~~constitutionally required number OF SIGNATURES, then the~~  
3 ~~Secretary of State shall WILL issue a statement of sufficiency.~~

4 ~~(iii) MORE THAN NINETY PERCENT BUT LESS THAN ONE HUNDRED TEN~~  
5 ~~PERCENT OF THE REQUIRED NUMBER OF SIGNATURES, THE~~  
6 ~~SECRETARY OF STATE'S STAFF WILL REVIEW EVERY SIGNATURE TO~~  
7 ~~DETERMINE SUFFICIENCY.~~

8 ~~f. If the number generated is more than ninety percent (90%) but less than~~  
9 ~~one hundred and ten percent (110%) of the required number, the Secretary~~  
10 ~~of State shall order that each signature on the petition be verified to~~  
11 ~~determine whether the issue or question should be certified to the ballot.~~

12 ~~17.3-15.8~~ Checking VERIFYING individual signatures.

13 ~~17.3.1-15.8.1~~ STAFF WILL CHECK each individual entry shall be checked against the  
14 INFORMATION CONTAINED IN SCORE. ~~master voter registration files to assure~~  
15 ~~that the elector was an eligible elector in the political subdivision at the time the~~  
16 ~~petition was signed.~~

17 ~~17.3.2-15.8.2~~ Each reason for rejection of an entry shall be recorded by separate code  
18 and a master record of the rejected entries shall be maintained. A master record  
19 shall also be maintained of each entry that is accepted. STAFF WILL CREATE AND  
20 MAINTAIN A MASTER RECORD OF EACH ACCEPTED AND REJECTED ENTRY, ALONG  
21 WITH THE REASON CODE FOR EACH REJECTED ENTRY.

22 ~~17.3.3-15.8.3~~ If the information on the current voter registration file does not match the  
23 information on the entry, the elector's voter registration history shall be checked  
24 to determine if the information on the entry matches the voter registration file at  
25 the time the entry was signed. IF AN ENTRY DOES NOT MATCH THE SIGNOR'S  
26 CURRENT INFORMATION IN SCORE, STAFF MUST CHECK THE SIGNOR'S  
27 INFORMATION IN SCORE AS OF THE DATE THE SIGNOR SIGNED THE PETITION.

28 ~~17.3.4-15.8.4~~ Name of eligible elector. To be accepted, the name on the entry must be in  
29 a form similar to that found on the voter registration record. Signatures that are  
30 common variants of the name found on the voter record shall be counted. If the  
31 signer of the petition is not found on the voter registration file, or if applicable,  
32 the county assessors' list, the entry shall be rejected. SECRETARY OF STATE  
33 STAFF WILL REJECT THE ENTRY IF:

- 34 (A) THE NAME ON THE ENTRY IS NOT IN SCORE;
- 35 (B) THE MIDDLE INITIAL OR MIDDLE NAME ON THE ENTRY DOES NOT MATCH THE  
36 MIDDLE INITIAL OR MIDDLE NAME IN SCORE;
- 37 (C) THE ADDRESS ON THE ENTRY DOES NOT MATCH THE ADDRESS IN SCORE;

- 1 (D) THE ADDRESS ON THE ENTRY IS A POST OFFICE BOX;
- 2 (E) THE ENTRY IS INCOMPLETE;
- 3 (F) THE SIGNER COMPLETED THE ENTRY BEFORE THE DESIGNATED ELECTION  
4 OFFICIAL APPROVED THE PETITION FORMAT;
- 5 (G) THE SIGNER WAS NOT AN ELIGIBLE ELECTOR AT THE TIME HE OR SHE  
6 COMPLETED THE ENTRY;
- 7 (H) THE SIGNER COMPLETED THE ENTRY AFTER THE DATE ON THE CIRCULATOR  
8 AFFIDAVIT;
- 9 (I) EVIDENCE EXISTS THAT SOME OTHER PERSON ASSISTED THE SIGNER IN  
10 COMPLETING THE ENTRY BUT NO STATEMENT OF ASSISTANCE ACCOMPANIES  
11 THE ENTRY;
- 12 (J) THE NAME AND SIGNATURE ON THE ENTRY IS ILLEGIBLE AND CANNOT BE  
13 VERIFIED IN SCORE;
- 14 (K) THE ENTRY IS A DUPLICATE OF A PREVIOUSLY ACCEPTED ENTRY ON THE  
15 SAME PETITION; OR
- 16 (L) FOR A CANDIDATE PETITION WHERE AN ELECTOR MAY SIGN ONLY ONE  
17 PETITION FOR THE SAME OFFICE, THE ENTRY IS A DUPLICATE OF A  
18 PREVIOUSLY ACCEPTED ENTRY ON ANOTHER PETITION FOR THE SAME  
19 OFFICE.

20 15.8.6 SECRETARY OF STATE STAFF WILL ACCEPT THE ENTRY IF:

- 21 (A) THE NAME ON AN ENTRY MATCHES OR IS SUBSTANTIALLY SIMILAR TO THE  
22 INFORMATION IN SCORE, OR IF THE SIGNATURE ON AN ENTRY IS A COMMON  
23 VARIANT OF THE NAME;
- 24 (B) A MIDDLE INITIAL OR MIDDLE NAME IS PRESENT ON THE ENTRY BUT NOT IN  
25 SCORE, OR PRESENT IN SCORE BUT NOT ON THE ENTRY;
- 26 (C) A SUFFIX IS PRESENT ON THE ENTRY BUT NOT IN SCORE, OR PRESENT IN  
27 SCORE BUT NOT ON THE ENTRY; OR
- 28 (D) THE ADDRESS ON THE ENTRY IS MISSING AN APARTMENT LETTER OR  
29 NUMBER OR A STREET DIRECTION.

30 ~~17.4 Final Tally. After all of the sections have been checked, a final tally of all valid~~  
31 ~~signatures shall be prepared and the statement of sufficiency or insufficiency issued.~~

32 ~~19.1-15.9 Cure of petitions deemed insufficient.~~ CURING INSUFFICIENT PETITIONS.

33 ~~19.2-15.9.1~~ If the PETITION proponents submit additional signatures within the



1 permitted time, ~~all signatures submitted in the addendum shall be checked using~~  
2 ~~the process delineated in Rule 16 and Rule 17~~ SECRETARY OF STATE STAFF WILL  
3 VERIFY THE ADDITIONAL SIGNATURES IN ACCORDANCE WITH THIS RULE 15.

4 ~~19.3-15.9.2~~ If THE SECRETARY OF STATE FOUND THE ORIGINAL SUBMISSION  
5 INSUFFICIENT BASED ON THE RANDOM SAMPLE VERIFICATION, STAFF WILL ADD the  
6 number of ADDITIONAL valid signatures, ~~in the addendum when added to the~~  
7 number of PROJECTED valid signatures ~~given in the statement of insufficiency, IN~~  
8 THE ORIGINAL SUBMISSION.

9 (A) IF THE NEW PROJECTED NUMBER OF VALID SIGNATURES equals 110% or  
10 more of the required signatures, THE SECRETARY OF STATE WILL ISSUE a  
11 statement of sufficiency. ~~shall be issued.~~

12 (B) IF THE NEW PROJECTED NUMBER OF VALID SIGNATURES ~~19.4 15.9.3~~ If ~~the~~  
13 ~~number of ADDITIONAL valid signatures, in the addendum when added to~~  
14 ~~the number of valid signatures given in the statement of insufficiency,~~  
15 equals more than 90% but less than 110% of the required signatures, and  
16 ~~if the initial check was by random sample, all of the previously submitted~~  
17 ~~entries shall be checked~~ SECRETARY OF STATE STAFF WILL VERIFY ALL  
18 PREVIOUSLY SUBMITTED SIGNATURES. STAFF WILL ADD the total NUMBER OF  
19 valid signatures in the original petition ~~shall then be added to the number~~  
20 of ADDITIONAL valid signatures submitted in the addendum IN ORDER TO  
21 DETERMINE SUFFICIENCY.

22 ~~19.5 15.9.4 15.9.3~~ If the initial ~~check~~ VERIFICATION was of every ~~entry~~ SIGNATURE,  
23 ~~then~~ STAFF WILL ADD THE NUMBER OF ADDITIONAL VALID SIGNATURES TO THE  
24 NUMBER OF VALID SIGNATURES IN THE ORIGINAL SUBMISSION IN ORDER TO  
25 DETERMINE SUFFICIENCY. ~~the total of valid signatures shall be added to the number~~  
26 ~~of valid signatures submitted in the addendum.~~

27 ~~19.6 15.9.5 15.9.4~~ The designated election official ~~shall then~~ STAFF WILL issue a new  
28 statement of insufficiency or sufficiency ~~which~~ THAT reports the total number of  
29 valid signatures submitted.

30 *[Current Rule 19 is amended and moved to Rule 15.9. Amendments between the current*  
31 *and new rule language are shown above.]*

## 32 15.10 PETITION PROTESTS.

33 ~~20.1-15.10.1~~ A PETITION protest ~~shall~~ MUST specifically state the reasons for ~~the~~  
34 ~~challenge to~~ CHALLENGING the determination of sufficiency or insufficiency.

35 ~~20.1.1(A)~~ A protest ~~that alleges~~ ALLEGING THE VIOLATION OF A specific  
36 ~~statutes or rules~~ STATUTE OR RULE ~~were improperly applied~~ shall clearly  
37 ~~state the specific requirements that were improperly applied~~ MUST CITE  
38 THE STATUTE OR RULE AND SPECIFICALLY STATE THE VIOLATION.

1           ~~20.1.2~~(B) A protest that alleges that entries were improperly accepted or  
2           rejected shall clearly identify the specific individual entries at issue and  
3           the reason the entries were improperly accepted or rejected. ALLEGING THE  
4           IMPROPER ACCEPTANCE OR REJECTION OF INDIVIDUAL ENTRIES MUST CITE  
5           THE ENTRY AND PETITION SECTION NUMBER AND SPECIFICALLY STATE WHY  
6           THE ENTRY SHOULD BE ACCEPTED OR REJECTED, AS APPLICABLE.

7           ~~20.2~~ The protest shall be deemed insufficient for each entry or class of entries  
8           challenged where the individual entry is not listed or the reason for the  
9           challenge is not given.

10          ~~20.3~~ Where a petition verified by random sample is protested, proponents and  
11          opponents may protest the process by which the numbers used in the  
12          calculations were generated.

13          ~~20.4~~ Individual entries which were not checked by the Secretary of State may  
14          not be challenged as sufficient or insufficient.

15          *[Current Rule 20 is amended and moved to new Rule 15.10. Amendments between the*  
16          *current and new rule language are shown above.]*

17   15.11 REFERENDUM PETITIONS.

18          ~~23.1~~15.11.1 **Applicability.** This Rule ~~23~~ applies to statewide referendum petitions  
19          pursuant to UNDER article V, section 1 (3) of the Colorado Constitution.

20   ~~23.2~~ Relationship to statutory and constitutional provisions.

21          ~~23.2.1~~ The purpose of this Rule ~~23~~ is to administer and interpret, but not supersede, the  
22          provisions of Article V, Section 1, Colorado Constitution, and Article 40 of  
23          Title 1, Colorado Revised Statutes which apply to referendum petitions.

24          ~~23.2.2~~ Where there is an irreconcilable conflict between this Rule ~~23~~ and any such  
25          statutory or constitutional provision, then such statutory or constitutional  
26          provision prevails.

27   ~~23.3~~ Applicability of initiative statutes.

28          ~~23.3.1~~15.11.2 Except where this Rule ~~23~~ STATES otherwise, ~~provides, or where the~~  
29          ~~context otherwise requires,~~ any statutory or constitutional provision that applies  
30          specifically to initiative petitions shall also apply. APPLIES to referendum  
31          petitions.

32          ~~23.3.2~~15.11.3 The following procedural steps that apply to initiative petitions do not  
33          apply to referendum petitions:

34               (a) Review and comment by legislative staff on the text of proposed initiated  
35               constitutional amendments and initiated laws, pursuant to Article V, Section

1 (5), Colorado Constitution, and section 1-40-105, C.R.S.

2 (b) Title-setting by the title setting review board established in section 1-40-  
3 106, C.R.S.

4 ~~23.4 Approval of referendum petition form.~~

5 ~~23.4.1 No referendum petition shall be printed, published, or otherwise circulated~~  
6 ~~unless the form and the master original to be used for printing or reproduction~~  
7 ~~have been approved by the Secretary of State. Section 1 40 113(1), C.R.S.~~

8 ~~23.4.2-15.11.4~~ PROPONENTS MAY SUBMIT a referendum petition ~~may be submitted~~ to the  
9 Secretary of State for approval at any time after the GENERAL ASSEMBLY HAS  
10 PASSED THE bill. ~~has been presented to the governor for approval or disapproval.~~  
11 The Secretary of State ~~shall~~ WILL not issue final approval of the referendum  
12 petition form until the bill has become law pursuant to article IV, section 11 of  
13 the Colorado Constitution.

14 ~~23.4.3-15.11.5~~ Each referendum petition section ~~shall~~ MUST consist of the following, in  
15 the order listed: ~~Sections 1 40 113(1), and 1 40 102(6), C.R.S.~~

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

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

20 "To: The Honorable \_\_\_\_\_, Secretary of State of the State of  
21 Colorado

22 We, the undersigned electors of the State of Colorado, do hereby  
23 respectfully petition, order, and demand that Sections 1 to 12, inclusive  
24 (being the entire Act), of House Bill No. 02-1010, by Representatives  
25 Abel, Baker, and Cain, and Senators Smith, Thomas, and Jones, entitled  
26 "Concerning registration requirements for motor vehicles, and, in  
27 connection therewith, authorizing two- and five-year registration periods  
28 and authorizing discretionary vehicle identification number inspections,  
29 and making an appropriation", passed by the Sixty-third General  
30 Assembly of the State of Colorado, at its regular session in the year  
31 2002, shall be submitted to the voters for their adoption or rejection at the  
32 next biennial regular general election, to be held on Tuesday, the 5th day  
33 of November, 2002, and each of the signers of this petition says:

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

- 1 (c) The name and mailing address of two persons who are designated to  
2 represent the signers thereof in all matters. ~~affecting the same.~~
- 3 (d) The ballot title and submission clause. ~~in the form required by this Rule~~  
4 ~~23.~~
- 5 (e) The text of the Act, or the ~~item(s)–ITEM, section(s)–SECTION, or part(s)~~  
6 PART of the Act, on which the referendum is demanded. ~~See sections 1–~~  
7 ~~40-110; 1-40-102(6).~~
- 8 (f) Succeeding pages that each contain the warning, the ballot title, and  
9 submission clause, and ruled lines numbered consecutively for ~~electors'~~  
10 signatures.
- 11 (g) A final page that contains the circulator’s affidavit required by section 1-  
12 40-111(2), C.R.S.

13 ~~23.4.4-15.11.6 Each~~–A referendum petition section ~~shall~~–MUST include only the matters  
14 required by Article 40, Title 1, C.R.S., and this Rule ~~23~~, and no extraneous  
15 material. ~~Section 1-40-113(1), C.R.S.~~

16 *[Current Rule 23 is amended and moved to new Rule 15.11. Amendments between the*  
17 *current and new rule language are shown above.]*

18 ~~23.5~~–**Ballot Title and Submission Clause.**

19 ~~23.5.1-15.11.7~~ The ballot title ~~shall~~–MUST consist of the title of the act on which the  
20 referendum is demanded, followed by the bill number, in substantially the  
21 following form, in which the underlined material is only for example:

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

26 ~~23.5.2-15.11.8~~ When referendum is demanded on less than an entire Act of the General  
27 Assembly, the ballot title and submission clause ~~shall~~ MUST consist of the ballot  
28 title preceded by words in substantially the following form, in which the  
29 underscored material is only for example, and ending in a question mark:

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

34 ~~23.6-15.11.9 Election~~–If a referendum petition is timely filed with the Secretary of  
35 State with a sufficient number of valid signatures, it ~~shall be voted upon~~–WILL  
36 APPEAR ON THE BALLOT at the next general election that occurs at least three

1 months after the referendum petition is filed with the Secretary of State.

2 *[Rules 15, 17, 19, 20, and 23 are amended and relocated to Rule 15.]*

3 **Rule 16. MILITARY AND OVERSEAS VOTERS (UOCAVA)**

4 ~~25.1-~~16.1 General rules concerning voting by military and overseas electors.

5 ~~25.1.1-~~16.1.1 For the purposes of this Rule ~~25-~~16, elector means a covered voter as  
6 defined in section 1-8.3-102(2), C.R.S.

7 ~~25.1.2-~~16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule ~~25~~  
8 16, each county clerk's ~~and recorder~~ office ~~shall~~-MUST have a dedicated fax  
9 machine for the purpose of fax ballot transmission.

10 ~~25.1.3-~~16.1.3 In accordance with section 1-8.3-109, C.R.S., a ~~mail in~~-ballot application  
11 submitted by an elector ~~shall be~~-IS effective through the next regularly  
12 scheduled General Election, unless the elector SPECIFIES OTHERWISE-~~makes an~~  
13 ~~election specific or permanent mail in request.~~

14 ~~25.1.4-~~16.1.4 ~~Mail in ballot application APPLICATION and replacement ballot request~~  
15 ~~deadlines.~~ (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ELECTOR  
16 MAY SUBMIT AN APPLICATION FOR REGISTRATION AND BALLOT REQUEST WITH HIS  
17 OR HER VOTED BALLOT AS LONG AS THE BALLOT IS TIMELY SUBMITTED AND  
18 RECEIVED UNDER SECTIONS 1-8.3-111 AND 1-8.3-113, C.R.S., ~~AND RULE 25.1.6.~~

19 ~~(b) An application for a mail in ballot must be received no later than the close~~  
20 ~~of business the Friday immediately preceding the election, except that if~~  
21 ~~the AN elector WHO wishes to receive the A ballot by mail MUST SUBMIT A~~  
22 ~~REQUEST NO LATER THAN THE SEVENTH DAY BEFORE THE ELECTION the~~  
23 ~~application must be received no later than the seventh day before the~~  
24 ~~election.~~

25 ~~(b) A request for a replacement ballot must be received by 5:00 p.m. MT on~~  
26 ~~election day. A request for replacement ballot includes a request for an~~  
27 ~~electronically transmitted ballot by an elector who has already been issued~~  
28 ~~a ballot by regular mail.~~

29 ~~25.1.5-~~16.1.5 Use of a Federal Write-in Absentee Ballot (FWAB) as an application for  
30 registration or ballot request. ~~(a) In accordance with section 1-8.3-107, C.R.S.~~  
31 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, if an unregistered elector  
32 submits a FWAB by the ~~close of registration~~-DEADLINE SET FORTH IN SECTIONS  
33 1-8.3-111 AND 1-8.3-113, C.R.S., ~~AND RULE 25.1.6.~~, the FWAB ~~shall be~~  
34 ~~considered a~~-IS A timely application for registration and ~~mail in~~-ballot request.

35 ~~(b) In accordance with section 1-8.3-108(4), C.R.S., if a registered elector~~  
36 ~~submits a FWAB no later than the Friday before the election, the FWAB~~  
37 ~~shall be considered a timely application for mail in ballot.~~

1 ~~25.1.6~~ 16.1.6 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., all ballots  
2 cast must be voted and mailed or electronically transmitted no later than 7:00  
3 p.m. MT on election day, and received by the county clerk and recorder or the  
4 Secretary of State no later than the close of business on the eighth day after  
5 election day.

6 ~~25.1.7~~ 16.1.7 Ballots received by the Secretary of State

7 (a) If the Secretary of State timely receives a ballot in accordance with this  
8 UNDER SECTION 1-8.3-113, C.R.S., AND Rule ~~25~~-16, the Secretary of State  
9 will immediately notify the appropriate county clerk and recorder and  
10 forward the ballot by ~~overnight mail, fax, or courier~~ BY THE MOST  
11 EFFICIENT MEANS AVAILABLE no later than the next business day.

12 (b) To ensure voter secrecy, any county ~~notified that the Secretary of State has~~ WITH UOCAVA OR  
~~PROVISIONAL VOTERS OR SIGNATURE DEFICIENT BALLOT RETURN ENVELOPES~~  
13 ~~received a ballot, shall~~ MUST retain a minimum of ten voted ballots PER BALLOT STYLE to be  
14 counted with ~~LATE ARRIVING BALLOTS, the ballot received by the State~~.

15 ~~25.1.8~~ 16.1.8 The county clerk and recorder shall MUST send a minimum of one  
16 correspondence ~~AT LEAST 65 DAYS~~ prior to BEFORE the Primary Election DAY to each elector  
17 whose  
18 record is marked "Inactive" and whose ballot request has expired. Such shall  
19 THE correspondence may be sent by email or mail and, at a minimum, shall  
20 MUST notify the electors of:

- 21 (a) The status of the elector's record and ballot request;
- 22 (b) The upcoming federal elections;
- 23 (c) How to update the elector's mailing information and request a ballot; and
- 24 (d) ~~Any other information the county clerk and recorder deems appropriate.~~

25 ~~25.1.9~~ 16.1.9 Reporting. No later than 60 days after a General Election, the county clerk  
26 and recorder shall provide a must report to the Secretary of State in the  
27 approved format, which shall summarize in detail the ballots transmitted and  
28 returned by military and overseas electors. NO LATER THAN ~~45~~ DAYS BEFORE AN  
29 ELECTION, THE COUNTY CLERK AND RECORDER MUST REPORT TO THE SECRETARY  
30 OF STATE THE NUMBER BALLOTS TRANSMITTED TO MILITARY AND OVERSEAS  
ELECTORS BY THE 45-DAY DEADLINE.

31 16.1.10 FAILURE TO MEET THE 45-DAY BALLOT TRANSMISSION DEADLINE IN SECTION 1-  
32 8.3-110, C.R.S.

33 (A) IF A COUNTY FAILS TO MEET THE 45-DAY BALLOT TRANSMISSION DEADLINE  
34 PROVIDED FOR ANY STATE OR FEDERAL ELECTION, THE COUNTY CLERK  
35 MUST IMMEDIATELY REPORT THE FAILURE AND REASON FOR THE FAILURE  
36 TO THE SECRETARY OF STATE.

**Comment [S255]:** This issue is not pertaining only to UOCAVA and therefore may need to be placed also elsewhere in the rules.

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**Comment [S256]:** This seems unworkable. By the time the SOS knows about a late arriving ballot, the county may have finished tabulation of all but fewer than ten, so the county must hold back ten voted ballots for every ballot style in order to serve this function.

**Comment [S257]:** This time period should be specified

**Comment [S258]:** "election day" not election.

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**Comment [S259]:** Here is an open door for non-uniformity... shouldn't it be closed?

**Comment [S260]:** To allow a few hours to make the list and send it.

1 (B) THE COUNTY CLERK MUST PROVIDE A PLAN TO THE SECRETARY OF STATE  
2 FOR COMPLYING WITH THE DEADLINE IN THE NEXT STATE OR FEDERAL  
3 ELECTION.

4 (A) THE COUNTY MUST SUBMIT THE PLAN TO THE SECRETARY OF STATE  
5 NO LATER THAN 60 DAYS BEFORE THE TRANSMISSION DEADLINE.

6 (2) THE COUNTY MUST PROVIDE A WEEKLY PROGRESS REPORT ON  
7 IMPLEMENTING THE PLAN TO THE SECRETARY OF STATE BEGINNING 50  
8 DAYS BEFORE THE TRANSMISSION DEADLINE.

9 (C) THE COUNTY CLERK MUST PROVIDE A DAILY PROGRESS REPORT TO  
10 THE SECRETARY OF STATE BEGINNING FIVE DAYS BEFORE THE  
11 TRANSMISSION DEADLINE.

12 ~~25.2-16.2~~ Electronic ballot transmission ~~(receipt and return)~~ of ballots to military and  
13 ~~overseas electors.~~

14 ~~25.2-16.2.1~~ Electronic Transmission ~~(receipt and return)~~ of ballots to military and  
15 ~~overseas electors.~~ (a) In accordance with sections 1-8.3-110 and 1-8.3-113,  
16 C.R.S., an elector may request to receive and return his or her ballot by  
17 electronic transmission.

18 (i) ~~Subject to the deadlines in Rule 25.1.4, a request for electronic ballot~~  
19 ~~transmission may be made on the federal postcard, state voter~~  
20 ~~registration, mail in ballot, online voter registration, or any other~~  
21 ~~application.~~

22 (ii)(A) An elector who requests fax transmission ~~shall~~ MUST provide a fax  
23 number, including the international country code and local area, province,  
24 or city code, (if applicable,) where the ballot is to be faxed.

25 (iii)(B) An elector who requests email transmission ~~shall~~ MUST provide a  
26 complete email address where the ballot is to be transmitted. In  
27 accordance with section 1-8.3-115, C.R.S., no election official may  
28 disclose the email address to the public.

29 (b)(C) An elector who chooses to receive his or her ~~unvoted~~ BLANK ballot by  
30 online ballot delivery may return his or her ballot by fax or email OR BY RETURN OF THE BALLOT AND  
SELF AFFIRMATION ENCLOSED IN A SEALED ENVELOPE.

31 (e)(D) To return a voted ballot and self-affirmation by email, the elector  
32 must scan and return the documents as an email attachment.

33 *[Current Rule 25.2.1 is moved to Rule 1.]*

34 ~~25.2-16.2.3~~ 16.2.2 The electronic transmission ~~ballot instructions shall~~ MUST include:

35 (a) The county clerk's ~~and recorder's~~ contact information including mailing

**Comment [S261]:** This has the unfortunate property of making these electors special-unreachable by campaigns. A solution for this should be found.

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1 address, email address, phone, and fax number;

2 (b) A notice that the ballot may not be duplicated for any other elector;

3 (c) Instructions for completing and returning the ballot;

4 (d) A notice regarding the ballot return deadline;

5 (e) Information regarding how the elector may verify that his or her ballot has  
6 been received by the county clerk and recorder; and

7 (f) Any other information deemed necessary by the Secretary of State or the  
8 designated election official COUNTY CLERK.

9 ~~25.2.4 16.2.2 (g)~~ The ballot packet, ~~sent by electronic transmission shall~~  
10 WHICH MUST be in text format on 8 ½" x 11" white paper and ~~shall MUST~~  
11 include:

12 (a-1) An electronic transmission coversheet to protect voter privacy;

13 (b-2) The blank ballot;

14 (e-3) The electronic transmission ballot instructions; and

15 (d-4) The self-affirmation required by section 1-8.3-114, C.R.S., and Rule  
16 16.2.3.

17 ~~25.2.5 16.2.3~~ The electronic transmission ballot instructions shall MUST include:

18 (a) The county clerk and recorder's contact information including mailing  
19 address, email address, phone, and fax number;

20 (b) A notice that the ballot may not be duplicated for any other elector;

21 (c) Instructions for completing and returning the ballot;

22 (d) A notice regarding the ballot return deadline;

23 (e) Information regarding how the elector may verify that his or her ballot has  
24 been received by the county clerk and recorder; and

25 (f) Any other information deemed necessary by the Secretary of State or the  
26 designated election official COUNTY CLERK AND RECORDER.

27 ~~25.2.6 16.2.4 16.2.3~~ The self-affirmation ~~shall MUST~~ include the standard oath required  
28 by the Uniformed and Overseas Citizen Voting Act (42 U.S.C sec. 1973ff(b)(7)  
29 and 1(a)(5)), the elector's name, date of birth, signature, and the following  
30 statement: I also understand that by returning my voted ballot by electronic  
31 transmission, I am voluntarily waiving my right to a secret ballot. (Section 1-



8.3-114, C.R.S.)

~~25.2.7~~ ~~16.2.5~~ ~~16.2.4~~ Any ballot transmitted to an elector by electronic transmission shall MUST contain a unique identification number for tracking and auditing purposes. THIS NUMBER MUST NOT BE ABLE TO BE LINKED IN ANY WAY TO THE

DUPLICATE BALLOT CREATED FOR VOTER PRIVACY.

~~25.2.8~~ ~~25.2.6~~ ~~16.2.5~~ If the county clerk and recorder transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk and recorder shall MUST attempt to fax the ballot at least two more times.

~~25.2.9~~ ~~16.2.7~~ ~~16.2.6~~ The county clerk and recorder shall MUST maintain a log of each ballot sent by electronic transmission. ~~which the~~ THE county CLERK AND RECORDER shall MUST maintain THE LOG as an election record along with any other email or fax records. The log shall MUST include:

- (a) The name of the elector;
- (b) The fax number or email address to which the ballot packet was transmitted (as applicable);
- (c) The unique identification number of the ballot;
- (d) The date the ballot packet was transmitted; and
- (e) The initials of the employee transmitting the ballot.

~~25.2.10~~ ~~16.2.8~~ ~~16.2.7~~ Upon receipt of A voted ballot sent by electronic transmission, the county clerk and recorder shall MUST verify the elector's signature in accordance with Rule ~~29~~ 7.7. ~~and upon verification the ballot shall be duplicated for counting.~~ AFTER THE AFFIDAVIT HAS BEEN VERIFIED, A BIPARTISAN TEAM OF JUDGES MUST DUPLICATE THE BALLOT. DUPLICATING JUDGES MUST NOT REVEAL HOW THE ELECTOR HAS CAST HIS OR HER BALLOT VOTED.

~~13.20~~ ~~16.2.9~~ ~~16.2.8~~ A military or overseas elector whose registration record is inactive or whose ballot request has lapsed may download an application and ballot using the electronic ballot delivery system.

~~13.20.1~~ (A) The elector must submit the ballot and application in accordance with the deadlines AND RESTRICTIONS ON RETURN METHODS AND DECLARATIONS REQUIRED in section 1-8.3-111 and 1-8.3.113, C.R.S., for the

ballot to be counted. OTHER RULES ARE REQUIRED TO REGULATE THE RETURN OF UOCAVA BALLOTS BY ELECTRONIC TRANSMISSION, AND BALLOTS FOR WHICH THE TRANSMITTAL DATE IS UNCERTAIN ACCORDING TO CRS 1-8.3.113. I AM NOT THE PERSON TO BE WRITING THESE RULES.

~~13.20.2~~ (B) Every county must use the approved electronic delivery system to implement this rule, except that a county may obtain a waiver. The Secretary will consider the following factors in approving or denying a request for waiver:

- (a)(1) Number of military or overseas electors registered to vote in the

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**Comment [S262]:** Here for the first time we see the word employee instead of election judge or election official. Perhaps this should be changed. What oversight is provided over this part of the election?

**Comment [S263]:** Here is the county clerk verifying the signature. This process should be examined as it relates to the handling of all other signature checks and made as similar as possible as well as considering voter privacy. This signature check must be subject to oversight as other signature checks are.

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**Comment [S264]:** How is electronic ballot delivery system defined and tested and documented and overseen in operation. This is a system that escapes the other checks and balances provided in these rules. This is of great concern.

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**Comment [S265]:** Crs 1-8.3-113 expects the SOS rules to spell out these limitations but as we can see it does not do so. This is very disappointing. There are two areas of major concern, one is the statement about using electronic methods only when another more secure method is not available. This is the place in rules this restriction should have been spelled out. The other problem is in paragraph (3) as follows:  
“(3) If, at the time of completing a ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was timely submitted, the ballot shall not be rejected as late.”

As I pointed out to legislators and Bob Carey of FVAP at the time, (and he agreed) this is an unworkable statute as it allows an infinitely long time to return the ballot. And these rules provide no method for the declaration to be made as far as I can see.

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- 1 county;
- 2 (b)-(ii) Historical data regarding the number of military and overseas  
3 electors who have registered and voted in the county; and
- 4 (c)-(iii) Staff or other resource limitations.

5 *[Current Rule 25 is amended and moved to new Rule 16. Current Rule 13.20 is amended and*  
6 *moved to new Rule 16.2.9. Amendments between the current and new rule language are shown*  
7 *above.]*

8 **Rule 17. PROVISIONAL VOTING**

9 17.1 PROVISIONAL VOTING IN THE VOTER SERVICE AND POLLING CENTER

10 17.1.1 THE COUNTY CLERK ~~AND RECORDER~~ MUST USE THE APPROVED PROVISIONAL  
11 BALLOT AFFIDAVIT FORM. ~~THE FORM SHALL BE CONSTRUCTED IN THE FORM OF AN~~  
12 ~~ENVELOPE OR ATTACHED TO AN ENVELOPE TO ENCLOSE A STANDARD BALLOT.~~

13 17.1.2 IF A VOTER SERVICE AND POLLING CENTER LOSES CONNECTIVITY TO SCORE, THE  
14 JUDGES MUST ISSUE PROVISIONAL AFFIDAVITS WITH BALLOTS UNTIL THE COUNTY RESTORES  
15 CONNECTIVITY.

16 ~~26.3-3~~ 17.1.3 The word “provisional” shall ~~MUST~~ be marked on the provisional ballot  
17 REMOVABLE STUB and on the pollbook or signature card, ~~PROVISIONAL BALLOT LOG IF APPLICABLE,~~  
18 next to the elector’s name. ~~BEFORE COUNTING. THE STUB SHALL BE REMOVED TO~~  
19 ~~PROTECT THE PRIVACY OF THE VOTER.~~

20 *[Current Rule 26.3.3 is amended and moved to new Rule 17.1.3. Amendments between*  
21 *the current and new rule language are shown above.]*

22 ~~26.4~~ 17.2 Verification of Provisional Ballots

23 17.2.1 THE COUNTY CLERK ~~AND RECORDER~~ MUST PROCESS AND TABULATE ALL REGULAR  
24 MAIL AND IN-PERSON BALLOTS BEFORE PROCESSING PROVISIONAL BALLOTS.

25 ~~26.12~~ 17.2.2 The county clerk and recorder must process all pollbooks or signature  
26 cards in the statewide voter registration database SYSTEM SCORE before  
27 processing provisional ballots.

28 *[Current Rule 26.12 is moved to new Rules 17.2.]*

29 ~~26.4.2~~ 17.2.3 Verification of an elector’s eligibility to have his or her provisional ballot  
30 counted shall be ~~is limited to~~ ~~MUST INCLUDE~~ the following sources:

31 (a) Sources provided by the Secretary of State or law enforcement agencies  
32 regarding felons who are serving a sentence of detention or confinement  
33 or on parole;

(b) The State of Colorado Statewide Voter Registration Database SCORE;  
AND

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**Comment [S266]:** This protects the anonymity of the ballot contained within the affidavit.

**Comment [S267]:** It is the affidavit that is unique to the provisional voter, not the ballot.

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**Comment [S268]:** This is the way to solve anonymity of the provisional ballot- once it is to be counted the privacy violating “provisional” mark is removed with the stub.

**Comment [S269]:** See above comment.

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**Comment [S270]:** I am unclear if “mail” and “in-person” ballots have definitions that clearly separate them or include them with UOCAVA and emergency ballots. Are provisional ballots not “in-person” ballots too?

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**Comment [S271]:** See the following comment.

1 (e) The DMV Motor Voter database (Note: Possession of a driver's license is  
2 not conclusive proof of voter registration; elector must have registered to  
3 vote through the DMV); and

4 (d-C) The information provided on the provisional ballot envelope, including the  
5 affidavit,

6 ~~26.4.3~~ 17.2.4 When verifying provisional ballots, the designated election official shall  
7 MUST check the State of Colorado Statewide voter registration database SCORE to  
8 determine whether the elector has already voted in the election. IN CASE THE ELECTORS'S IDENTITY  
CANNOT BE FOUND IN SCORE, THE FOLLOWING STEPS SHALL BE TAKEN AND SOURCES OF INFORMATION  
CONSULTED TO ESTABLISH THAT A FAIR AND SUBSTANTIAL EFFORT HAS BEEN MADE.:

9 *[Current Rules 26.4.2 and 26.4.3 are amended and moved to new Rules 17.2.3 and*  
10 *17.2.4. Amendments between the current and new rule language are shown above.]*

11 ~~26.4.5~~ 17.2.5 If during verification it appears that the elector's record was cancelled or  
12 consolidated as a duplicate in error, the ballot shall MUST be counted so long as  
13 the elector has not cast a NOTHER ballot in the election, the affidavit is complete, and the  
14 elector is otherwise eligible. THE COUNTY CLERK AND RECORDER MUST REINSTATE  
15 OR UNCONSOLIDATE THE elector's record AND UPDATE THE ELECTOR'S RECORD  
16 BEFORE MARKING THE ELECTOR'S PROVISIONAL BALLOT AS ACCEPTED OR REJECTED  
17 IN THE STATEWIDE VOTER REGISTRATION SYSTEM SCORE AND BEFORE LINKING IT  
18 TO THE ELECTOR'S RECORD shall be reinstated or unconsolidated.

19 ~~26.4.6~~ 17.2.6 When the designated election official has received COUNTY CLERK  
20 RECEIVES both a mail-in MAIL ballot and a provisional ballot from an elector, but  
21 there is a discrepancy between the signature on the returned mail-in MAIL ballot  
22 envelope and the elector's signature stored in the statewide voter registration  
23 system SCORE, the discrepancy must be resolved. Before the COUNTY CLERK  
24 MAY VERIFY THE provisional ballot AFFIDAVIT may be counted VERIFIED, the  
25 elector must affirm that the signature on the mail-in MAIL ballot envelope is not  
26 his or her signature. Sections 1-8.5-105(4) and (5), C.R.S.

27 *[Current Rules 26.4.5 and 26.4.6 are amended and moved to new Rules 17.2.5 and*  
28 *17.2.6. Amendments between the current and new rule language are shown above.]*

29 ~~26.4.9~~ 17.2.7 If An AN elector whose voter registration record is tagged ID required  
30 casts a provisional ballot without providing valid identification, the COUNTY  
31 CLERK MUST VERIFY AND COUNT THE PROVISIONAL ballot shall MUST be verified  
32 and counted as follows:

33 (a) The COUNTY CLERK AND RECORDER MUST SEND THE elector shall be sent a  
34 letter within three days after the ballot is cast, and no later than three TWO  
35 days after election day, explaining that he/ OR she has not provided MUST  
36 PROVIDE the required identification. Nothing in this rule shall be construed  
37 to prohibit the designated election official PROHIBITS THE COUNTY CLERK  
38 from calling the elector; however, a phone call shall DOES not substitute  
39 for notification to the elector in writing. IF THE DESIGNATED ELECTION

**Comment [S272]:** This is a bizarre limitation and creates a huge dependence on the presumed accuracy of SCORE that is in no way justified. It also insults the citizen whose eligibility is being questioned, who apparently has the burden of providing all the necessary information on the provisional affidavit at the time it is created. If this limitation is to remain, then a bold face warning must be put on the provisional affidavit as to the effect of this limitation and the necessity for the elector to place all necessary claims and information on to the provisional affidavit. Note that under current rules, even the results of challenge questions are not written onto the provisional affidavit. This is unreasonable and unfair to the citizens who are given provisional ballots (under what I now believe is the a-priori assumption that they will not count.)

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**Comment [S273]:** One of the easiest mistakes to make in provisional processing is to fail to find an eligible voter in SCORE by failing to look hard enough. Rules must state exactly what the minimum level of effort and number of independent attempts must be made by separate officials to find each provisional elector.

**Comment [S274]:** What does "cast" mean to a provisional elector? Have they not "cast" the ballot when signing the provisional affidavit?

**Comment [S275]:** Will the rule above prevent the use of state records of signature or local signature cards to determine the signature match?

**Comment [S276]:** In answer to my above question, here we see that the provisional elector has "cast" the ballot by using an affidavit.

1 ~~OFFICIAL~~ COUNTY CLERK CALLS ANY ELECTOR HE OR SHE MUST CALL ALL  
2 ELECTORS WHOSE AFFIDAVITS ARE UNSIGNED.

**Comment [S277]:** Making this a county clerk role is another example of centralized non-citizen control of the election.

- 3 (b) If the elector provides a copy of valid identification within eight days after  
4 election day, the ~~COUNTY CLERK MUST COUNT THE~~ ballot ~~shall MUST be~~  
5 ~~counted~~ so long as the elector has not cast another ballot in the election,  
6 the affidavit is complete, and the elector is otherwise eligible.

7 *[Current Rule 26.4.9 is amended and moved to new Rule 17.2.7. Amendments between*  
8 *the current and new rule language are shown above.]*

9 ~~26.5.1~~ 17.2.8 If the information contained in the provisional ballot ~~envelope and~~  
10 affidavit provides adequate criteria so that the ~~designated election official~~ COUNTY  
11 ~~CLERK~~ is able to confirm ~~under election Rule 26~~ that the elector is eligible to cast  
12 a ballot, the provisional ballot ~~shall~~ MUST count.

13 *[Current Rule 26.5.1 is amended and moved to new Rule 17.2.8. Amendments between*  
14 *the current and new rule language are shown above.]*

15 ~~26.5.3~~ 17.2.9 Acceptance Codes (~~Any provisional ballot given an acceptance code shall~~  
16 ~~have all~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST COUNT ALL races ~~counted~~  
17 ~~unless otherwise indicated.~~)

18 AOK Reviewed and confirmed voter's eligibility.

19 ALC ELECTOR VOTED A PROVISIONAL BALLOT BECAUSE THE VOTER SERVICE  
20 AND POLLING CENTER LOST CONNECTIVITY. ELECTOR'S ELIGIBILITY IS  
21 CONFIRMED.

22 ~~26.5.4~~ 17.2.10 Rejection Codes (~~Any~~ THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT  
23 COUNT A ballot given a rejection code ~~shall not be counted~~):

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

25 RIN (Rejection incomplete information provided) Required information is  
26 incomplete and the designated election official is unable to confirm voter's  
27 eligibility.

28 REE (Rejection envelope empty) Provisional ballot envelope is empty.

29 RAB (Rejection voter voted ~~mail in~~ MAIL ballot) Designated election official  
30 has confirmed that voter voted a ~~mail in~~ MAIL ballot.

31 ~~RED~~ (Rejection based upon ballot cast ~~on election day~~ IN PERSON) Voter voted ~~ANOTHER BALLOT~~  
32 in a ~~polling place~~ VOTER SERVICE CENTER OR POLLING CENTER.

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33 RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.

1 RFE (Rejection felon not eligible to vote) Individual was convicted of a felony  
2 and is either serving a sentence of confinement or detention or is on  
3 parole.

4 RWC (Rejection elector not A RESIDENT OF THE DISTRICT, registered in county, or  
5 A RESIDENT OF THE State of Colorado) Non-county or non-state VOTER IS  
6 NOT A STATE resident; therefore voter THE INDIVIDUAL DOES NOT RESIDE  
7 WITHIN THE DISTRICT, COUNTY, OR STATE, AS APPLICABLE, AND IS not  
8 eligible to vote in the county where the provisional ballot was voted.

9 RID (Rejection first time voter has not supplied identification upon registration  
10 or thereafter prior to and during time voter voted) First Time Voter who  
11 registered by mail or through a voter registration drive, is tagged as id-ID  
12 deficient, and did not provide id-ID at the time of voting.

13 *[Current Rules 26.5.3 and 26.5.4 are amended and moved to new Rules 17.2.9 and*  
14 *17.2.10. Amendments between the current and new rule language are shown above.]*

15 ~~26.6~~ 17.3 The provisional ballot log required by section 1-8.5-110(4), C.R.S., may be  
16 prepared by the designated election official COUNTY CLERK in handwritten or computer-  
17 generated form. ~~THE LOG IS A PUBLIC RECORD.~~

18 ~~26.7~~ 17.4 Recount procedures for provisional ballots shall be ARE the same as the recount  
19 procedures for other ballots PURSUANT TO RULE 10 AND as directed by the Secretary of State:  
~~EXCEPT THAT PROVISIONAL BALLOTS ACCEPTED FOR COUNTING SHALL NOT RETAIN THE MARK~~  
~~"PROVISIONAL" AND ANY SUCH MARK MUST BE REMOVED BY DUPLICATION BEFORE A RECOUNT IS CONDUCTED.~~

20 *[Current Rules 26.6 and 26.7 are amended and moved to new Rules 17.3 and 17.4.*  
21 *Amendments between the current and new rule language are shown above.]*

22 ~~26.11~~ 17.5 Processing provisional ballot affidavits in the statewide voter registration  
23 database SCORE. Before closing an election, the county clerk and recorder must:

24 ~~26.11.1~~ 17.5.1 Enter all provisional ballot affidavits into the SCORE provisional module  
25 of the statewide voter registration database.

26 ~~26.11.2~~ 17.5.2 PROCESS ALL VOTER REGISTRATION UPDATES.

27 17.5.3 Link all provisional ballot affidavits to the appropriate elector's record.

28 *[Current Rule 26.11 is amended and moved to new Rule 17.5. Amendments between the*  
29 *current and new rule language are shown above.]*

30 17.6 PUBLIC ACCESS TO PROVISIONAL BALLOT INFORMATION

31 17.6.1 THE LIST OF VOTERS WHO CAST A PROVISIONAL BALLOT AND THE ACCEPT/REJECT  
32 CODE FOR THE BALLOT IS AVAILABLE FOR PUBLIC INSPECTION.

33 17.6.2 IN ACCORDANCE WITH SECTION 24-72-204(8), C.R.S., THE COUNTY CLERK AND  
34 RECORDER MUST NOT RELEASE AN ORIGINAL OR COPY OF THE ELECTOR'S:

**Comment [S278]:** This looks highly problematic. If it is one of many districts on the ballot that the voter resides outside of, that is not grounds for not counting the ballot at least for all districts that do include the permanent residence address. It is arguable that the 1303 law allows a Colorado elector to vote in any election. Apparently the federal only status no longer exists. Is it someone's presumption that any mismatch of ballot style to voter permanent address in SCORE means that the entire ballot does not count? This is highly problematic because voters like myself on the border of three counties will appear at the wrong county to vote (RWC). So this represents another inconvenience for voters who want to "vote anywhere".

**Comment [S279]:** This apparently needs to be mentioned here.

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**Comment [S280]:** The recount rule should be mentioned

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**Comment [S281]:** This is essential to protect voter privacy via ballot anonymity.

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- 1 (A) MONTH AND DAY OF DATE OF BIRTH;
- 2 (B) DRIVER'S LICENSE OR DEPARTMENT OF REVENUE IDENTIFICATION NUMBER;
- 3 (C) SOCIAL SECURITY NUMBER; OR
- 4 (D) EMAIL ADDRESS; OR
- 5 (E) SIGNATURE.

6 17.6.3 IF A VOTER HAS REQUESTED CONFIDENTIALITY UNDER SECTION 24-72-204(3.5),  
 7 C.R.S., THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT RELEASE THE ELECTOR'S  
 8 ADDRESS OR TELEPHONE NUMBER.

9 17.6.4 IF A VOTER HAS REQUESTED CONFIDENTIALITY UNDER SECTION 24-30-2101,  
 10 C.R.S., THE COUNTY CLERK ~~AND RECORDER~~ MUST NOT RELEASE THE  
 11 PROVISIONAL BALLOT AFFIDAVIT.

12 ~~26.13~~-17.7 Voter Access to Provisional Ballot Information

13 ~~26.13.1~~-17.7.1 The Secretary of State will provide a provisional ballot lookup on the  
 14 Secretary's website.

15 ~~26.13.2~~-17.7.2 The county clerk ~~and recorder~~ must number the provisional ballot  
 16 envelope or affidavit stock using the standard numbering convention approved  
 17 by the Secretary of State.

18 ~~26.13.3~~-17.7.3 An elector may access the system during the 20 DAYS PRIOR AND 45 days  
 19 following the

election.

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

21 *[Current Rule 26.13 is amended and moved to new Rule 17.7. Amendments between the*  
 22 *current and new rule language are shown above.]*

23 *[Current Rule 26 is amended and moved to new Rule 17. Amendments between the current and*  
 24 *new rule language are shown above.]*

25 **Rule 18. UNIFORM BALLOT COUNTING STANDARDS**

26 ~~27.2~~-18.1 **Multiple Page Ballots.** In any election where a multiple page printed ballot is  
 27 used, a voter must vote and return all pages of the ballot at the same time. Any voter who  
 28 ~~has returned~~ RETURNS at least one page of a multiple page printed ballot will be  
 29 considered to have voted and the COUNTY CLERK ~~AND RECORDER~~ MUST COUNT THE votes  
 30 on the submitted PAGES ~~page(s) shall be counted.~~ Any THE COUNTY CLERK MUST NOT  
 31 COUNT VOTES ON additional ~~page~~ PAGES returned at a later time ~~shall not be counted. but~~  
 32 ~~shall be~~ THE COUNTY CLERK MUST appropriately ~~marked~~ MARK, set aside, and ~~preserved~~

**Comment [S282]:** Provisional ballots may be used at any time VSPC polling is underway, and electors deserve a chance to test their access before they attempt to vote.

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**Comment [S283]:** To adhere to this rule, stubs must be on all pages of the ballot and the stub numbers must be checked on removal of the secrecy sleeve from the envelope. This is however a best practice and should be enshrined in the SOS election rules. But it isn't. Please add the requirement to verify the stub number against the envelope identity when envelopes are opened. How are these uncounted ballot pages to be marked and stored once they are out of the envelope? What does appropriately mark mean? Does that mark render the ballot uncountable in a recount or after an investigation? This rule needs to be fleshed out.

1 PRESERVE THE BALLOTS as ~~other election materials~~ RECORDS in accordance with section 1-  
2 7-802, C.R.S.

3 ~~27.3~~ 18.2 Uniform Counting Standards for hand-counted Paper Ballots

4 ~~27.3.1~~ 18.2.1 Pursuant to IN ACCORDANCE WITH section 1-7-309, C.R.S., AND RULE ~~27.7~~  
5 18.6, judges counting ballots ~~on election day~~ shall ~~MUST take into consideration~~  
6 CONSIDER the intent of the voter ~~in accordance with Rule 27.7.~~

**Comment [S284]:** No, there are multiple days on which ballots are counted starting from 15 days before election day and running until certification.

7 ~~27.3.2~~ 18.2.2 If a RACE OR BALLOT MEASURE IS OVERVOTED ~~ballot contains markings for~~  
8 ~~more than the maximum votes allowed in a candidate race or for a ballot measure,~~  
9 THE JUDGES MUST NOT ~~no vote shall~~ count ANY VOTE for that race or ballot  
10 measure.

**Comment [S285]:** "race or ballot measure" could be replaced by contest as I have defined it.

11 ~~27.3.3~~ 18.2.3 If a candidate race or ballot measure contains no markings by the voter, no  
12 tally will be made for that race or ballot measure. ~~but~~ BUT all other candidate  
13 races or ballot measures properly marked by the voter on the ballot shall ~~MUST~~ be  
14 counted.

**Comment [S286]:** Ditto

15 ~~27.3.4~~ 18.2.4 A ballot which has no markings for any candidate races or ballot measures  
16 shall ~~MUST~~ be tallied as a blank ballot, but the voter shall ~~MUST~~ be given credit for  
17 voting.

**Comment [S287]:** Are "blank ballots" to be separately accounted for and reported? Apparently so.

18 ~~27.4~~ 18.3 Uniform Counting Standards for Optical Scan Ballots

19 ~~27.4.1~~ 18.3.1 Precinct Optical Scan Procedures AT A VOTER SERVICE AND POLLING  
20 CENTER

21 (a) Voters whose ballots are rejected or sorted by ~~the precinct counter~~ A  
22 VOTER SERVICE AND POLLING CENTER SCANNER as a blank or overvoted  
23 ballot shall ~~MUST~~ be given the opportunity to correct their ballot.

**Comment [S288]:** Its not the ballot that is overvoted but one or more contests.

24 (b) Ballots sorted to a write-in bin shall ~~MUST~~ be tallied at the conclusion of  
25 the voting and delivered to the DESIGNATED ELECTION OFFICIAL ~~central counting center~~ in a  
secure

**Comment [S289]:** This "central counting center" is undefined and therefore dangerous to deliver to.

26 container BY SECURE METHODS INVOLVING MEMBERS OF OPPOSING PARTIES.

**Comment [S290]:** Secure container is not enough. This has little to do with voter intent except that the voting system may not have any other record of this voter intent as a back up- therefore security is extra important.

27 ~~27.4.2~~ 18.3.2 Central Count Optical Scan Procedures

28 (a) A JUDGES SHOULD COMPLETE A visual inspection of every ballot ~~should be~~  
29 ~~completed~~ for the limited purpose of separating damaged ballots into a  
30 unique batch AND ALSO DUPLICATING ANY THAT REVEAL VOTER IDENTITY AS  
WELL AS ANY MARK ON A BALLOT THAT CLEARLY REPRESENTS VOTER INTENT THAT THE VOTING SYSTEM WILL  
NOT CAPTURE.

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31 (b) JUDGES MUST RESOLVE, AND WHERE APPLICABLE, DUPLICATE, ~~Every~~ EVERY  
32 damaged ballot and all ballots sorted by the optical scan machine shall ~~be~~  
33 resolved, and where applicable duplicated, in accordance with this rule.

**Comment [S291]:** Some ballots might be inserted into the scanner even as damaged, but that must not be the case with the non-anonymous ballots. Also ballots containing indications of voter intent that cannot by design be captured by the voting system must be duplicated.

34 (c) A resolution board, consisting of a BI-PARTISAN team(s) of ~~one (1)~~  
35 ~~Republican and one (1) Democrat~~ TWO ELECTION JUDGES for partisan

1 elections or two (2) qualified election judges for nonpartisan elections,  
2 ~~shall~~ MUST resolve all ballots sorted by the central count optical scan  
3 equipment ~~AND THOSE REQUIRING DUPLICATION TO PROTECT VOTER PRIVACY AND ACHIEVE BALLOT~~  
~~ANONYMITY.~~

4 (1) The board ~~shall~~ MUST be observed by ~~AT LEAST~~ two ~~WATCHERS AS~~ (2) witnesses, who in  
5 any partisan election ~~shall~~ MUST ~~INCLUDE~~ be representatives of each major  
6 political party. THE WITNESSES ~~who~~ may not handle or process  
7 ballots.

8 (2) ~~All persons engaged in the counting and processing of ballots shall~~  
9 IN ADDITION TO ELECTION JUDGES OFFICIALS, ALL WITNESSES MUST  
10 be deputized or take an oath to faithfully perform their duties.

11 (3) The resolution board ~~shall~~ MUST maintain a log for each step of  
12 verification, duplication, and counting.

13 (d) Sequence of Resolution Procedures

14 (1) ~~A THE RESOLUTION BOARD MUST RUN A zero tape, or similar~~ report,  
15 ~~shall be run indicating no TO DETERMINE IF ANY~~ votes ~~ARE REPORTED~~ cast or counted before the  
counting  
16 begins.

~~EXCEPT FOR BALLOTS IDEPOSITED IN THE SCANNER BY THE VOTER, AT A POLLING LOCATION~~  
17 (2) ~~Official ballots shall be processed through~~ THE BOARD MUST  
18 REVIEW ALL BALLOTS WITH OVERVOTES, BLANK BALLOTS, AND  
19 WRITE-IN BALLOTS SORTED BY the optical scanner, ~~with sorted~~  
20 ~~overvotes, blank ballots, and write in ballots viewed and resolved~~  
21 ~~by the resolution board.~~ Ballots sorted by the optical scan  
22 equipment ~~shall be~~ ARE subject to review by the resolution board.  
23 If there are no legally qualified write-in candidates, the write-in  
24 sort option ~~shall~~ MUST not be utilized.

25 (3) A voter's intent ~~shall~~ MUST be reviewed for every ballot that  
26 requires resolution.

27 (4) All ballots ~~which are~~ sorted by the optical scanner and resolved by  
28 the resolution board by duplication ~~are to be indicated as such~~  
29 MUST BE MARKED AS DUPLICATED.

30 (5) The resolution board ~~shall~~ MUST maintain an official audit log for  
31 all ballots resolved setting forth the precinct number, duplicate  
32 ballot number (where applicable), SPECIFIC reason ~~(with~~  
33 ~~specificity)~~ that the ballot was resolved, date of resolution, and the  
34 initials of the members of the duplication board responsible for  
35 resolving the ballot.

36 (6) The ~~precinct judge's ballot reconciliation~~ STATEMENT OF BALLOTS form ~~S~~ is ~~is~~ MUST BE  
37 compared to the number of scanned ballots for the ~~precinct~~ BATCH BY POLLING OR COUNTING LOCATION.

**Comment [S292]:** These ballots are not to be sorted the equipment until after duplication.

**Comment [S293]:** Only two is too restrictive especially if there are three major parties.

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**Comment [S294]:** "be" is a bit overly restrictive.

**Comment [S295]:** If witnesses are distinct from "watchers" then more rules must be promulgated for them. I would use the phrase "watchers" and get the advantage of all the watcher rules and statutes. Otherwise there is no way for witnesses to be selected.

**Comment [S296]:** Somehow we have to separate the ballots for in-person voting with the ballots in central count, without having clear definitional distinction.

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**Comment [S297]:** Updated to new terminology and recognizing that there is no precinct judge or precinct location, still the reconciliation can be done for the source of the ballots being tabulated and resolved.

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1 (7) EACH DAY After the final BATCH precinct has been tallied, the total write-in votes  
2 ~~shall~~ MUST be indicated on the final DAILY summary along with the seal  
3 numbers for each sealed box of scanned ballots.

4 (e) Resolution of damaged ballots

5 (1) THE RESOLUTION BOARD MUST DUPLICATE ~~Damaged ballots~~  
6 DAMAGED or defective ballots ~~shall be duplicated~~ utilizing the  
7 ballot duplication procedures ~~as provided in Rule 27.6-18.5~~

8 (2) THE RESOLUTION BOARD MUST EXAMINE ~~Blank~~ BLANK ballots, SORTED AS NOT VOTED ~~shall~~  
9 ~~be examined by the resolution board~~ to determine if the ballot is a  
10 true blank ballot or one that has been marked with a non-detectable  
11 mark. Resolution board members must make a duplicate copy of  
12 the ballot which has been marked with a non-detectable mark  
13 utilizing the ballot duplication procedures ~~as set forth in Rule 27.6~~  
14 18.5. If a ballot is truly blank, THE BOARD MUST ~~SEND-RESCAN it~~  
15 ~~shall be sent back for the resolution pass through the scanner, and~~  
16 the ballot ~~MUST BE~~ AND TABULATE IT ~~tabulated~~ with no races or  
17 ballot measures voted.

18 (3) THE RESOLUTION BOARD MUST INSPECT AND RESOLVE ~~Overvoted~~  
19 ALL OVERVOTES ON D ballots ~~shall be inspected by the resolution board and~~  
20 ~~resolved in accordance with Rule 27.7-18.6.~~

21 (4) Write-in votes sorted by the optical scan equipment on election day  
22 ~~shall~~ MUST be delivered to the RESOLUTION BOARD assigned write in board for hand  
23 counting.

24 (i) During the initial ballot count, UNLESS VOTER INTENT IS CLEARLY  
25 SPELLED OUT in order to be counted, the  
26 oval must HAVE be EN darkened or the arrow connected according WITH REASONABLE ADHERENCE to  
27 the appropriate voting instructions. THE COUNTY MAY COUNT  
28 ONLY Only votes for legally qualified write-in candidates  
29 ~~shall MAY be counted.~~

30 (ii) If, following the initial count, the number of undervotes in  
31 that race could change the outcome or Force the election into TRIGGER  
32 a mandatory recount if attributed to a legally qualified write-  
33 in candidate, THE COUNTY MUST NOT COUNT votes for that  
34 candidate ~~shall MUST be counted~~ whether or not the target  
35 area designating the selection of a write-in candidate has  
36 been marked, provided that the number of candidates chosen  
37 does not exceed the number permitted in that office. THIS WILL REQUIRE A HAND COUNT OF ALL  
38 BALLOTS CONTAINING THE CONTEST. ALL VOTES FOR ELIGIBLE CANDIDATES IN THE CONTEST INCLUDING THOSE  
39 PRINTED ON THE BALLOT MUST BE COUNTED AT THE SAME TIME. AND ANY CORRECTIONS TO THE TALLY MADE.

37 (5) The resolution board ~~shall~~ MUST duplicate ballots by clearly  
38 labeling the new duplicate ballot as a "DUPLICATE" and assign a  
39 serial number which shall be recorded on both the original and duplicate ballot UNLESS THE  
DUPLICATION IS TO PROTECT VOTER PRIVACY. For example, the first ballot in Precinct # 1 to be

**Comment [S298]:** This was the reason for the original definition of blank ballot- but this is a much clearer way to handle this so that we don't see already voted ballots given to voters. Blank ballots are the ones to be given to voters.

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**Comment [S299]:** There is no reason to suggest post voter marking here.

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**Comment [S300]:** "Assigned write-in board" is another unregulated phrase.. with no accountability or means for appointment. Resolution board makes sense here.

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**Comment [S301]:** Putting the tense correctly here avoids an implication that post voter marking is ok. Voter intent is the most important criterion, not the ability of the voting system to capture the voter intent. Note this means that written instructions expressing voter intent will be ignored. This is the result of a machine-centric interpretation of law in these rules. If during the initial review all stray marks indicating voter intent trigger duplication onto a new ballot, then this problem will be minor.

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**Comment [S302]:** "Force" is an inappropriate word here.

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**Comment [S303]:** This is simply a mistake-

**Comment [S304]:** This spells out what needs to be done to count the write-in votes for which the oval is not marked- but all candidates deserve the same treatment in the contest in case of any errors made in machine detection of votes for any of the candidates.

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**Comment [S305]:** The placement of a number and phrase "duplicate" on the ballot duplicated to achieve anonymity is counterproductive.

1 duplicated could be labeled as #1/001 with the duplicate labeled  
2 D#1/001. Original ballots ~~shall~~ MUST be separated from the  
3 duplicate ballots and placed in a sealable container clearly marked  
4 "ORIGINAL BALLOTS." The duplicate ballots ~~shall~~ MUST be  
5 counted in lieu of the original ballots.

6 (6) The resolution board ~~shall~~ MUST maintain an official audit log  
7 ~~\_\_\_\_\_~~ setting forth the precinct number, duplicate ballot number, THE SPECIFIC reason  
8 (with specificity) that the ballot was duplicated, date of  
9 duplication, and the initials of the members of the duplication  
10 board responsible for duplicating the ballot.

11 (f) Recount Procedures for Optical Scan

12 (1) Optical scan equipment must be set to consistent sensitivity  
13 standards for each system type, must be tested ~~prior to~~ BEFORE the  
14 recount, and ~~shall~~ MUST be programmed to sort undervotes for the  
15 individual ~~race(s) or ballot measure(s)~~ CONTEST(S) being recounted.

16 (2) The county will conduct a recount of a race with a write-in  
17 candidate as outlined in Rule ~~27.7.4~~ 18.6.4.

18 ~~27.5~~ 18.4 Uniform Counting Standards for DREs. A vote that is properly recorded, as  
19 specified by the voting instructions, on the voting device for an office or ballot measure  
20 ~~shall~~ MUST be counted.

21 ~~27.6~~ 18.5 Duplication of Ballots.

22 (a) Using the damaged ballot as the guide, THE DUPLICATING TEAM RESOLUTION BOARD MUST  
23 MARK a blank ballot ~~shall be marked by a duplicating team,~~ so that the votes recorded are  
24 identical to those indicated on the damaged ballot. ~~and shall~~ THE DUPLICATION  
25 MUST be proofed to ensure it is marked properly and accurately.

**Comment [S306]:** "DUPLICATING TEAM" is not defined or regulated. Resolution board is a correct replacement. Resolution of voter intent is required during this function and watcher witnesses are required.

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26 (b) Every duplicated ballot ~~shall~~ MUST be subject to the process for determining voter  
27 intent outlined in Rule ~~27.7~~ 18.6.

28 (c) A unique number ~~shall~~ MUST be assigned to both the original and duplicated  
29 ballot. This will reference the two ballots together and provide an audit trail.  
30 (Example: the ballots may be marked XX-NNN, where XX is the precinct  
31 number and NNN are consecutive numbers starting with the number one.) THIS  
NUMBERING SHALL NOT BE DONE ON BALLOTS DUPLICATED FOR REASON OF PROTECTING VOTER PRIVACY.

**Comment [S307]:** Numbering the duplicate ballot intended to be separated from the original for anonymity reasons would be counterproductive.

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32 (d) The duplicated ballots ~~shall~~ MUST be counted in the same manner as all other  
33 ballots to be counted.

34 (e) The damaged or unreadable original ballot ~~shall~~ MUST be marked  
35 "DUPLICATED" to indicate that the ballot has been duplicated and the  
36 duplication is completed. All duplicated original ballots for a precinct along with

any applicable printed material shall MUST be placed in a sealable container and clearly marked "ORIGINAL BALLOTS."

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 from the method specified by the voting instructions (such as circling or placing a check mark behind a candidate's name or ballot response) and does not place an "X", check or other appropriate mark in the target area(s) AREA, the voter will be 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 his/her HIS OR HER choices by placing an "X", check or other appropriate mark in any target area on the voter's ballot, only those choices where the target area has been IS marked shall MAY be counted.

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Comment [S308]: This rule violates the principle of primacy of voter intent. Consistency is a property of a machine, not a human voter or resolution board. But if this rule must be maintained here is a better way to write it- "Except that if a voter inconsistently follows the directions, only marks demonstrating a reasonable attempt to follow directions may be counted."

27.7.2-18.6.2 A ballot that has a mark correctly in ONE the target area that partially extends into another target area shall MUST be counted as a vote for the candidate or ballot response so marked OF THE FIRST TARGET AREA AND THE EXTENSION OF THE MARK SHALL BE CONSIDERED AS STRAY.

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27.7.3-18.6.3 When resolving an overvoted race, marks indicating the voter's intent shall include, but not be limited to, circling the candidate's name and strike-outs or corrections of choices.

27.7.4-18.6.4 Write-in votes

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

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

Comment [S309]: Note that this requires marking of the write-in target for the resolution board to see it before a recount.

27.7.4.3(C) During any recount of votes, if the number of undervotes in that race could change the outcome if attributed to a legally qualified write-in candidate, votes for that candidate shall MUST be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office. THIS WILL REQUIRE A HAND

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COUNT OF ALL BALLOTS CONTAINING THE CONTEST. ALL VOTES FOR ELIGIBLE CANDIDATES IN THE CONTEST INCLUDING THOSE PRINTED ON THE BALLOT MUST BE COUNTED AT THE SAME TIME AND ANY CORRECTIONS TO THE TALLY MADE.

Comment [S310]: This spells out what needs to be done to count the write-in votes for which the oval is not marked- but all candidates deserve the same treatment in the contest in case of any errors made in machine detection of votes for any of the candidates.

Rule 40- Rule 19. Rules Concerning Certification and Education of Designated Election Officials

40.1-19.1 Purpose and Definitions.

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40.1.1-19.1.1 The Secretary of State recognizes that the oversight of elections is a

1 profession that requires thorough knowledge of complex state and federal  
2 election law and election procedures. Considering the complexity of state and  
3 federal law, voting equipment, and election procedures, extensive training is  
4 necessary. The certification program standardizes election procedures and  
5 education. The program also promotes Colorado voters' confidence in their  
6 election officials and the election process.

7 ~~40.1.2~~ 19.1.2 "Local election official" means a county clerk ~~and recorder~~. (Section  
8 1-1-301(1), C.R.S.)

**Comment [S311]:** These rules must also work for municipal, special district and school district designated election officials.

9 ~~40.1.3~~ 19.1.3 "Persons required to complete certification" means:

- 10 (a) The county clerk ~~and recorder~~; and
- 11 (b) Employees in the COUNTY clerk ~~'s and recorder's~~ office who are directly  
12 responsible for overseeing election activities, including but not limited to:  
13 voter registration, candidate qualifications and ballot certification, poll  
14 worker training, ballot design and setup, ballot counting, and canvassing.

15 (Section 1-1-302, C.R.S.)

16 ~~40.2~~ 19.2 Advisory Board.

17 19.2.1 The advisory board must meet at least twice each calendar year to approve the  
18 curriculum and make necessary changes. The advisory board must also review  
19 evaluations and recommend changes to the certification program.

20 ~~40.2.2~~ 19.2.2 The advisory board must review individual applications for certification  
21 and must approve applications that are accurate and complete. The advisory  
22 board may take into account special circumstances in reviewing and approving  
23 applications.

24 ~~40.2.3~~ 19.2.3 The Secretary of State will appoint the following as board members:

- 25 (a) Four county clerks or designated staff members;
- 26 (b) Two Secretary of State Office representatives; and
- 27 (c) Any individual(s) whom the Secretary of State believes could make a  
28 valuable contribution to the Board.

29 ~~40.2.4~~ 19.2.4 Board members serve at least a two-year term.

30 ~~40.2.5~~ 19.2.5 The Secretary of State may terminate board members without cause.  
31 Failure to attend meetings or meaningfully contribute may result in termination.

32 ~~40.3~~ 19.3 Curriculum.

33 ~~40.3.1~~ 19.3.1 The Secretary of State will develop the core and elective curriculum

1 offered for certification and continuing elections education. The Secretary will  
2 post curriculum information on the Secretary of State's website.

3 ~~40.3.2~~ 19.3.2 The Secretary of State will develop and administer all training outlined in  
4 this Rule ~~40~~-19.

5 ~~40.3.3~~ 19.3.3 To obtain Colorado certification, a person must complete the following  
6 minimum curriculum prescribed by the Secretary of State:

7 (a) Seven basic core courses;

8 (b) One core course relevant to primary job duty; and

9 (c) Six electives.

10 ~~40.3.4~~ 19.3.4 To maintain Colorado certification, a person must complete at least five  
11 Continuing Elections Education courses by July 31 of every even year.

12 ~~40.4~~ 19.4 Training Format.

13 ~~40.4.1~~ 19.4.1 Web-based training may be conducted live or by reviewing material  
14 previously presented by the Secretary of State. In either case, participants must  
15 achieve a satisfactory score on assessments before receiving credit for the  
16 course.

17 ~~40.4.2~~ 19.4.2 The Secretary of State will provide classroom training. For certification, a  
18 person must complete at least one course in-class.

19 ~~40.5~~ 19.5 Credit.

20 ~~40.5.1~~ 19.5.1 Individuals applying for certification must successfully complete the  
21 curriculum prescribed by the Secretary of State. If an applicant submits  
22 duplicate coursework, the advisory board may reject the application for  
23 certification.

24 ~~40.5.2~~ 19.5.2 Training assessment.

25 (a) To receive certification credit for any course presented by the Secretary of  
26 State under this rule, a participant must successfully complete a training  
27 assessment with a minimum score of 85%.

28 (b) A participant who fails to achieve a score of at least 85% may retake the  
29 assessment.

30 (c) The Secretary of State may administer either paper or electronic  
31 assessments.

32 ~~40.5.3~~ 19.5.3 Credit for Teaching Classes. A person who teaches or substantially assists  
33 with preparation of a class offered for certification is excused from the

1 assessment requirement outlined in Rule ~~40.5.2~~ 19.5.2 and will receive credit for  
2 the course.

3 ~~40.5.4~~ 19.5.4 No election official may receive credit toward his or her Colorado  
4 certification for training offered by other agencies or organizations.

5 ~~40.6~~ 19.6 Application Review, Certification, and Maintenance of Records.

6 ~~40.6.1~~ 19.6.1 Once a person completes the required coursework, he or she must  
7 promptly submit an application for certification or continuing certification to the  
8 Secretary of State's office on the form approved by the Secretary of State.

9 ~~40.6.2~~ 19.6.2 The Secretary of State must review the application with reference to the  
10 Secretary of State records. If the application is complete and accurate, the  
11 Secretary of State must forward it to the advisory board for its review and  
12 approval. Upon approval by the advisory board, the Secretary of State must  
13 issue a certificate that the person is a Certified Colorado Election Official.

14 ~~40.6.3~~ 19.6.3 The Secretary of State must track attendance at all classes and keep  
15 records of attendance, continuing elections education, and records of those  
16 persons who are certified and persons who are in the certification process.

17 ~~40.9~~ 19.7 Decertification. A person who fails to satisfy continuing education requirements  
18 will lose certification.

19 *[Current Rule 40 is amended and moved to new Rule 19. Amendments are shown above.]*

20 **Rule 43. Rule 20. County Security Procedures**

21 ~~43.1~~ 20.1 **Definitions.**

22 ~~43.1.1~~ 20.1.1 "Chain of custody log" means a written record that shows that the  
23 equipment and all associated data are secured according to these procedures and  
24 in the documented control of an employee or deputized election judge through the  
25 entire time of ownership by the jurisdiction.

26 ~~43.1.2~~ 20.1.2 "DRE" means a direct recording electronic voting device. A DRE is a  
27 voting device that records votes by means of a ballot display provided with  
28 mechanical or electro-optical components or an audio ballot that the voter can  
29 activate; that processes data by means of a computer program; and that records  
30 voting data and ballot images in memory components or other media. The device  
31 may produce a tabulation of the voting data stored in a removable memory  
32 component and as printed copy. The device may also provide a means for  
33 transmitting individual ballots or vote totals to a central location for consolidating  
34 and reporting results from remote sites to the central location.

35 ~~38.1.3~~ 20.1.3 "Elector data" means voting information, including but not limited to,  
36 voter registration, voting history, and voting tabulations.

1 ~~38.1.4 20.1.4~~ “Electronic pollbook” is a list of eligible electors in electronic format who  
2 are permitted to vote at a polling place ~~LOCATION~~ in an election conducted under  
3 the Election Code, which shall be processed by a computer at a Vote Center  
4 ~~VOTER SERVICE AND POLLING CENTER~~ to be immediately accessible to all other  
5 computers at all ~~Vote Centers VOTER SERVICE AND POLLING CENTERS~~ in the  
6 county.

7 ~~43.1.3 20.1.5 20.1.4~~ “Employee” means all full time, part time, permanent, and  
8 contract employees of the county who have had ~~PASSED A COLORADO BUREAU OF~~  
9 ~~INVESTIGATION (CBI) INTERNET~~ criminal history check (IHC) conducted in  
10 accordance with Rule 11.2 6.4 and are deputized by the county clerk and recorder  
11 to prepare or maintain the voting system or election setup materials, staff the  
12 counting center and who have any access to the electromechanical voting systems  
13 or electronic vote tabulating equipment.

14 ~~43.1.4 20.1.6 20.1.5~~ “Removable card or cartridge” means any ~~A~~ programming card or  
15 cartridge, except a voter activation card, that stores firmware, software, or data.

16 ~~43.1.5 20.1.7 20.1.6~~ “Seal” means a serial-numbered tamper-evident device that  
17 indicates a seal is broken or removed, ~~IF BROKEN OR MISSING, INDICATES THAT THE~~  
18 ~~CHAIN OF CUSTODY IS BROKEN A DEVICE IS NOT SECURE.~~

19 ~~38.1.2 20.1.8 20.1.7~~ “Teleprocessing lines” means secure, dedicated communication  
20 transmission facilities used for the purpose of transferring elector data between  
21 ~~Vote Centers VOTER SERVICE AND POLLING CENTER~~ and a centralized  
22 computerized pollbook maintained by the county clerk and recorder, to ensure the  
23 security and integrity of voting information so that no deviation can go  
24 undetected.

25 ~~43.1.6 20.1.9 20.1.8~~ “Trusted build” means the write-once installation disk or disks for  
26 software and firmware for which the Secretary of State or his/her agent has  
27 established the chain of evidence to the building of a the disk(s), which is then  
28 used to establish and/or re-establish the chain of custody ~~CHAIN OF CUSTODY~~ of  
29 any component of a voting system that contains newly installed firmware or  
30 software. The trusted build is the origin of the chain of evidence for any software  
31 and firmware component of the voting system.

32 ~~43.1.7 20.1.10 20.1.9~~ “Video security surveillance recording” means video monitoring  
33 by a device that continuously records a designated location or a system using  
34 motion detection that records one frame, or more, per minute until detection of  
35 motion triggers continuous recording.

36 *[Definitions moved to Rule 1, with amendments]*

37 ~~43.2 20.2 20.1~~ **Annual security plan.** In accordance with section 1-5-616(5), C.R.S., AND USING  
38 THE FORM PRESCRIBED BY THE SECRETARY OF STATE, ~~each~~—A county must ANNUALLY  
39 submit a security plan to the Secretary of State ~~annually and~~ no later than 60 days ~~prior to~~

1 BEFORE the first election in which the COUNTY WILL IMPLEMENT THE security plan  
2 procedures. ~~are used. The plan must, at a minimum, include the following:~~

3 ~~43.2.1~~ ~~20.3~~ 20.2 General requirements CONCERNING CHAIN-OF-CUSTODY.

4 (a) ~~20.3.1~~ 20.2.1 The county ~~clerk and recorder shall~~ MUST maintain on file all  
5 documentation of seals, ~~chain of custody~~ CHAIN-OF-CUSTODY, and other  
6 documents related to the transfer of equipment between parties. These documents  
7 are subject to inspection by the Secretary of State.

8 (b) ~~20.3.2~~ 20.2.2 The county must maintain and document the ~~chain of custody~~  
9 CHAIN-OF-CUSTODY for each voting device throughout the county's ownership or  
10 leasing of the device.

11 (c) ~~20.3.3~~ 20.2.3 Only ~~deputized clerks, election judges,~~ ELECTION OFFICIALS or  
12 canvass board members sworn under oath are allowed to handle ballots, which  
13 include VVPAT records.

14 (d) ~~20.3.4~~ 20.2.4 The county may install additional or modified software developed  
15 by the vendor on any component of the voting system only if the software is  
16 specifically listed on the Secretary of State's certificate and verified against the  
17 state trusted build. Nothing in this rule ~~shall preclude~~ PRECLUDES the use of  
18 commercial off-the-shelf software, provided that the software is included in the  
19 certified list of services and executables for the certified voting systems.

20 (e) ~~20.3.5~~ 20.2.5 Any form or log containing "date" means to note the month,  
21 calendar day, year, hour, minute, and whether the time is a.m. or p.m.

22 ~~43.3~~ ~~20.3.6~~ 20.2.6 The county ~~shall~~ MUST submit ~~with the security plan~~ sample copies  
23 of all referenced forms, schedules, logs, and checklists WITH THE SECURITY PLAN.

24 ~~43.2.2~~ ~~20.4~~ 20.3 Physical locking mechanisms and seals. The county must record the serial  
25 number of every seal on the appropriate chain-of-custody log. Two individuals must  
26 verify, and indicate by signing and dating the log, that the seal serial numbers match the  
27 logged serial numbers. If a seal is inaccessible and cannot be removed, then it is not  
28 necessary to verify that seal serial number.

29 (a) ~~20.4.1~~ 20.3.1 DREs AND BALLOT MARKING DEVICES. ~~The county must seal DRE~~  
30 ~~voting devices as follows:~~

31 ~~(A)~~ (A) The county must place a seal over ~~any~~ ANY removable card or cartridge  
32 that is inserted into the unit, or over the slot or door covering the card or  
33 cartridge ~~AND OVER ONE OF THE SCREWS THAT WHEN REMOVED PERMITS ACCESS~~  
~~TO THE INTERNALS OF THE VOTING DEVICE.~~

Comment [S312]: Why was this change made?

Comment [S313]: Just protecting the slot is not enough.

34 ~~(B)~~ (B) The county must place a seal over any removable card slot or cartridge  
35 slot when no card or cartridge is inserted into the unit.



1           (3)(C) If the county cannot verify the firmware or software hash value (MD5 or  
2           SHA-1), the county must seal the DRE case. To detect unauthorized  
3           access, the county must use seals at either the seams of the case or at key  
4           entry points such as screw access points.

5           (4)(D) If the voting device contains one or more slots for a flash memory card,  
6           the county shall MUST affix a seal over each each flash card slot, door, or  
7           access panel.

8           (5)(E) These same procedures also apply to the Judge's Booth Controller (JBC)  
9           unit for the Hart InterCivic System.

10          (6)(F) Two employees or election judges OFFICIALS must verify, and indicate by  
11          signing and dating the chain-of-custody log, that all seal serial numbers  
12          match the logged serial numbers.

13          (b) ~~20.4.2.20.3.2~~ VVPATs. ~~Prior to~~ BEFORE attaching a VVPAT to a specific voting  
14          device, the judges shall COUNTY MUST seal the unit after verifying that no votes  
15          were cast. At least two election judges OFFICIALS must verify that seals are intact  
16          prior to BEFORE the start of voting, and at the close of voting, VVPAT records  
17          shall MUST either remain in the VVPAT canister, or be sealed and secured in a  
18          suitable device for protecting privacy or as described in Rule 41-43.2-10-20.12.

19          (c) ~~20.4.3.20.3.3~~ Remote or central count optical scanners. Optical scanners, used in  
20          a remote or central tabulating location shall meet the following seal requirements:

21          (1)(A) The county must place a seal over each card or cartridge inserted into the  
22          unit, or over any door or slot containing the card or cartridge AND OVER ONE  
23          OF THE SCREWS THAT WHEN REMOVED PERMITS ACCESS TO THE INTERNALS OF THE VOTING DEVICE.

Comment [S314]: Just protecting the slot is not enough.

24          (2)(B) The county must place a seal over each empty card or cartridge slot or  
25          door covering the area where the card or cartridge is inserted.

26          (3)(C) Prior to BEFORE the start of voting and after the close of voting, two  
27          employees or election judges OFFICIALS must visually confirm that all  
28          seals are intact and that the seal serial numbers match those logged in the  
29          chain-of-custody log.

30          (d) ~~20.4.4.20.3.4~~ Memory Cards/Cartridges CARDS OR CARTRIDGES.

31          (1)(A) The county must assign and securely affix a permanent serial number to  
32          each removable card or cartridge. The county may use the manufacturer  
33          assigned serial number for this purpose.

34          (2)(B) The county must handle removable memory cards and cartridges in a  
35          secure manner at all times. The county must transfer and store any  
36          removable card and/or cartridge that is not sealed in a voting machine in a  
37          secure container with at least one seal. Upon delivery and receipt, election  
38          judges or county personnel must verify, and indicate by signing and dating

1 the chain-of custody log, that all seal serial numbers match those listed in  
2 the log.

3 ~~(3)~~(C) The county clerk and recorder must maintain a written or electronic log to  
4 record card or cartridge seal serial numbers and track seals for each voting  
5 unit. ~~The county clerk and recorder must be notified if control of a~~  
6 ~~card/cartridge or door or slot for a card/cartridge is breached before an~~  
7 ~~election, and he/she must follow the procedures specific to the incident~~  
8 ~~outlined in Rule 43.2.11.~~

**Comment [S315]:** Placing seals without a remedy when the seals are broken does not make sense.

9 ~~43.2.3~~ ~~20.5~~ 20.4 Individuals with access to keys, door codes, and vault combinations.

10 (a) ~~20.5.1~~ 20.4.1 For employees with access to areas addressed in Rule ~~43.2.3~~(c)  
11 ~~43.5.3~~ 20.4.3, the county must state IN THE SECURITY PLAN ~~the employees' titles~~  
12 EACH EMPLOYEE'S TITLE and the dates of ~~CBI background checks~~ THE ICHC.  
13 [Section 24-72-305.6, C.R.S.]

14 (b) ~~20.5.2~~ 20.4.2 The county must change all keypad door codes or locks, vault  
15 combinations, computer and server passwords, encryption key codes, and  
16 administrator passwords at least once per calendar year prior to the first election  
17 of the year.

18 (e) ~~20.5.3~~ 20.4.3 Employee access.

19 (1) —The county may grant employees access to the codes, combinations,  
20 passwords, and encryption keys described in this Rule ~~43.2.3~~ 20.5 in  
21 accordance with the following limitations:

22 (A) —Access to the code, combination, password, or encryption key for the  
23 storage area for voting equipment and the mail in ballot counting areas is  
24 restricted to employees as defined in Rule 43.1.3.

25 ~~(B)~~(A) Access to the code, combination, password, or encryption key for the  
26 mail in VOTING EQUIPMENT, ~~AND~~ ballot storage area AREAS, and counting  
27 room, or tabulation workstations is restricted to ~~ten~~ employees as defined  
28 in Rule 43.1.3 WHO HAVE SUCCESSFULLY PASSED A COLORADO BUREAU OF  
29 INVESTIGATION (CBI) INTERNET CRIMINAL HISTORY CHECK (ICHC)  
30 CRIMINAL BACKGROUND CHECK DESCRIBED IN RULE 6.4. ANY PERSON WHO  
31 HAS BEEN CONVICTED OF AN ELECTION OFFENSE OR FRAUD IS PROHIBITED  
32 FROM HAVING ACCESS TO A CODE, COMBINATION, PASSWORD, OR  
33 ENCRYPTION KEY FOR THE VOTING EQUIPMENT, BALLOT STORAGE AREAS,  
34 COUNTING ROOM, OR TABULATION WORKSTATIONS.

35 ~~(C)~~(B) Except for emergency personnel, no other individuals shall MAY be present  
36 in these locations unless supervised by one or more ~~ELECTION OFFICIALS~~ employees as defined  
37 in Rule 43.1.3.

**Comment [S316]:** Is the word "employee" no longer defined? Is this a security loophole that needs to be closed? What about "emergency personnel" and who are they?

1 (i) Each individual who has access to the central election management  
2 system or central tabulator shall MUST have their own unique  
3 username and password. No individual shall MAY use any other  
4 individuals INDIVIDUAL'S username or password. Shared accounts  
5 are prohibited.

6 (ii) The county shall maintain a log of each person who enters the  
7 ballot storage room, including the person's name, signature, and  
8 date and time of entry. If access to the ballot storage room is  
9 controlled by use of key card or similar door access system that is  
10 capable of producing a printed paper log including the person's  
11 name and date and time of entry, such a log shall meet the  
12 requirements of this rule.

13 (2)(C) In extreme circumstance, the county may request and the Secretary of  
14 State may grant exemption from the requirements outlined in Rule  
15 43.2.3(e)(1) 43.5.3-20.5.3.

16 (d) 20.5.4 20.4.5 Computer room Access TO WHERE ELECTION MANAGEMENT  
17 SOFTWARE IS USED is limited to authorized employees and election judges  
18 OFFICIALS only. Messengers or runners delivering ballots between the preparation  
19 room and computer room shall MUST wear distinguishing identification. This rule  
20 does not supersede access by watchers, official observers, and media observers in  
21 accordance with Rule 8.

**Comment [S317]:** Election management software is not defined.

**Comment [S318]:** These locations- computer room and preparation room are not defined.

22 43.2.9 20.6 20.5 Internal Controls for the Voting System

23 (a) 20.6.1 20.5.1 The County COUNTY must enable, create, and use passwords.

**Comment [S319]:** Curious that in the security section, instead of "election officials" or "clerk" it is only the "county" that has responsibility for security tools such as passwords. I would make this the most carefully specific section, with very specific roles that cannot be designated or transferred.

24 (b) 20.6.2 20.5.2 In addition to the access controls discussed in Rule 43.2.3(e) 20.5,  
25 the county shall MUST change all passwords and limit access to the following  
26 areas:

27 (1)(A) Software. The county shall MUST change all software passwords once per  
28 calendar year prior to the first election. This includes any boot or startup  
29 passwords in use, as well as any administrator and user passwords and  
30 remote device passwords.

31 (2)(B) Hardware. The county shall MUST change all hardware passwords once per  
32 calendar year prior to the first election. This includes any encryption keys,  
33 key card tools, supervisor codes, poll worker passwords on smart cards,  
34 USB keys, tokens, and voting devices themselves as it applies to the  
35 specific system.

36 (3)(C) Password Management. The county shall MUST limit access to the  
37 administrative passwords to the election management software to two  
38 employees. The county shall MUST limit access to passwords for all  
39 components of the election software and hardware to two employees. The

1 county may provide an additional ten employees with access to the  
2 administrative passwords for the software components, and an additional  
3 ten employees with access to the administrative passwords for the  
4 hardware components of the voting system. THE VOTING SYSTEM  
5 PROVIDER MAY NOT HAVE AN ADMINISTRATIVE OR APPLICATION  
6 USER/OPERATOR ACCOUNT, OR ADMINISTRATIVE ACCOUNT ACCESS TO THE  
7 ACCOUNTS.

8 *[Language from current Rule 45.5.2.6.1(a)(vi) is amended and relocated*  
9 *to Rule 20.6.2]*

10 (4)(D) Internet Access. The county must never connect or allow a connection of  
11 any voting system component to the Internet.

**Comment [S320]:** Useful to check what is a voting system component. This is a good rule.

12 (5)(E) Modem Transmission. The county must never connect any component of  
13 the voting system to another device by modem **EXCEPT AS SPECIFICALLY ALLOWED**  
14 **BY THIS RULE, except for the vote tally software** as allowable by the certification of the specific device.

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15 (6)(F) Remote sites VOTER SERVICE AND POLLING CENTERS. AT REMOTE VOTER  
16 SERVICE AND POLLING CENTERS, THE COUNTY may use modem functions of  
17 optical scanners and DREs only for the purpose of transmitting unofficial  
18 results, as permitted by the Secretary of State's certification documents  
19 for the specific systems. A county using modem devices to transmit results  
20 shall meet the following requirements:

**Comment [S321]:** What is the vote tally software? This should be deleted or better defined. Note that the certification caveat has been removed.

21 (A) A county may use a modem device only after all steps to close the  
22 polls are complete and summary tapes are printed, and may only  
23 use the device to transmit test data or unofficial results.

24 (B) The county shall not use a modem for any programming, setup, or  
25 individual ballot casting transmissions.

26 (C) The county shall change the receiving telephone number for the  
27 modem transmission at least once per calendar year prior to the  
28 first election.

29 (D) The county may provide the telephone number of the modem  
30 receiving the transmission to no more than six employees. The  
31 county shall not publish or print the receiving modem telephone  
32 number for any election judge. To the extent possible, the county  
33 shall program the telephone number into the device and use the  
34 device in a way that hides the display of the number from the view  
35 of election judges and voters at all times.

36 (7)(G) Authorized Employees. The county shall MUST include in their ITS security  
37 plan the employees' titles EACH EMPLOYEE'S TITLE and the dates DATE of  
38 CBI background checks ICHC for employees with access to any of the  
39 areas or equipment set forth in this Rule. Each county shall MUST maintain

1 a storage facility access log that details employee name, date, and time of  
2 access to the storage facility in which the software, hardware, or  
3 components of any voting system are maintained. If access to the storage  
4 facility is controlled by use of key card or similar door access system that  
5 is capable of producing a printed paper log including the person's name  
6 and date and time of entry, such a log shall-MUST meet the requirements of  
7 this rule. [Section 24-72-305.6, C.R.S.]

8 *[Current Rule 43.2.9 is amended and relocated to New Rule 20.5 above.]*

9 ~~43.2.4~~ ~~20.7.20.6~~ Temperature-controlled storage. The county must maintain all components of  
10 the voting system and ballots in a temperature-controlled STORAGE environment. The  
11 county shall-MUST attest to the temperature-control settings used with the following  
12 components of a voting system. Information submitted to the Secretary of State shall  
13 MUST indicate the specifics for each type of component, as well as the specific  
14 environment used, which may include, but is not limited to controlled offices, controlled  
15 vaults, and controlled warehouses. The county must maintain the following required  
16 temperature settings:

17 (a) ~~20.7.1~~ ~~20.6.1~~ Servers and workstations. The county shall MUST maintain the  
18 temperature so that the maximum temperature at no time exceeds 90 degrees  
19 Fahrenheit.

20 (b) ~~0.7.2~~ ~~20.6.2~~ DREs AND OPTICAL SCANNERS. The county shall-MUST maintain  
21 the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90  
22 degrees Fahrenheit.

23 (c) ~~20.7.3~~ ~~20.6.3~~ Optical scanners. The county shall MUST maintain the temperature  
24 at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.

25 (d) ~~20.7.4~~ ~~20.6.3~~ VVPAT records, PAPER BALLOTS, AND VIDEO DATA RECORDS. In  
26 addition to the requirements set forth in Rule 11, the county shall-MUST maintain A  
27 DRY ENVIRONMENT AND A the temperature at a minimum of 50 degrees Fahrenheit  
28 and a maximum of 90 degrees Fahrenheit. ~~The county shall maintain V VPAT~~  
29 ~~records in a dry environment~~, with storage at least four inches above the finished  
30 floor, for a period of 25 months following the election. ~~The humidity of the~~  
31 ~~environment shall not exceed 80% humidity for a period of more than 24 hours.~~  
32 ~~The county shall store V VPAT records in a manner that prevents exposure to~~  
33 ~~light, except as necessary during recounts and audits.~~

34 (e) ~~Paper Ballots. The county shall maintain paper ballots in a dry, humidity-~~  
35 ~~controlled environment. The humidity of the environment shall not exceed 80%~~  
36 ~~humidity for a period of more than 24 hours. The county shall store paper ballots~~  
37 ~~at least four inches above the finished floor, for a period of 25 months following~~  
38 ~~the election.~~

39 (f) ~~Video Data Records. The county shall maintain video data records in a dry,~~  
40 ~~temperature controlled environment. The humidity of the environment shall not~~

1 exceed 80% humidity for a period of more than 24 hours. The county shall  
2 maintain temperature at a minimum of 50 degrees Fahrenheit and a maximum of  
3 90 degrees Fahrenheit. The county shall store video data records at least four  
4 inches above the finished floor, for a period of 25 months following the election.

5 ~~43.2.5~~ ~~20.8~~ 20.7 Security cameras or other surveillance.

6 ~~43.2.3(c)(1)(C)(ii)~~ ~~20.8.1~~ 20.7.1 The county shall MUST maintain a log of each  
7 person who enters the ballot storage room THE SPECIFIED AREAS SPECIFIED IN  
8 RULE ~~20.8.3~~ 20.7.3, including the person's name, signature, and date and time of  
9 entry. If access to the ballot storage room SPECIFIED AREAS is controlled by use of  
10 key card or similar door access system that is capable of producing a printed  
11 paper log including the person's name and date and time of entry, such a log shall  
12 MUST meet the requirements of this rule.

13 (a) ~~20.8.2~~ 20.7.2 Unless otherwise instructed, the county shall MUST make video  
14 security surveillance recordings of specified THE areas SPECIFIED IN RULE ~~20.8.3~~  
15 20.7.3 beginning at least 60 days prior to the election and continuing through at  
16 least 30 days after the election, unless there is a recount or contest. IF A RECOUNT

Comment [S322]: Note the use of "the election" several times in this section.

17 OR LITIGATION CONCERNING THE ELECTION CONTEST OCCURS, THE RECORDING MUST CONTINUE  
18 THROUGH THE CONCLUSION

Comment [S323]: To avoid confusing use of the word "contest"

18 OF ALL SUCH ACTIVITY. The recording system shall MUST ensure that records are  
19 not written over when the system is full. The recording system shall MUST provide  
20 a method to transfer the video records to a different recording device or to replace  
21 the recording media. If replaceable media is used then the county shall MUST  
22 provide a process that ensures that the media is replaced often enough to prevent  
23 periods when recording is not available. If a recount or contest occurs, the  
24 recording shall continue through the conclusion of all such activity.

25 ~~20.8.3~~ 20.7.3 The following are the specific minimum requirements:

26 (A) (A) If the county has 50,000 or more registered voters, then the county shall  
27 MUST MAINTAIN A LOG AND make video security surveillance recordings of  
28 the following areas, excluding voting booths:

29 (A) (1) All areas in which election management software is used,  
30 including but not limited to programming, downloading memory  
31 cards, uploading memory cards, tallying results, and results  
32 reporting.

33 (B) (2) All areas used for processing mail-in ballots, including but not  
34 limited to areas used for Signature Verification, tabulation, or  
35 storage of voted ballots beginning at least 35 days prior to the  
36 election and continuing through at least 30 days after the election,

37 unless there is a recount or LITIGATION contest. If a recount or contest LITIGATION occurs,  
38 the recording shall MUST continue through the conclusion of all  
39 such activity.

40 (C) (3) The storage area for all voting equipment.

1 (2) (B) If the county has fewer than 50,000 registered voters then the county shall  
2 MUST MAINTAIN A LOG AND make video security surveillance recordings of  
3 all areas, ~~excluding voting booths~~, in which election management software  
4 is used, including but not limited to programming, downloading memory  
5 cards, uploading memory cards, tallying results, and results reporting.

6 (b) (C) The county must adequately ~~and continuously~~ light the area(s) subject to  
7 video surveillance to provide visibility for video recording. **EITHER**

**CONTINUOUS OR MOTION ACTIVATED LIGHTING MUST BE PROVIDED.**

**Comment [S324]:** Without lighting, the video is useless.

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8 ~~43.2.6 20.9~~ 20.8 Equipment maintenance procedures. In addition to the requirements for voting  
9 systems INVENTORY specified in Rule ~~11.4~~ 11.3, the county shall ~~MUST~~ adhere to the  
10 following minimum standards:

11 (a) ~~20.9.1~~ 20.8.1 The county shall ~~MUST~~ store all equipment throughout the year  
12 with seals over the memory card slots for each device. The county shall ~~MUST~~  
13 maintain a log of the seals used for each device consistent to the logs used for  
14 tracking. **ALL OTHER REQUIRED Election Day seals.**

**Comment [S325]:** Election day seals has no meaning.

15 (b) ~~20.9.2~~ 20.8.2 For equipment being sent to the vendor for offsite  
16 repairs/replacements, the county must keep a maintenance log for the device that  
17 shall ~~MUST~~ contain the following: the model number, serial number, and the type  
18 of device; the firmware version; the software version (as applicable); the printed  
19 name and signature of the person sending the equipment; and the date of  
20 submission to the vendor.

21 (c) ~~20.9.3~~ 20.8.3 ~~When a vendor provides on site maintenance of equipment, vendor~~  
22 ~~personnel shall annually provide to the county a CBI or equivalent background~~  
23 ~~check for all vendor personnel that will have access to any component of the~~  
24 ~~voting system. The county must keep current CBI or equivalent background check~~  
25 ~~information on file. Additionally, an AN employee shall MUST escort the vendor's~~  
26 ~~representative at all times while on-site. At no time shall MAY the voting system~~  
27 ~~vendor have access to any component of the voting system without supervision by~~  
28 ~~an employee. [Section 24-72-305.6, C.R.S.]~~

29 (d) ~~20.9.4~~ 20.8.4 Upon completion of any maintenance, the county shall ~~MUST~~ verify  
30 or reinstate the trusted build and conduct a full acceptance test of equipment that  
31 shall ~~MUST~~, at a minimum, include the hardware diagnostics test, as indicated in  
32 Rule 11, and conduct a mock election in which an employee(s) shall ~~MUST~~ cast a  
33 minimum of five ballots on the device to ensure tabulation of votes is working  
34 correctly. The county shall ~~MUST~~ maintain all documentation of the results of the  
35 acceptance testing on file with the specific device.

36 (e) ~~20.9.5~~ 20.8.5 The Secretary of State will annually inspect county maintenance  
37 records on a randomly selected basis.

38 ~~43.2.7 20.10~~ 20.9 Transportation of equipment, memory cards, ballot boxes, and ballots.

1 (a) ~~20.10.1-20.9.1~~ The county shall ~~MUST~~ submit detailed plans to the Secretary of  
2 State prior to an election regarding the transportation of equipment and ballots  
3 both to remote voting sites and back to the central elections office or storage  
4 facility. IF THERE IS ANY EVIDENCE OF POSSIBLE TAMPERING WITH A SEAL, OR IF  
5 THE SERIAL NUMBERS DO NOT MATCH THOSE LISTED IN THE CHAIN-OF-CUSTODY  
6 LOG, THE COUNTY CLERK MUST BE IMMEDIATELY NOTIFIED AND MUST FOLLOW THE  
7 PROCEDURES SPECIFIC TO THE INCIDENT AS DESCRIBED IN RULE ~~20.15.1-20.13~~.  
8 While the method of transportation of equipment may vary, the following  
9 standards ~~shall apply when transporting voting equipment to the voting location~~  
10 APPLY:

11 (1) (A) Transportation by county personnel. County personnel shall ~~MUST~~ at all  
12 times display a ~~badge or other~~ identification provided by the County. Two  
13 EMPLOYEE signatures and date ~~of employees~~ are required at the departure  
14 location verifying that the equipment, including memory card or cartridge,  
15 is sealed to prevent tampering. Upon delivery of equipment, at least two  
16 ~~employees or~~ election judges OFFICIALS shall ~~MUST~~ verify, and indicate by  
17 signing and dating the chain-of-custody log, that all seals are intact and  
18 that the serial numbers on the seals match the logged serial numbers. ~~If~~  
19 ~~there is any evidence of possible tampering with a seal, or if the serial~~  
20 ~~numbers do not match those listed in the chain of custody log, they shall~~  
21 ~~immediately notify the county clerk and recorder who shall follow the~~  
22 ~~procedures specific to the incident as described in Rule 43.2.11.~~

23 (2) (B) Transportation by election judges. Election judges OFFICIALS that are  
24 receiving equipment ~~from county personnel~~ shall ~~MUST~~ inspect all  
25 components of voting devices and verify the specific numbers by signature  
26 and date on the chain-of-custody log for the device. ~~The election judge~~  
27 ~~receiving the equipment shall request two election judges at the voting~~  
28 ~~location to inspect the devices and to sign and date the chain of custody~~  
29 ~~log indicating that all seals are intact and that the serial numbers on the~~  
30 ~~seals match with those on the seal tracking log. If there is any evidence of~~  
31 ~~possible tampering with a seal, or if the serial numbers do not match those~~  
32 ~~listed in the chain of custody log, they shall immediately notify the county~~  
33 ~~clerk and recorder who shall follow the procedures specific to the incident~~  
34 ~~as described in Rule 43.2.11.~~

35 (3) (C) Transportation by contract. A county electing to contract the delivery of  
36 equipment to remote voting locations shall ~~MUST~~ perform AN ~~CBI~~  
37 ~~background checks~~ ICHC on EACH OF the specific individuals ~~who will be~~  
38 delivering the equipment. Two ~~employees or~~ election judges OFFICIALS  
39 shall ~~MUST~~ verify, sign, and date the chain-of-custody log upon release of  
40 the equipment to the individual(s) delivering the equipment. ~~Two other~~  
41 ~~employees or election judges shall verify, sign, and date the chain of~~  
42 ~~custody log after delivery of the equipment, and prior to the opening of the~~  
43 ~~polls. If there is any evidence of possible tampering with a seal, or if the~~  
44 ~~serial numbers do not match those listed in the chain of custody log, they~~



1 shall immediately notify the county clerk and recorder who shall follow  
2 the procedures specific to the incident as described in Rule 43.2.11.  
3 [~~Section 24-72-305.6, C.R.S.~~]

4 (b) ~~20.10.2~~ 20.9.2 Standards for transporting voting equipment to and from the voting  
5 location:

6 (A) Required procedures if memory cards or cartridges are removed from  
7 voting devices at remote voting locations:

8 (A) (1) Before removing a memory card or cartridge, two election judges  
9 OFFICIALS shall MUST inspect and verify that all seals on the device  
10 are intact and that the serial numbers on the seals match those  
11 listed on the chain-of-custody log. Both election judges OFFICIALS  
12 shall MUST sign and date the chain-of-custody log prior to breaking  
13 the seal. If there is any evidence of possible tampering with a seal,  
14 or if the serial numbers do not match those listed in the chain-of-  
15 custody log, they shall immediately notify the county clerk and  
16 recorder who shall follow the procedures specific to the incident as  
17 described in Rule 43.2.11.

18 (B) (2) Election judges OFFICIALS shall MUST place the memory cards or  
19 cartridges in a sealable transfer case and must seal the case with at  
20 least one seal. The election judges OFFICIALS shall MUST maintain a  
21 chain-of-custody log for the transfer case of the memory cards or  
22 cartridges.

23 (C) (3) Election judges OFFICIALS shall MUST place new seals over the  
24 empty memory card/cartridge slot and/or door and document the  
25 seal numbers used.

26 (D) (4) At least two county personnel or election judges OFFICIALS shall  
27 MUST accompany the transfer case containing the memory  
28 cards/cartridges to the drop-off PROCESSING location. The election  
29 judges OFFICIALS who receive the equipment must verify, and  
30 indicate by signing and dating the chain-of-custody log, that the  
31 seals are intact and seal serial numbers match those listed in the  
32 log. If there is any evidence of possible tampering with a seal, or if  
33 the serial numbers do not match those listed in the chain-of-  
34 custody log, the county personnel or election judges shall  
35 immediately notify the county clerk and recorder who shall follow  
36 the procedures specific to the incident as described in Rule  
37 43.2.11.

38 (E) (5) County personnel or election judges ELECTION OFFICIALS  
39 transporting secured voting equipment must maintain chain-of-  
40 custody logs. If there is any evidence of possible tampering with a

1 seal, or if the serial numbers do not match those listed in the chain-  
2 of custody log, they shall immediately notify the county clerk and  
3 recorder who shall follow the procedures specific to the incident as  
4 described in Rule 43.2.11.

5 ~~(2)~~(B) Required procedures if devices are delivered with memory  
6 cards/cartridges intact:

7 ~~(A)~~(1) Two ~~county personnel or~~ election ~~judges OFFICIALS~~ shall ~~MUST~~  
8 verify that all seals are intact at the close of polls. Election judges  
9 shall ~~MUST~~ sign and date the chain-of-custody log with such  
10 indication. ~~If there is any evidence of possible tampering with a~~  
11 ~~seal, or if the serial numbers do not match those listed in the chain-~~  
12 ~~of custody log, they shall immediately notify the county clerk and~~  
13 ~~recorder who shall follow the procedures specific to the incident as~~  
14 ~~described in Rule 43.2.11.~~

15 ~~(B)~~(2) At least two ~~county personnel or~~ election ~~judges OFFICIALS~~ shall  
16 MUST accompany the secured equipment to the drop-off location.  
17 ~~Seals will be verified, and logs will be signed and dated by the~~  
18 ~~county election official receiving the equipment. If there is any~~  
19 ~~evidence of possible tampering with a seal, or if the serial numbers~~  
20 ~~do not match those listed in the chain of custody log, they shall~~  
21 ~~immediately notify the county clerk and recorder who shall follow~~  
22 ~~the procedures specific to the incident as described in Rule~~  
23 ~~43.2.11. THE PERSON RECEIVING THE EQUIPMENT MUST VERIFY THE~~  
24 ~~SEALS AND SIGN AND DATE THE LOGS.~~

25 ~~(C)~~(3) Upon confirmation that the seals are intact and bear the correct  
26 numbers, ~~election judges OR THE COUNTY PERSONNEL~~ shall  
27 ~~ELECTION OFFICIALS~~ MUST remove and upload the memory  
28 cards/cartridges into the central count system.

29 ~~(D)~~(4) To secure the equipment, election ~~judges OFFICIALS~~ shall ~~MUST~~  
30 place a tamper-evident seal over the memory card slot and update  
31 the chain-of-custody log to reflect the new seal number(s).

32 ~~(e) 20.10.3 20.9.3~~ Required procedures for transportation of ballot boxes:

33 ~~(A)~~(A) Election ~~judges OFFICIALS~~ shall ~~MUST~~ seal all ballot boxes that contain  
34 voted ballots so that no person can access the ballots without breaking a  
35 seal. The election ~~judges OFFICIALS~~ shall ~~MUST~~ record all seals in the  
36 chain-of-custody log and two election judges shall ~~MUST~~ verify, and  
37 indicate by signing and dating the log, that the required seals are intact.

38 ~~(2)~~(B) Two ~~county personnel or~~ election ~~judges OFFICIALS~~ shall ~~MUST~~ accompany  
39 all ballot boxes that contain voted ballots at all times, except when the  
40 ballot box is located in a vault or secure physical location.

1           (3)(C) The ballot box exchange requirements of section 1-7-305, C.R.S., are met  
2           if a chain-in-custody log is completed for each ballot box.

3           (D) IF A SEAL IS BROKEN OR CHAIN-OF-CUSTODY CANNOT BE VERIFIED, THE  
4           COUNTY CLERK MUST INVESTIGATE, DOCUMENT ~~THEIR~~ HIS OR HER  
5           FINDINGS, AND REPORT THE INCIDENT TO THE SECRETARY OF STATE, AS  
6           APPROPRIATE.

7           20.9.4    BALLOT SECURITY AT A VOTER SERVICE AND POLLING CENTER

8           (A)       THE COUNTY MUST SECURE UNVOTED BLANK PAPER BALLOTS DURING PRE-  
9           ELECTION STORAGE, TRANSPORTATION, AND AT POLLING LOCATIONS.

10           (1)       EXCEPT WHEN ELECTION OFFICIALS ARE ACTIVELY ISSUING BALLOTS  
11           THE BALLOT CONTAINERS MUST BE SEALED AND SECURE.

12           (2)       THE COUNTY MUST MAINTAIN CHAIN-OF-CUSTODY LOGS FOR ALL  
13           BALLOT CONTAINERS,

14           (B)       UNVOTED PAPER BALLOTS MUST BE TRANSPORTED TO POLLING LOCATIONS  
15           IN SEALED CONTAINERS. THE COUNTY CLERK MUST RECORD THE SEAL  
16           NUMBER ON A CHAIN-OF-CUSTODY LOG FOR VERIFICATION BY THE  
17           RECEIVING ELECTION OFFICIALS. THE RECEIVING ELECTION OFFICIAL MUST  
18           VERIFY THE BALLOT CONTAINER SEAL NUMBER BEFORE ISSUING BALLOTS.

19           (C)       WHEN ELECTION OFFICIALS ARE ACTIVELY ISSUING BALLOTS, THE UNVOTED  
20           BALLOTS MUST BE IN CLEAR VIEW OF A MINIMUM OF TWO ELECTION  
21           OFFICIALS OF DIFFERENT PARTY AFFILIATIONS AND ONE OF THE ELECTION  
22           OFFICIALS MUST ACTIVELY MONITOR THE BALLOTS UNLESS THE BALLOTS  
23           ARE STORED IN A LOCKED LOCATION ACCESSIBLE ONLY TO ELECTION  
24           OFFICIALS.

25           (D)       A MINIMUM OF TWO ELECTION OFFICIALS OF DIFFERENT PARTY  
26           AFFILIATIONS MUST RECONCILE AND DOCUMENT ALL UNVOTED, ISSUED,  
27           AND SPOILED PAPER BALLOTS AT THE END OF EACH DAY THE POLLING  
28           CENTER IS OPEN, AND IMMEDIATELY REPORT ANY INVENTORY  
29           DISCREPANCIES TO THE COUNTY CLERK.

30           (E)       IF UNVOTED PAPER BALLOTS ARE STORED OVERNIGHT AT THE POLLING  
31           LOCATION, THE BALLOTS MUST BE SEALED IN CONTAINERS AND STORED IN A  
32           LOCKED LOCATION ACCESSIBLE ONLY TO ELECTION OFFICIALS.

33           20.11    ELECTRONIC POLLBOOKS.

34           38.3.20.11.1   The designated election official shall COUNTY MUST establish written  
35           security procedures covering, WHICH COVER:

**Comment [S326]:** I would use the word "blank" ballots here instead of "unvoted" that is not defined. Sorry to say, all this chain of custody control of the blank ballots at polling locations is absurd when compared to the total lack of control over the ballots sent by mail. I agree that ballot security is important- so it must be solved for the mail ballot case. One way is to absolutely depend on ballot stubs for identification of returned ballots with the ballot sent to the elector.

1 ~~(A) The transference TRANSFER of Vote Center VOTER SERVICE AND POLLING~~  
2 ~~CENTER teleprocessing information.;~~

3 ~~38.3.2 (B) Such procedures shall include security covering The transmission~~  
4 ~~of elector data processed through the electronic pollbook; and~~

5 ~~(C) Reconciliation of the registration and history of voters casting ballots at a~~  
6 ~~Vote Center VOTER SERVICE AND POLLING CENTER.~~

7 ~~38.5.3 20.11.2 The county shall MUST submit in the security plan the system data transfer~~  
8 ~~requirements to completely process a single voter record. This shall MUST include~~  
9 ~~at a minimum the following:~~

10 ~~a.(A) The data stream information on both send SENDING and receiving data~~  
11 ~~STREAM INFORMATION for all points of the transaction until the transaction~~  
12 ~~is complete;~~

13 ~~b.(B) Information on all points where the connection is closed and the data~~  
14 ~~stream released between the remote computer and the server; and~~

15 ~~e.(C) The proposed method of securing transmissions across public networks.~~

16 ~~38.5.4 20.11.3 The county shall MUST submit in the security plan a detailed list of all vote~~  
17 ~~centers VOTER SERVICE AND POLLING CENTERS, with a proposed number of~~  
18 ~~workstations connecting to the database and the proposed connection (including~~  
19 ~~bandwidth and security) for each location.~~

20 *[Provisions relating to connectivity requirements for Voter Service and Polling Centers*  
21 *moved to new Rule 2.18]*

**Comment [S327]:** What happened to concern for security of electronic pollbook and devices that access SCORE?

22 ~~43.2.8 20.12-20.10~~ Contingency plans.

23 ~~(a) 20.12.1-20.10.1 Emergency~~ THE COUNTY MUST DEVELOP EMERGENCY contingency  
24 plans for voting equipment and voting locations IN ACCORDANCE WITH RULE 45  
25 21.

26 ~~(1) All remote devices used in an election shall have sufficient battery backup~~  
27 ~~for at least two hours of use. If this requirement is met by reliance on the~~  
28 ~~internal battery of the voting device, then the county clerk and recorder~~  
29 ~~shall verify that all batteries are fully charged and in working order prior~~  
30 ~~to the opening of polls at the voting location. The use of third party battery~~  
31 ~~backup systems also meets this requirement.~~

32 ~~(2) 20.12.2-20.10.2~~ In the event of a serious or catastrophic equipment failure, or when  
33 equipment is removed from service at one or more polling locations, or there is  
34 not adequate backup equipment to meet the requirements of section 1-5-501,  
35 C.R.S., the county clerk and recorder shall MUST notify the Secretary of State that

1 the county is using provisional ballots ~~or mail-in ballots~~ as an emergency voting  
2 method.

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

5 ~~(1) Evacuation procedures for emergency situations including fire, bomb~~  
6 ~~threat, civil unrest, and any other emergency situations identified by the~~  
7 ~~designated election official;~~

8 ~~(2) 20.12.3 20.10.3 Back up plans for~~ THE COUNTY CONTINGENCY PLANS AND  
9 EVACUATION PROCEDURES MUST ADDRESS emergency situations including fire,  
10 severe weather, bomb threat, civil unrest, electrical blackout, equipment failure,  
11 and any other emergency situations identified by the designated election official.;

12 ~~(3) An emergency checklist for election judges; and~~

13 ~~(4) A list of emergency contact numbers provided to election judges.~~

14 ~~38.3.3 20.12.4 20.10.4~~ Such procedures shall include contingency procedures for network  
15 and power failure. Such procedures shall at a minimum include procedures THE  
16 COUNTY MUST DEVELOP PROCEDURES to address all single point failures OF  
17 SCORE CONTINUITY, including: WHICH INCLUDES:

18 (a) network failure,

19 (b) power failure that lasts less than one (1) hour, and

20 (c) Power failure that lasts more than one (1) hour.

21 38.3.4 Acceptable alternatives for addressing such failures include either:

22 a. A paper backup of the pollbook with the minimum information  
23 required to verify a voter's eligibility; or

24 b. A sufficient number of computers per vote center to ensure that the  
25 voter check in continues in an efficient manner. The computers  
26 shall have the ability to function on batteries or an external power  
27 source for up to two (2) hours. In addition, each computer shall  
28 have an electronic backup of the current pollbook in one (1) of the  
29 following formats:

30 i. A Portable Document File (PDF);

31 ii. A spreadsheet that is limited to sixty four thousand  
32 (64,000) lines if in Excel; or

33 iii. A database with a basic look up interface.

1 38.3.5 ~~20.12.5~~ 20.10.5 In addition to acceptable backup pollbook procedures, the security  
2 procedures shall address contingency procedures. PROCEDURES THE COUNTY MUST  
3 DEVELOP PROCEDURES to protect against activities such as voting twice, including  
4 but not limited to the use of an affidavit that the voter has not and will not cast  
5 another ballot.

6 *[Current Rules 38.3.3-38.3.5 and 43.2.8 are amended and moved to new Rule 20.10.]*

7 ~~11.6~~ ~~20.13~~ 20.11 Procedures for ~~Voter Verifiable Paper Audit Trail (V-VPAT)~~ VOTER  
8 VERIFIABLE PAPER RECORD (VVPAT). THE FOLLOWING REQUIREMENTS APPLY ONLY TO  
9 DRES WITH A VVPAT.

10 ~~11.6.1~~ ~~20.13.1~~ 20.11.1 Security. ~~11.6.1.1~~ —The ~~V-VPAT~~ VVPAT record is considered  
11 an official record of the election, pursuant to ~~IN~~ ACCORDANCE WITH section 1-5-  
12 802, C.R.S. All security procedures related to election ballots shall MUST apply to  
13 ~~V-VPAT~~ VVPAT records.

14 ~~11.6.1.2~~ (A) The housing unit for any ~~V-VPAT~~ VVPAT record to be used in the  
15 election shall MUST be sealed and secured prior to any votes being cast for  
16 the election. Documentation of the seal number(s) must be maintained and  
17 noted prior to voting, and at the conclusion of voting. (a) — Election  
18 judges OFFICIALS shall MUST attest to the ~~V-VPAT~~ VVPAT record having  
19 no votes included on the paper record prior to the start of voting, and prior  
20 to the installation or replacement of a new ~~V-VPAT~~ VVPAT record.  
21 DOCUMENTATION OF THE SEAL NUMBER(S) MUST BE MAINTAINED AND  
22 NOTED PRIOR TO VOTING AND AT THE CONCLUSION OF VOTING.

23 ~~11.6.1.3~~ (B) If a DRE with ~~V-VPAT~~ VVPAT is used during early voting, the  
24 seal number(s) must be recorded at the beginning and end of each voting  
25 day.

26 ~~11.6.1.4~~ (C) At the close of the polls, the ~~V-VPAT~~ VVPAT records will be  
27 transferred to the ~~central~~ ELECTION office in the same manner as any paper  
28 ballots. In the absence of paper ballots, the ~~V-VPAT~~ VVPAT records will  
29 be transferred to the ~~central~~ ELECTION office in the same manner as ~~any~~  
30 memory cards ~~containing electronic ballots~~.

31 ~~11.6.2~~ ~~20.13.2~~ 20.11.2 Anonymity. ~~11.6.2.1~~ —The ~~Election Official~~ DESIGNATED ELECTION  
32 OFFICIAL shall put MUST IMPLEMENT measures in place to protect the anonymity of  
33 voters choosing to vote on DREs during the voting periods. These measures shall  
34 include:

35 (A) MEASURES TO PROTECT THE ANONYMITY MAY INCLUDE:

36 (a) — Encouraging poll workers to personally vote on DREs when  
37 possible to ensure more than one vote will be cast on the device.

1                    ~~(b)~~(1) Appropriate marking in ~~Poll Book~~ POLLBOOK or other voting list  
2                    indicating ~~voters~~ VOTER'S choice to vote on DRE with the words:  
3                    "Voted DRE", or similar in place of paper ballot information. THE  
4                    COUNTY MAY NOT KEEP ANY ~~No~~ record ~~shall MAY be kept~~  
5                    indicating the order in which people voted on the DRE, or which  
6                    ~~V VPAT~~-VVPAT record is associated with the voter.

7                    ~~(e)~~(2) When more than one DRE is available at a voting location, the  
8                    voter ~~shall~~ MUST be given the choice as to which DRE they would  
9                    like to vote on, to the extent ~~practical~~-PRACTICABLE.

10                   ~~(d)~~ — Encouraging or allowing any and all voters the opportunity to vote  
11                   on a DRE if desired.

12                   ~~11.6.2.2~~(B) THE COUNTY CLERK MUST REMOVE THE DATE/TIME STAMP FROM  
13                   ANY ~~Any~~ report or export (~~electronic or paper based~~) generated from an  
14                   electronic pollbook. ~~shall MUST remove the date/time stamp from the~~  
15                   ~~record and~~ THE COUNTY CLERK MAY not use this field as a sort method.  
16                   THE COUNTY CLERK MUST RANDOMLY ASSIGN ANY ~~Any assignment of~~  
17                   Record ID ~~IDs~~, Key ID, or Serial Number stored in the database of votes  
18                   ~~shall be randomly assigned.~~

19                   ~~11.6.2.3~~ — Any Pollbook, ~~electronic, paper or otherwise shall not be exposed~~  
20                   ~~to the same people at the same place who have exposure to the V VPAT~~  
21                   ~~VVPAT records.~~

22                   (C) ~~ELECTION JUDGES MAY NOT ACCESS VVPAT RECORDS AT THE TIME OF~~  
23                   ~~VOTING. AT NO TIME MAY AN ELECTION JUDGE OFFICIAL SIMULTANEOUSLY~~  
24                   ACCESS A VVPAT AND THE LIST OF VOTERS.

25                   ~~11.6.2.4~~ The Examination of the ~~V VPAT~~-VVPAT record ~~shall always~~  
26                   MUST be ~~done~~-PERFORMED by at least two ~~witnesses~~-ELECTION ~~JUDGES~~  
27                   OFFICIALS.

28                   ~~11.6.3~~ ~~20.13.3~~ ~~20.11.3~~ Storage. ~~11.6.3.1~~ — The storage of the ~~V VPAT~~-VVPAT  
29                   records must be consistent with storage of paper ballots pursuant to ~~section~~  
30                   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;

35                   ~~(e)~~(3) Date(s) and time(s) of voting;

36                   ~~(d)~~(4) Machine serial number of DRE associated with the record; and

1                    ~~(E)~~(5) Number of spools associated with this machine for this election  
2                                   (i.e. “Spool 1 of 1”, or “Spool 1 of 2”, etc.).

3                    ~~11.6.3.3~~(B) Light sensitive storage containers ~~shall~~MUST be used for the 25  
4                                   month storage period to ensure the integrity of the ~~V-VPAT-VVPAT~~  
5                                   paper record. Containers ~~shall~~MUST be sealed, with record of the seal  
6                                   numbers maintained on file and signed by two ~~elections~~ ELECTION officials  
7                                   JUDGES.

8                    ~~11.6.3.4~~(C) A master catalog ~~shall~~MUST be maintained for the election  
9                                   containing the complete total number of ~~V-VPAT-VVPAT~~ spools used in  
10                                   the election.

11                    [Current Rule 11.6 is amended and relocated to New Rule 20.11. Amendments are shown  
12                                   above.]

13                    ~~43.2.10 20.14 20.12~~ Security training for election ~~judges-OFFICIALS~~. ~~(a)~~The county shall  
14                                   MUST include in ~~their~~ ITS security plan the details of ~~their~~ ITS security training ~~for their~~  
15                                   election ~~judges~~ IN ACCORDANCE WITH RULE XX. The county must address the anticipated  
16                                   time of training, location of training, and number of election ~~judges-OFFICIALS~~ receiving  
17                                   the security training, as it applies to the following requirements:

18                    ~~(+)~~(A) The county ~~shall~~MUST conduct a separate training module for field technicians  
19                                   and election ~~judges-OFFICIALS~~ responsible for overseeing the transportation and  
20                                   use of the voting systems, picking up supplies, and troubleshooting device  
21                                   problems throughout the Election Day.

22                    ~~(2)~~(B) Security training ~~shall~~MUST include the following components:

23                    ~~(A)~~(1) Proper application and verification of seals and chain-of-custody logs;

24                    ~~(B)~~(2) How to detect tampering with voting equipment, memory cards/cartridges,  
25                                   or election data on the part of anyone coming in contact with voting  
26                                   equipment, including ~~employees, other~~ election ~~judges-OFFICIALS~~, vendor  
27                                   personnel, or voters;

28                    ~~(C)~~(3) Ensuring privacy in voting booths;

29                    ~~(D)~~—The nature of and reasons for the steps taken to mitigate the security  
30                                   vulnerabilities of voting systems;

31                    ~~(E)~~(4) ~~V-VPAT~~ VVPAT requirements;

32                    ~~(F)~~(5) Chain-of-custody requirements for voting equipment, memory  
33                                   cards/cartridges, and other election materials;

34                    ~~(G)~~(6) Ballot security;



(H) (7) Voter ~~PRIVACY AND BALLOT~~ anonymity; and

Comment [S328]: Voters are not anonymous.

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(H) (8) Recognition and reporting of security incidents.

~~43.2.11~~ 20.15-20.13 Remedies.

(a) ~~41.15.1-20.13.1~~ If a seal is broken, or if there is a ANOTHER discrepancy in a chain of custody log, OR OTHER DISCREPANCY FOR ELECTRONIC VOTING EQUIPMENT, the election judges shall JUDGE OFFICIAL MUST immediately notify the county CLERK clerk and recorder, who shall MUST investigate, complete and submit to the Secretary of State an internal incident report, and follow the appropriate remedy as indicated in this rule or as directed by the Secretary of State. ~~REMEDY THE DISCREPANCY AS FOLLOWS:~~

(b) ~~If the county clerk and recorder conducts an investigation in accordance with Rule 43.2.11(a) and is unable to determine why a seal was broken or why a discrepancy exists in a chain of custody log, then the county clerk and recorder shall file an incident report with the Secretary of State as soon as practicable, but no later than the close of the canvass period for the election. Any unit involved must undergo the reinstatement or verification of the trusted build, in accordance with State instructions. The following remedial actions are required if a device was tampered with (the county clerk and recorder may determine additional requirements based on the details of the incident report):~~

(H)(A) THE COUNTY OR SECRETARY OF STATE MUST REINSTATE OR VERIFY THE TRUSTED BUILD. For instances where the county can display, verify, or print the ~~trusted build~~ hash value (MD5 or SHA-1) of the firmware or software, the election official shall MUST document and verify that the hash value matches the documented ~~number~~ ALPHANUMERIC STRING associated with the trusted build for the software or firmware of that device.

(2)(B) If the evidence indicates that the ~~tampering~~ DISCREPANCY occurred prior to BEFORE the start of voting:

(A)(1) The election ~~judges~~ OFFICIALS shall MUST seal the device and securely deliver it to the ~~county clerk and recorder~~.

Comment [S329]: County?

(B)(2) ~~The county clerk and recorder or his or her designee shall remove and secure the memory card following the procedures in Rule 43.2.2(d). The county clerk and recorder or his or her designee shall follow the State instructions for installing/verifying the trusted build for the specific device. The county clerk and recorder or his or her designee shall~~ OR THE SECRETARY OF STATE MUST install a new, secure memory card into the device, conduct a hardware diagnostics test as prescribed in Rule 11, and proceed to conduct a ~~logic and accuracy~~ AN ACCEPTANCE test on the machine in full election mode, casting at least 25 ballots on the device. The

Comment [S330]: Ditto

1 ~~county shall~~ MUST maintain on file all documentation of testing and  
2 ~~chain of custody~~ CHAIN-OF-CUSTODY for each specific device.

Comment [S331]: Ditto... Should we define "county" as "county clerk"?

3 ~~(C)~~(3) The ~~county shall~~ MUST complete the necessary seal process and  
4 documentation to re-establish the ~~chain of custody~~ CHAIN-OF-  
5 CUSTODY for the device and new memory card.

Comment [S332]: Ditto

6 ~~(D)~~(4) The ~~county shall~~ MUST set the machine to election mode ready for  
7 a zero report.

Comment [S333]: Ditto

8 ~~(E)~~ Repealed.

9 ~~(3)~~(C) If the evidence indicates that the ~~tampering~~ DISCREPANCY occurred after  
10 votes were cast on the device ~~but before the close of polls~~:

11 ~~(H)~~(1) THE ~~COUNTY~~ MAY NOT CONTINUE TO USE THE MACHINE UNTIL  
12 VERIFICATION OR REINSTALLATION OF TRUSTED BUILD AND  
13 ACCEPTANCE TESTING IS COMPLETE. The ~~county shall~~ MUST set the  
14 machine to election mode ready for a zero report BEFORE  
15 RESUMING VOTING ON THE DEVICE.

Comment [S334]: Ditto

Comment [S335]: Ditto

16 ~~(A)~~(2) The election ~~judges~~ OFFICIALS ~~shall~~ MUST seal the device and  
17 securely deliver it to the ~~county clerk and recorder~~.

Comment [S336]: Ditto

18 ~~(B)~~(3) The ~~county clerk and recorder or his or her designee shall~~ MUST  
19 close the election on that device, and perform a complete manual  
20 ~~verification COUNT~~ of the paper ballots (or VVPAT records) to ~~COMPARE TO~~ the  
21 summary tape printed on the device that represents the record of  
22 votes on the memory card.

Comment [S337]: Ditto

Comment [S338]: Describe what It is

23 ~~(C)~~(4) If the totals do not match then only the paper record ~~COUNT~~ will be  
24 accepted as the official results for that device. The ~~county clerk~~  
25 ~~and recorder shall~~ MUST re-seal and secure the device and  
26 immediately report the discrepancy to the Secretary of State. ~~The~~

Comment [S339]: Ditto

27 ~~county must not~~ ~~NO~~ use ~~MAY BE MADE OF~~ the device for the remainder of the election  
28 unless the trusted build is ~~reinstalled~~ REINSTATED.

Comment [S340]: Not just in the county

29 ~~(D)~~(5) If the totals match, the ~~county~~ may upload the memory card into  
30 the ~~tally software~~ at the close of polls.

Comment [S341]: County?

Comment [S342]: "tally software" is not defined..

31 ~~(E)~~(6) After verifying the totals, the ~~county shall~~ MUST secure the paper  
32 records and memory card with seals and a chain-of-custody log.

Comment [S343]: County again.

33 ~~(F)~~ The ~~county shall place a new and secure memory card in the~~  
34 ~~device. The county clerk and recorder or his or her designee shall~~  
35 ~~follow the State instructions for installing/verifying the trusted~~  
36 ~~build for the specific device. The county clerk and recorder or his~~  
37 ~~or her designee shall conduct a hardware diagnostics test as~~

1                   prescribed in Rule 11. The county shall maintain on file all  
2                   documentation of testing and chain of custody for the device.

3                   ~~(G)(7) The county shall MUST complete the necessary seal process and~~  
4                   ~~documentation to establish the chain of custody CHAIN-OF-~~  
5                   ~~CUSTODY for the device and memory card.~~

**Comment [S344]:** Very weak use of terminology for key actors considering this is the security section of the rules.

6                   ~~(H) The county shall set the machine to election mode ready for a zero~~  
7                   ~~report.~~

8                   *[Current Rule 43.2.11(a)(3)(H) is amended and moved to 20.13(c)(1)*  
9                   *above]*

10                   ~~(I)(8) At the conclusion of the election PRIOR TO CERTIFYING ELECTION~~  
11                   ~~RESULTS, the county shall MUST conduct a full (all races CONTESTS) post-~~  
12                   ~~election audit on the device and report PROCESS AND results to the Secretary of~~  
13                   ~~State as required by Rule 11. This requirement is in addition to the~~  
14                   ~~random selection FOR AUDIT OF DEVICES conducted by the Secretary of State.~~

**Comment [S345]:** One more.

**Comment [S346]:** Not just races.

**Comment [S347]:** Not just results but a report of process.

**Comment [S348]:** To be clear, it is not just a random selection but an actual audit of other devices.

15                   ~~(J) Repealed.~~

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16                   ~~(4) If the evidence indicates that the tampering occurred after the close of~~  
17                   ~~polls:~~

18                   ~~(A) The election judges shall seal the device and securely deliver it to~~  
19                   ~~the county clerk and recorder.~~

20                   ~~(B) The county clerk and recorder or his or her designee shall perform~~  
21                   ~~a complete manual verification of the paper ballots (or V VPAT~~  
22                   ~~records) to the summary tape printed on the device that represents~~  
23                   ~~the record of votes on the memory card.~~

24                   ~~(C) If the totals do not match then only the paper record will be~~  
25                   ~~accepted as the official results for that device. The county clerk~~  
26                   ~~and recorder shall re seal and secure the device and immediately~~  
27                   ~~report the discrepancy to the Secretary of State. The county must~~  
28                   ~~not use the device for the remainder of the election unless trusted~~  
29                   ~~build is reinstalled.~~

30                   ~~(D) If the totals match, the county may upload the memory card into~~  
31                   ~~the tally software at the close of polls.~~

32                   ~~(E) After verifying the totals, the county shall secure the paper records~~  
33                   ~~and memory card with seals and a chain of custody log~~

34                   ~~(F) The county clerk and recorder or his or he designee shall follow~~  
35                   ~~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 ~~racess) post election audit on the device and report results to the~~  
5 ~~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.~~

9 (e) ~~20.15.3-20.13.2~~ The county shall ~~shall~~MUST make all documentation related to the  
10 voting system and for every device used in the election available for Secretary of  
11 State inspection.

Comment [S349]: County?

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,~~  
15 ~~schedules, logs, and checklists.~~

16 *[Current Rule 43.3 is moved to Rule 20.3.6]*

17 ~~43.4 20.16-20.14~~ Amendments and review of security plans.

18 ~~43.4.1 20.16.1-20.14.1~~If no changes have occurred since the last security plan was filed,  
19 THEN the county shall ~~shall~~MUST file a statement to that effect.

20 ~~43.4.2 20.16.2-20.14.2~~The county shall ~~shall~~MUST clearly identify and describe any revisions  
21 to a previously filed security plan.

22 ~~43.4.3 20.16.3-20.14.3~~The county may change the security plan within 60 days of an  
23 election as a result of an emergency situation or other unforeseen circumstance.  
24 The county must document the changes and file the revisions with the Secretary  
25 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 20.17-20.15~~ Lease, LOAN, OR RENTAL OF ELECTION EQUIPMENT. ~~43.5.1~~ Nothing in  
30 this rule requires a county clerk to lease, loan, or rent any election equipment to any  
31 municipality, special district or other local jurisdiction.

32 ~~43.5.2 20.17.1-20.15.1~~A county clerk ~~who~~ THAT chooses to lease, loan, or rent any  
33 certified election equipment to a municipality, special district, or other local  
34 jurisdiction for use in their elections shall ~~shall~~MUST follow at least one of the  
35 following procedures in order to maintain or reestablish an acceptable chain of

1 ~~custody~~ CHAIN-OF-CUSTODY and appropriate documentation in accordance with  
2 Rule ~~43.2.1~~ ~~20.3~~ 20.2.

3 ~~43.5.3~~ ~~20.17.2~~ ~~20.15.2~~ Upon return of the ~~certified~~ voting equipment to the county clerk  
4 and recorder, the county clerk is required to verify the trusted build, in accordance  
5 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.

9 (a) ~~20.17.3~~ ~~20.15.3~~ After the local jurisdiction returns the certified equipment to the  
10 county clerk, the county clerk must reinstate or verify the trusted build in  
11 accordance with Rule 43 before the equipment is used in any primary, general,  
12 congressional vacancy, statewide ballot issue (including recall), or special  
13 election conducted by the county clerk. TO REINSTATE OR VERIFY THE TRUSTED  
14 BUILD, THE COUNTY MUST IMPLEMENT ONE OF THE FOLLOWING PROCEDURES:

15 (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  
20 equipment in accordance with Rule ~~43.2.2~~ ~~20.4~~ 20.3. 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  
25 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 reinstall~~ MUST  
30 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  
35 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~~  
5 voting equipment at all times;
- 6 (2) Affirm that the use of the ~~certified~~-voting equipment is conducted  
7 in accordance with THIS Rule ~~43-20~~ the specific Conditions for Use  
8 of the ~~certified~~-voting equipment; and
- 9 (3) Agree to maintain all chain-of-custody logs for the voting  
10 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.~~

15 ~~20.18-20.16~~ BALLOT ON DEMAND

16 ~~20.18.1-20.16.1~~ THE COUNTY MUST USE ~~THE STATE-PROVIDED LAPTOP~~ FOR BALLOT  
17 ON DEMAND PURPOSES ONLY.

**Comment [S350]:** Is this a defined single piece of equipment? Hard to believe.

18 ~~20.18.2-20.16.2~~ SOFTWARE ACCESS, SECURITY, AND STORAGE.

19 (A) THE COUNTY MUST CHANGE ALL WINDOWS AND BALLOT ON DEMAND  
20 APPLICATION PASSWORDS AT LEAST ONCE PER CALENDAR YEAR.

21 (B) ONLY ~~THE COUNTY, ELECTION JUDGES, SECRETARY OF STATE STAFF,~~  
22 ~~ELECTION OFFICIALS~~ OR AUTHORIZED VENDOR REPRESENTATIVES MAY  
23 OPERATE THE BALLOT ON DEMAND SYSTEM.

24 (C) THE COUNTY MAY CONNECT THE BALLOT ON DEMAND LAPTOP TO AN  
25 EXTERNAL NETWORK FOR THE PURPOSE OF CONNECTING TO SCORE ONLY  
26 IF THE COUNTY MAINTAINS CURRENT VIRUS PROTECTION AND IMPLEMENTS  
27 FIREWALLS TO PREVENT UNAUTHORIZED ACCESS.

**Comment [S351]:** This seems insufficient for security and problematic.

28 (D) THE COUNTY MUST STORE THE STATE-PROVIDED LAPTOP(S) AND UNUSED  
29 PAPER BALLOT STOCK IN A LOCKED STORAGE AREA WHEN THE PRINTER IS  
30 NOT IN USE.

31 ~~20.18.3-20.16.3~~ BALLOT RECONCILIATION.

32 (A) THE COUNTY MUST RECONCILE BALLOTS PRINTED ON DEMAND IN  
33 ACCORDANCE WITH RULES ~~41.4 AND 41.5~~ 20.4 AND 20.5.

1 (B) THE COUNTY MUST MAINTAIN DAMAGED, MISPRINTED, OR UNUSABLE  
2 BALLOTS AS ELECTION RECORDS.

3 **Rule 45. Rule 21. Rules Concerning Voting System Standards for Certification**

4 45.1-21.1 Definitions. The following definitions apply to their use in this rule only, unless  
5 otherwise stated.

6 45.1-21.1.1 “Audio ballot” means a voter interface containing the list of all candidates,  
7 ballot issues, and ballot questions upon which an eligible elector is entitled to vote  
8 in an election. It also provides the voter with audio stimuli and allows the voter to  
9 communicate voting intent to the voting system through vocalization or physical  
10 actions.

11 45.1-21.1.2 “Audit log” means a system-generated record, in printed and/or electronic  
12 format, providing a record of activities and events relevant to initializing election  
13 software and hardware, the identification of files containing election parameters,  
14 initializing the tabulation process, processing voted ballots and terminating the  
15 tabulation process.

16 45.1-21.1.3 “Ballot image” means a corresponding TEXTUAL representation in electronic form of  
17 the marks or vote positions of a cast ballot that are captured by a direct recording  
18 electronic voting device DRE OR AN OPTICAL SCANNER  
“BALLOT SCAN” MEANS A DIGITALLY RETAINED PHOTOGRAPHIC IMAGE OF A BALLOT.

**Comment [S352]:** Trying to clearly describe a cast vote record and not a photographic image.  
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**Comment [S353]:** Either source is possible.  
**Comment [S354]:** New and different definition for a scanned photographic image of a ballot.

19 45.1-421.1.4 “BALLOT MARKING DEVICE” OR “BMD” MEANS A DEVICE THAT USES  
20 ELECTRONIC TECHNOLOGY TO PERFORM THE FIRST AND OPTIONALLY THE SECOND  
STEP OF THE FOLLOWING:  
21 (A) MARK AN OPTICAL SCAN BALLOT AFTER INTERACTIVE T-VOTER DIRECTION  
AND VERIFICATION MARK A PAPER BALLOT SUITABLE FOR BEING OPTICALLY SCANNED,  
22 (B) INTERPRET THE BALLOT SELECTIONS ALREADY MARKED ON A PAPER BALLOT,  
AND COMMUNICATE THE INTERPRETATION FOR VOTER VERIFICATION, AND THEN

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24 (D) PRINT A VOTER VERIFIED BALLOT.  
25 A BMD INTEGRATES COMPONENTS SUCH AS AN OPTICAL SCANNER, PRINTER,  
26 TOUCH-SCREEN MONITOR, AND A NAVIGATIONAL KEYPAD OR OTHER INPUT METHODS  
AS WELL AS AUDIO OUTPUT.

**Comment [S355]:** This is a rewrite of the definition of a BMD. For HAVA compliance both steps are required. Voter verification happens when the paper ballot is read and verified, not when the content on the screen is verified. This is of crucial importance and the originally written rule misunderstands this point.

27 45.1-421.1.5 “Ballot style” means a specific ballot layout or content for an election. The  
28 ballot style is the presentation of the unique combination of contests and  
29 candidates for which the voter is eligible to vote. It includes the order of contests,  
30 and candidates, the list of ballot positions for each contest, and the binding of  
31 candidate names to ballot positions within the presentation. Multiple precincts  
32 may use a single ballot style, ONLY IF PRECINCT NUMBER IS NOT CODED IN THE DESIGN OF THE BALLOT.  
Multiple styles may appear in a single precinct  
33 where voters are split between two or more districts or other categories defining  
34 voter eligibility for particular contests and candidates.

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**Comment [S356]:** Not necessary.  
**Comment [S357]:** Ditto  
**Comment [S358]:** Clarification  
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1 45.1.5 21.1.6 “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 45.5.2.7-21.

4 45.1.6 “Communications devices” means devices that may be incorporated in, or  
5 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 21.1.7 “DRE” means a direct recording electronic voting device. A DRE is a  
9 voting device that records votes by means of a ~~ballot-VISUAL AND AUDIO display OR AN AUDIO OF~~  
10 ~~BALLOT CONTENTS AND CAPTURES~~ provided with USER INPUT VIA mechanical or electro-optical components ~~INCLUDING OPTIONAL INPUT~~  
11 ~~DEVICES PROVIDED BY THE VOTER~~ or an audio ballot that can be activated by the voter, AND processes data by means of a computer SOFTWARE  
12 program and THAT 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  
15 a means for transmitting individual ballot IMAGES or vote totals to a central location for  
16 consolidating and reporting results from remote sites to the central location.

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Comment [S359]: This definition needed  
improvement but I left the structure the same.

17 45.1.8 21.1.8 “EAC” means the United States Election Assistance Commission.

18 45.1.9 21.1.9 “Election management system” includes, but is not limited to, the ballot  
19 definition subsystem and the election reporting subsystem. The election  
20 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 VOTER SERVICE AND POLLING CENTERS.

24 45.1.10 21.1.10 “Election media” means any device including a cartridge, card,  
25 memory device or hard drive used in a voting system for the purposes of  
26 programming ballot image, ~~STORING ELECTION SETUP RECORDS data~~ (ballot or card styles), recording  
voting results

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27 from electronic vote tabulating equipment or any other data storage required by  
28 the voting system for a particular election function. The election management  
29 system typically downloads ballot style information to the election media and  
30 uploads results and ballot images from the election media.

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31 45.1.11 21.1.11 “Equipment” or “device” means a complete, AND inclusive term to  
32 represent all items submitted for certification by the voting system provider. This  
33 can include, but is not limited to, any voting device, accessory to voting device,  
34 DRE, touch screen voting device, card programming device, software and  
35 hardware. “Equipment” may also mean a complete end to end voting system  
36 solution.

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37 45.1.12 21.1.12 “MODIFICATION” MEANS A REVISION OR A NEW RELEASE OF AN  
38 ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM.

39 21.1.13 “OPTICAL SCANNER” MEANS AN OPTICAL OR DIGITAL BALLOT SCANNER.



1 45.1.12 21.1.14 "Remote site" means any physical location identified by a  
2 designated election official as a location where the jurisdiction shall conduct the  
3 casting of ballots for a given election. A remote site includes, but is not limited to,  
4 locations such as precinct polling places, vote centers, early voting sites and mail  
5 in ballot counting sites VOTER SERVICE AND POLLING CENTERS.

6 45.1.13 21.1.15 "~~Removable Storage Media~~" "REMOVABLE STORAGE MEDIA"  
7 means storage devices that can be removed from the system and transported to  
8 another location for readout and report generation. Examples of removable  
9 storage media include, but are not limited to, programmable read-only memory  
10 (PROM), random access memory (RAM) with battery backup, thumb drives,  
11 magnetic media and optical media.

12 45.1.14 21.1.16 "Secretary of State" ~~within the context of this rule,~~ means the  
13 Colorado Secretary of State and his or her ~~designated~~ agents including employees,  
14 contractors and volunteers **BY SPECIFIC AND DOCUMENTED DESIGNATION.**

**Comment [S360]:** This is how we achieve accountability for SOS actions. Under the circumstances.

15 45.1.15 21.1.17 "Security" means the ability of a voting system to protect election  
16 information and election system resources with respect to confidentiality, integrity  
17 and availability.

18 45.1.16 21.1.18 "~~Split Precinct~~" "SPLIT PRECINCT" means a precinct that has a  
19 geographical divide between one or more political jurisdictions which results in  
20 each jurisdiction within the precinct to be assigned different ballot styles for a  
21 specific election.

22 45.1.17 ~~45.1.19~~ 21.1.19 "Test Log" or "~~Test Records~~" "TEST LOG" OR "TEST  
23 RECORDS" means the documentation of certification testing and processes. This  
24 documentation may include, but is not limited to, certification testing reports, test  
25 plans, requirements matrices, photographs, written notes, video and/or audio  
26 recordings.

27 45.1.18 21.1.20 "~~Trusted Build~~" "TRUSTED BUILD" means the write-once  
28 installation disk or disks for software and firmware for which the Secretary of  
29 State or his/her agent has established the chain of evidence to the building of a  
30 disk, which is then used to establish and/or re-establish the ~~chain of custody~~  
31 CHAIN-OF-CUSTODY of any component of the voting system which contains  
32 firmware or software. The trusted build is the **SOS MAINTAINED** origin of the chain of evidence for  
33 any software and firmware component of the voting system.

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34 45.1.20 "VOTING SYSTEM" MEANS:

35 (A) ~~THE TOTAL COMBINATION OF MECHANICAL, ELECTROMECHANICAL, OR~~  
36 ~~ELECTRONIC EQUIPMENT (INCLUDING THE SOFTWARE, FIRMWARE, AND~~  
37 ~~DOCUMENTATION REQUIRED TO PROGRAM, CONTROL, AND SUPPORT THE~~  
38 ~~EQUIPMENT) THAT IS USED TO:~~

39 (1) ~~DEFINE BALLOTS;~~

- 1                   (2) ~~CAST AND COUNT VOTES;~~
- 2                   (3) ~~REPORT OR DISPLAY ELECTION RESULTS; AND~~
- 3                   (4) ~~MAINTAIN AND PRODUCE ANY AUDIT TRAIL INFORMATION; AND~~
- 4                   (B) ~~THE PRACTICES AND ASSOCIATED DOCUMENTATION USED TO:~~
- 5                   (1) ~~IDENTIFY SYSTEM COMPONENTS AND VERSIONS OF SUCH~~
- 6                                 ~~COMPONENTS;~~
- 7                   (2) ~~TEST THE SYSTEM DURING ITS DEVELOPMENT AND MAINTENANCE;~~
- 8                   (3) ~~MAINTAIN RECORDS OF SYSTEM ERRORS AND DEFECTS;~~
- 9                   (4) ~~DETERMINE SPECIFIC SYSTEM CHANGES TO BE MADE TO A SYSTEM~~
- 10                                 ~~AFTER THE INITIAL QUALIFICATION OF THE SYSTEM; AND~~
- 11                   (5) ~~MAKE AVAILABLE ANY MATERIALS TO THE VOTER (SUCH AS~~
- 12                                 ~~NOTICES, INSTRUCTIONS, FORMS, OR PAPER BALLOTS).~~

13                   *[Relocated to new Rule 1.1.33]*

14                   45.1.19 ~~21.1.22~~ 21.1.21                   “Voting System Test Laboratory” or “VSTL” means a

15                                 ~~“Federally Accredited Laboratory”~~ “VOTING SYSTEM TEST LABORATORY” OR

16                                 “VSTL” MEANS A “FEDERALLY ACCREDITED LABORATORY”, as defined in section

17                                 1-1-104(16.5), C.R.S., which is accredited by the EAC to conduct certification

18                                 testing for voting systems.

19                   45.5.2.9.1 ~~21.1.23~~ V VPAT shall refer to a Voter-verified “VOTER-VERIFIED PAPER

20                                 AUDIT TRAIL” OR “VVPAT” MEANS A DEVICE CAPABLE OF PRODUCING A VOTER-

21                                 VERIFIED paper record as defined in section 1-1-104(50.6)(a), C.R.S.

22                   *[Relocated to new Rule 1.1.39]*

23                   45.2 21.2                   Introduction

24                   45.2.1 Definition of voting system for certification purposes

25                   45.2.1.1 21.2.1 ~~The definition of a voting system for the purposes of this rule shall be as~~

26                                 ~~the term is defined in HAVA Section 301(b).~~ For Colorado purposes, no single

27                                 component of a voting system, or device, meets the definition of a voting system

28                                 except that nothing in this rule shall MAY be interpreted to require the testing of an

29                                 entire modified system if the Secretary of State determines pursuant to IN

30                                 ACCORDANCE WITH section 1-5-618, C.R.S., that a modification to any certified

31                                 voting system requires testing for security and accuracy. ~~only~~ ONLY the

32                                 modification shall be required to AND ANY AFFECTED FEATURES OR CAPABILITIES

33                                 MUST be tested to ensure compliance with this Rule 45 21.

1 ~~45.2.1.2~~ 21.2.2 Sufficient components ~~shall~~ MUST be assembled to create a  
2 configuration that allows the system or modification as a whole to meet the  
3 requirements as described for a voting system in this rule.

4 ~~45.2.3~~ 21.2.3 THE CERTIFICATION OF A VOTING SYSTEM ~~SHALL~~ MAY NOT BE INTERPRETED  
5 AS A REQUIREMENT THAT A COUNTY PURCHASE OR LEASE ALL OF THE COMPONENTS  
6 OF THE VOTING SYSTEM. COUNTIES MAY CHOOSE TO CONFIGURE AND USE A SUBSET  
7 OF THE CERTIFIED VOTING SYSTEM AND MAY USE THE SERVICES OF A VENDOR OR  
8 THIRD PARTY TO PROVIDE BALLOT DEFINITION AND ELECTION PROGRAMMING OF  
9 MEMORY CARDS. COUNTIES ARE NOT REQUIRED TO USE A PAPER BALLOT  
10 TABULATION DEVICE IF THEY CHOOSE TO MANUALLY TABULATE THE ELECTION  
11 RESULTS.

#### 12 ~~45.2.2~~ Authority

13 ~~45.2.2.1~~ Pursuant to Articles 5 and 7 of Title 1, C.R.S., the Secretary of  
14 State is expressly authorized to adopt this rule.

#### 15 ~~45.2.3~~ Documents Incorporated by Reference

16 ~~45.2.3.1~~ All documents incorporated by reference in this Rule 45 do not  
17 include any later amendments or editions of those documents.

18 ~~45.2.3.2~~ All documents incorporated by reference in this Rule 45 may be  
19 viewed on the "Voting Systems" page of the "Elections Center" on the  
20 Secretary of State's website at [www.sos.state.co.us](http://www.sos.state.co.us), or by contacting the  
21 Secretary of State Voting Equipment Certification Program/1700  
22 Broadway Suite 200/Denver, CO 80290.

#### 23 ~~45.3~~ 21.3 Certification Process Overview and Timeline

24 ~~45.3.1~~ 21.3.1 The voting system ~~shall~~ WILL be considered as a unit, and all components  
25 of such system ~~shall~~ be tested at once, unless the circumstances necessitate  
26 otherwise. Any change made to individual components of a voting system ~~shall~~  
27 WILL require the entire voting system TO be recertified in accordance with this rule  
28 unless the change is a modification that can be approved under the provisions of  
29 section 1-5-618(1.5), C.R.S.

30 ~~45.3.2~~ 21.3.2 For a voting system to be certified, the voting system provider ~~shall~~ MUST  
31 successfully complete all phases of the certification process, ~~to include submitting~~  
32 ~~a complete application, a review of the documentation to evaluate whether the~~  
33 ~~system meets the requirements of this rule, a public demonstration of the system,~~  
34 ~~functional testing of the voting system to demonstrate substantial compliance with~~  
35 ~~the requirements of this rule and Colorado Election Code as well as any additional~~  
36 ~~testing that is deemed necessary by the Secretary of State.~~ THE CERTIFICATION  
37 PROCESS INCLUDES: SUBMISSION OF A COMPLETE APPLICATION, A DOCUMENTATION  
38 REVIEW, A PUBLIC DEMONSTRATION OF THE SYSTEM, AND FUNCTIONAL TESTING.

1 ~~45.3.3~~ 21.3.3 The flow of each phase of certification is as follows:

- 2 (a) Phase I – ~~Voting~~–THE VOTING system provider ~~submits~~ MUST SUBMIT an  
3 application and all documentation required in Rule ~~45.4–21.4~~. The  
4 Secretary of State ~~reviews~~–WILL REVIEW the ~~application~~–APPLICATION and  
5 ~~informs~~–INFORM the voting system provider whether or not the application  
6 is complete. ~~If the application is complete, the Secretary of State makes~~  
7 ~~arrangements with the voting system provider for a public demonstration.~~  
8 If the application is incomplete, the Secretary of State ~~shall~~–WILL identify  
9 the deficiencies and the voting system provider will have 30 days to  
10 remedy the deficiencies and make the application complete. WHEN THE  
11 APPLICATION IS COMPLETE, THE SECRETARY OF STATE WILL MAKE  
12 ARRANGEMENTS WITH THE VOTING SYSTEM PROVIDER FOR A PUBLIC  
13 DEMONSTRATION.
- 14 (b) Phase II – The Secretary of State ~~reviews~~–WILL REVIEW the submitted  
15 documentation, ~~conducts the review of~~–VSTL REPORTS FROM PREVIOUS  
16 TESTING, AND ~~or~~–evaluations provided by ~~another State under Rule~~  
17 ~~45.5.1.3, prepares a certification test plan for the system and presents the~~  
18 ~~test plan to the voting system provider~~ OTHER STATES.
- 19 (c) PHASE III – THE SECRETARY OF STATE WILL PREPARE A CERTIFICATION  
20 TEST PLAN. IF A VSTL IS CONTRACTED TO TEST THE VOTING SYSTEM, THE  
21 VSTL WILL WORK WITH THE SECRETARY OF STATE TO PREPARE A  
22 CERTIFICATION TEST PLAN. THE CERTIFICATION TEST PLAN WILL BE  
23 PRESENTED TO THE VOTING SYSTEM PROVIDER FOR REVIEW ~~PRIOR TO THE~~  
24 ~~START OF FUNCTIONAL TESTING BEFORE EXECUTION OF THE TEST PLAN.~~
- 25 (e)(D) Phase ~~III~~–IV– Upon receipt of the voting system provider’s agreement to  
26 the CERTIFICATION test plan, the Secretary of State ~~performs~~–OR THE VSTL  
27 WILL ~~PERFORM the functional tests~~–EXECUTE THE TEST PLAN.
- 28 (d)(E) Phase ~~IV~~–V – The Secretary of State ~~reviews~~ WILL REVIEW the ~~TEST~~ results  
29 ~~of the functional tests~~ and ~~decides~~–DETERMINE whether ~~to certify or not to~~  
30 ~~certify~~ the voting system SUBSTANTIALLY MEETS THE REQUIREMENTS FOR  
31 CERTIFICATION. Within 30 days of the ~~THIS A~~ decision, ~~to certify or not~~  
32 ~~certify the voting system~~, the ~~SECRETARY OF STATE WILL POST THE~~  
33 certification test report for the voting system ~~shall be posted~~ on the  
34 ~~Secretary of State’s ITS~~ website.

35 ~~45.6.3~~ 21.3.4 The Secretary of State ~~shall~~ WILL certify voting systems that substantially  
36 comply with the requirements in this Rule 21, Colorado Election Code, and any  
37 additional testing that is deemed necessary by the Secretary of State.

38 ~~45.4~~ 21.4 Application Procedure

39 ~~45.4.1~~ 21.4.1 Any voting system provider may apply to the Secretary of State for  
40 certification at any time.

1 ~~45.4.2~~ 21.4.2 A voting system provider that ~~submits~~-DESIRES TO SUBMIT a voting system  
2 for certification ~~shall~~ MUST complete the Secretary of State's "Application for  
3 Certification of Voting System" WHICH IS AVAILABLE ON THE SECRETARY OF  
4 STATE'S WEBSITE.

5 ~~45.4.3~~ 21.4.3 The Secretary of State, in accordance with section 24-21-104(1)(a),  
6 C.R.S., ~~shall~~ WILL charge the voting system provider all direct and indirect costs  
7 associated with the testing of a voting system submitted for certification. The  
8 Secretary of State ~~shall~~ WILL provide, ~~upon request~~, an estimate of costs for  
9 certification testing ~~at the conclusion of Phase II evaluation. PRIOR TO BEFORE THE~~  
10 ~~COMMENCEMENT OF FUNCTIONAL TESTING-CERTIFICATION PROCESS BEGINS. IN~~  
11 ~~ORDER TO BEGIN FUNCTIONAL TESTING, THE VOTING SYSTEM PROVIDER SHALL~~  
12 ~~MUST PROVIDE A WRITTEN APPROVAL OF THE COST ESTIMATE. THE VOTING SYSTEM~~  
13 ~~PROVIDER All costs shall MUST PAY ALL COSTS BEFORE THE SECRETARY OF STATE~~  
14 ~~WILL ISSUE be paid in full prior to the issuance of a final determination by the~~  
15 ~~Secretary of State.~~

16 ~~45.4.4~~ 21.4.4 Along with the application, the voting system provider ~~shall~~ MUST submit  
17 all documentation required in this Rule ~~45-21~~ IN ELECTRONIC FORMAT. ~~The~~  
18 ~~requirements include documentation necessary for the identification of the full~~  
19 ~~system configuration submitted for certification. Documentation shall include~~  
20 ~~information that defines the voting system design, method of operation and~~  
21 ~~related resources. It shall also include a system overview and documentation of~~  
22 ~~the voting system's functionality, accessibility, hardware, software, security, test~~  
23 ~~and verification specifications, operations procedures, maintenance procedures~~  
24 ~~and personnel deployment and training requirements. In addition, the~~  
25 ~~documentation submitted shall include the voting system provider's configuration~~  
26 ~~management plan and quality assurance program.~~

27 ~~45.4.5~~ Electronic copies of documentation are preferred and shall be submitted in lieu of  
28 a hard copy when possible.

29 ~~45.4.6~~ 21.4.5 The vendor ~~shall~~ MUST identify any material it asserts is exempt from  
30 public disclosure under the Colorado Open Records Act, section 24-72-204, et.  
31 seq., C.R.S., together with a citation to the specific grounds for exemption. ~~The~~  
32 ~~request shall MUST be made prior to~~ BEFORE BEGINNING the start of Phase ~~III~~ IV of  
33 the certification process.

34 ~~45.4.7~~ If the EAC has established a trusted build for the system submitted for  
35 certification, the trusted build shall be provided by the EAC. The voting system  
36 provider shall execute and submit to the EAC any necessary releases for the EAC  
37 to provide the same and provide the Secretary of State with a copy of such  
38 executed releases. The voting system provider shall pay directly to the EAC any  
39 cost associated with same. In addition, the voting system provider shall submit all  
40 documentation and instructions necessary for the creation and guided installation  
41 of files contained in the trusted build which will be created at the start of  
42 functional testing and will be the model tested. The Secretary of State reserves the

1 right to add additional instructions or guidance for the use of the trusted build  
2 when initiating the chain of custody process for a jurisdiction using the specified  
3 equipment.

4 ~~45.4.8~~ 21.4.6 If the EAC does not have a trusted build for the voting system submitted  
5 for certification, the THE voting system provider shall MUST coordinate with the  
6 Secretary of State for the establishment of the trusted build. THE VOTING SYSTEM  
7 PROVIDER SHALL MUST SUBMIT ALL DOCUMENTATION AND INSTRUCTIONS  
8 NECESSARY FOR THE CREATION AND GUIDED INSTALLATION OF FILES CONTAINED IN  
9 THE TRUSTED BUILD WHICH WILL BE CREATED AT THE START OF FUNCTIONAL  
10 TESTING AND WILL BE THE MODEL TESTED. At a minimum, ~~this~~ THE TRUSTED BUILD  
11 shall MUST include a compilation of files placed on write-once media for which  
12 the Secretary of State has observed the chain of evidence from the time of source  
13 code compilation through delivery, and an established hash file distributed from a  
14 VSTL or the National Software Reference Library to compare federally certified  
15 versions. ~~All or any part of the~~ THE trusted build disks may be encrypted. If  
16 applicable, they should all be labeled as proprietary information and with  
17 identification of the voting system provider's name and release version based on  
18 the voting system provider's release instructions.

19 ~~45.4.9~~ 21.4.7 All materials submitted to the Secretary of State shall MUST remain in the  
20 custody of the Secretary of State during the life of the certification and for 25  
21 months after the last election in which the system is used with the exception of  
22 any equipment provided by the voting system provider for the purposes of  
23 testing. AS FOLLOWS:

24 (A) FOR CERTIFIED SYSTEMS, UNTIL THE CERTIFICATION IS PERMANENTLY  
25 REVOKED, OR UNTIL NO COMPONENTS OF THE CERTIFIED SYSTEM ARE USED  
26 IN THE STATE OF COLORADO; AND

27 (B) FOR SYSTEMS THAT ARE NOT CERTIFIED, A PERIOD OF 25 MONTHS.

28 ~~45.4.10~~ 21.4.8 In addition to the application and the documentation specified above, the  
29 THE APPLICANT MUST PROVIDE ALL ADDITIONAL INFORMATION REQUESTED BY THE  
30 Secretary of State may request additional information from the applicant, as  
31 deemed necessary.

## 32 ~~45.5~~ 21.5 Voting System Standards

### 33 ~~45.5.1~~ Federal Standards

34 ~~45.5.1.1~~ 21.5.1 All voting systems shall MUST meet the voting systems standards  
35 pursuant to section 1-5 601.5, C.R.S., and Secretary of State Rule 37.3-2002  
36 VOTING SYSTEM STANDARDS.

37 ~~45.5.1.2~~ 21.5.2 THE VOTING SYSTEM PROVIDE MUST DOCUMENT THAT ~~ALL~~ ALL voting  
38 system software, hardware, and firmware shall MUST meet all requirements of

1 federal law that address accessibility for the voter interface of the voting system.  
2 These laws include, ~~but are not limited to,~~

- 3 (a) ~~the~~ THE Help America Vote Act,
- 4 (b) ~~the~~ THE Americans with Disabilities Act, and
- 5 (c) ~~the~~ THE Federal Rehabilitation Act. ~~The voting system provider shall~~  
6 ~~MUST explicitly acknowledge that their proposed software, hardware and~~  
7 ~~firmware are all in compliance with the relevant accessibility portions of~~  
8 ~~these laws.~~

9 ~~45.5.1.3~~ — ~~The Secretary of State may use and rely upon the testing of a~~  
10 ~~voting system performed by a VSTL or by another state upon satisfaction~~  
11 ~~of the following conditions:~~

- 12 (a) ~~The Secretary of State has complete access to any documentation,~~  
13 ~~data, reports or similar information upon which the VSTL or~~  
14 ~~another state relied in performing its tests and will make such~~  
15 ~~information available to the public subject to any redaction~~  
16 ~~required by law; and~~
- 17 (b) ~~The Secretary of State makes written findings and certifies that he~~  
18 ~~or she has reviewed such information and determines that the tests~~  
19 ~~were conducted in accordance with appropriate engineering~~  
20 ~~standards in use when the tests were conducted and the extent to~~  
21 ~~which the tests satisfy the requirements of sections 1-5-615 and 1-~~  
22 ~~5-616, C.R.S., and all rules promulgated under those sections.~~

23 *[Current rule 45.5.1.3 is mended and moved to Rule 21.5.12(a).]*

24 ~~45.5.2~~ State Standards

25 ~~45.5.3~~ 21.5.3 INDEPENDENT ANALYSIS

26 ~~45.5.2.4.3~~ (A) ~~Prior to~~ BEFORE completion of functional testing, all voting system  
27 providers submitting a voting system ~~shall~~ MUST COMPLETE an  
28 independent analysis of the system, WHICH ~~SHALL~~ INCLUDES:

29 (a) ~~The independent analysis shall include:~~

- 30 (i) (1) An application penetration test conducted to analyze the system for  
31 any potential vulnerabilities that may result from poor or improper  
32 system configuration, known ~~and/or~~ unknown hardware or software  
33 flaws, or operational weaknesses in process or technical  
34 countermeasures. The test ~~shall~~ MUST involve active exploitation of  
35 security vulnerabilities of the voting system, whether or not the  
36 vulnerabilities can be mitigated through compensating controls.

1 (ii)-(2) A source code evaluation conducted pursuant to the requirements  
2 identified in Rule 45.5.2.6.1(f), requiring compliance with the 2002  
3 voting system standards IN ACCORDANCE WITH SOFTWARE DESIGN  
4 AND CODING STANDARDS OF THE 2002 VOTING SYSTEM STANDARD  
5 OR THE MOST CURRENT VERSION OF THE VOLUNTARY VOTING  
6 SYSTEM GUIDELINES THAT HAS BEEN APPROVED AFTER JANUARY 1,  
7 2008.

8 (b)-(3) A complete report detailing all findings and recommended  
9 compensating controls for vulnerabilities and deficiencies identified.

10 (e)-(4) The vendor VOTING SYSTEM PROVIDER shall MUST use an  
11 EAC approved VSTL AT LEAST ONE OF THE FOLLOWING to perform  
12 the independent analysis, or submit the results of testing conducted in  
13 another state, or some combination of such VSTL and state testing  
14 that meets the requirements of this rule.:

15 (A) AN EAC APPROVED VSTL;

16 (B) TESTING CONDUCTED IN ANOTHER STATE; OR

17 (C) SOME COMBINATION OF SUCH VSTL AND STATE TESTING THAT  
18 MEETS THE REQUIREMENTS OF THIS RULE.

19 (d)-(5) The Secretary of State OR VSTL shall WILL conduct a  
20 quality review of all work under this section. The review may include  
21 an examination of the testing records, interviews of the individuals  
22 who performed the work, or both. Review of testing records may be  
23 conducted at the VSTL, the state in which the testing was conducted,  
24 or at the site of any contractor or subcontractor utilized by another  
25 state to conduct the testing.

26 (e)-(6) When an analysis performed by another state is used, the  
27 THE Secretary of State has the right to MAY reject any evaluation if  
28 not satisfied with the work product and to require additional analysis  
29 to meet the requirements of section 1-5-608.5, C.R.S., and this Rule.

30 *[Rule 45.5.2.4.3 is amended and moved to New Rule 21.5.3(a). Amendments are shown above.]*

31 ~~45.5.2.1~~ 21.5.4 Functional requirements REQUIREMENTS

32 ~~45.5.2.1.1~~(A) Functional requirements shall MUST address any and all detailed  
33 operations of the voting system related to the management and controls  
34 required to successfully conduct an election on the voting system.

35 ~~45.5.2.1.2~~(B) The voting system shall MUST provide for appropriately authorized  
36 users to:



- 1                   (a) ~~Prepare the system for an election;~~  
2                   (b) (1) ~~Setup~~ SET UP and prepare ballots for an election;  
3                   (c) (2) Lock and unlock system to prevent or allow changes to ballot  
4                   design;  
5                   (d) (3) Conduct hardware ~~and diagnostic testing as required herein;~~  
6                   (e) (4) Conduct logic and accuracy testing ~~as required herein;~~  
7                   (f) (5) Conduct an election and meet ~~additional~~ requirements as identified  
8                   in this ~~section~~ RULE 45 21 for procedures for voting, auditing  
9                   information, inventory control ~~WHERE APPLICABLE~~, counting  
10                   ballots, opening and closing polls, recounts, reporting and  
11                   accumulating results ~~as required herein;~~  
12                   (g) (6) Conduct the post ~~election~~ audit ~~as required herein;~~ and  
13                   (h) (7) Preserve the system for future election use.

14                   45.5.2.1.3 (C) The voting system ~~shall~~ MUST integrate ~~Election Day~~ ELECTION  
15                   DAY voting results with ~~mail in, early voting~~ MAIL, and provisional ballot  
16                   results.

17                   45.5.2.1.4 ~~— The voting system shall be able to count all of an elector's~~  
18                   votes on a provisional ballot or only federal and statewide offices  
19                   and statewide ballot issues and questions, as provided under  
20                   section 1 8.5 108(2), C.R.S.

21                   45.5.2.1.5 ~~— The voting system shall provide for the tabulation of votes~~  
22                   cast in split precincts where all voters residing in one precinct are  
23                   not voting the same ballot style.

24                   45.5.2.1.6 (D) The voting system ~~shall~~ MUST provide for the tabulation of votes  
25                   cast in combined precincts at remote sites, where more than one precinct is  
26                   voting at the same location, on either the same ballot style or ON a  
27                   different ballot style.

28                   45.5.2.1.7 (E) The ~~voting system application~~ ELECTION MANAGEMENT SYSTEM  
29                   ~~shall~~ MUST provide authorized users with the capability to produce  
30                   electronic files including election results in either ASCII (both comma-  
31                   delimited and fixed-width) or web-based format ~~that shall contain (a) all~~  
32                   data or (b) any user selected data elements from the database. The  
33                   software ~~shall~~ MUST provide authorized users with the ability to generate  
34                   these files on an “on-demand” basis. After creating such files, the  
35                   authorized users ~~shall~~ MUST, ~~at their discretion~~, have the capability to copy

1 the files to diskette, tape, CD-ROM or to transmit the files to another  
2 information system OTHER MEDIA TYPE.

3 (a) (1) Exports necessary for the Secretary of State shall MUST conform to  
4 a format agreed upon by the Secretary of State and the voting  
5 system provider. If the voting system provider and the Secretary of  
6 State have not previously agreed upon a format, the voting system  
7 provider shall MUST provide the Secretary of State with  
8 specifications for all available export file formats. As part of the  
9 certification test, the voting system provider will demonstrate that  
10 preliminary and canvassing level election result data, using one or  
11 more of the provided formats, can be imported to a commercially  
12 available data management program such as a spreadsheet,  
13 database, or report generator which can accept that format and  
14 which is used and selected by the Secretary of State's office. Using  
15 the imported data, the Secretary of State's test team shall confirm  
16 that the election results data may be consolidated with results from  
17 one or more additional election jurisdictions, searched, selected,  
18 sorted, generate totals from selected subsets of the data, and  
19 formatted for reporting.

20 (b) — Export files shall be generated so that election results can be  
21 communicated to the Secretary of State on election night both  
22 during the accumulation of results and after all results have been  
23 accumulated.

24 *[Current Rule 45.2.1.7(b) is amended and moved to Rule 11]*

25 (2) THE VOTING SYSTEM PROVIDER SHALL MUST DEMONSTRATE THAT  
26 PRELIMINARY AND CANVASSING LEVEL ELECTION RESULT DATA CAN  
27 BE IMPORTED TO A COMMERCIALY AVAILABLE DATA MANAGEMENT  
28 PROGRAM SUCH AS A SPREADSHEET, DATABASE, OR REPORT  
29 GENERATOR.

30 45.5.2.1.8 (F) The voting system shall MUST include hardware and OR software to  
31 enable the closing of the remote voting location and disabling the  
32 acceptance of ballots on all vote tabulation devices to allow for the  
33 following:

34 (a) (1) Machine generated paper record PRINTOUT of the time the voting  
35 system was closed.

36 (b) (2) Readings PRINTOUT of the public counter and protective counter  
37 shall become a part of the paper audit record upon CLOSING THE  
38 BALLOT CASTING FUNCTIONALITY disabling the voting system to  
39 prevent further voting.

- 1                    ~~(e)~~ (3) Ability to print ~~an abstract of the count of votes~~—A REPORT which  
2                    ~~shall~~ MUST contain:
- 3                    ~~(i)~~ (A) Names of the offices;
- 4                    ~~(ii)~~ (B) Names of the candidates and party, when applicable;
- 5                    ~~(iii)~~ (C)        A tabulation of votes from ballots of different  
6                                    political parties at the same voting location in a primary  
7                                    election;
- 8                    ~~(iv)~~ (D)        Ballot titles;
- 9                    ~~(v)~~ (E) Submission clauses of all initiated, referred or other ballot  
10                                    issues or questions; and
- 11                   ~~(vi)~~ (F) The number of votes counted for or against each candidate  
12                                    or ballot issue.
- 13                   ~~(d)~~—~~Abstract shall include an election judge’s certificate and statement~~  
14                                    ~~that contains:~~
- 15                    ~~(i)~~ (G) Date of election (day, month and year);
- 16                    ~~(ii)~~ (H) Precinct ~~Number~~ NUMBER (ten digit format);
- 17                    ~~(iii)~~ (I) County or ~~Jurisdiction Name~~ JURISDICTION NAME;
- 18                    ~~(iv)~~ (J) ~~State of Colorado~~ AREA FOR “STATE OF COLORADO”;
- 19                    ~~(v)~~ (K) Count of votes ~~as indicated in this section~~—FOR EACH  
20                                    CONTEST; and
- 21                    ~~(vi)~~ (L) ~~Area~~—AN ELECTION JUDGE’S CERTIFICATE WITH AN AREA for  
22                                    judges’ signatures with the words similar to: “Certified by  
23                                    us”, and “Election Judges”. Space ~~should~~ MUST allow for a  
24                                    minimum of two signatures.
- 25                    ~~(e)~~ (4) Votes counted by a summary of the voting location and by  
26                                    individual precincts.
- 27                    ~~(f)~~ (5) Ability to produce multiple copies of the unofficial results at the  
28                                    close of the election.
- 29                    ~~(g)~~—~~Ability to accommodate a two page ballot (races on four faces) is~~  
30                                    ~~required.~~

1 *[Current Rule 45.5.2.1.8(g) is amended and moved to new Rule 21.5.6(c).]*

2 45.5.2.1.9 — Voters voting on a DRE shall be able to navigate through the  
3 screens without the use of page scrolling. Features such as next or  
4 previous page options shall be used.

5 45.5.2.1.10 (G) The voting system application—ELECTION MANAGEMENT SYSTEM  
6 shall MUST ensure that an election setup may not be changed once ballots  
7 are printed and/or election media devices are downloaded for votes to be  
8 conducted without proper authorization and acknowledgement by the  
9 application administrative account. The application and database audit  
10 transaction logs shall MUST accurately reflect the name of the system  
11 operator making the change(s), the date and time of the change(s), and the  
12 “old” and “new” values of the change(s).

13 45.5.2.1.11 — The voting system shall ensure that all tabulated results will be  
14 accurately captured, interpreted, and reported to the level of accuracy  
15 required in the 2002 Voting System Standards.

16 45.5.2.3.13 (H) All DRE OR BMD voting devices shall MUST use touch screen  
17 technology or other technology providing visual AND AUDITORY ballot display and TACTILE  
18 selection METHODS INCLUDING THOSE NEEDED BY THE DEAF AND BLIND.

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Comment [S361]: Description improved... too much concentration on touch screen that isn't a particularly beneficial technology for the disability community.

19 45.5.2.3.14 (I) All electronic voting devices supplied by the voting system  
20 provider AND USED AT VOTER SERVICE AND POLLING CENTERS shall MUST  
21 have the capability to continue ALL NORMAL VOTING operations and  
22 provide continuous device availability during a 2-HOUR period of electrical  
23 outage without any loss of election data.

24 45.5.2.3.16 (J) The voting system shall MUST provide capabilities to protect the  
25 confidentiality ANONYMITY of voters' ballot choices.

Comment [S362]: Confidentiality of the choices is not desirable as this prevents tabulation and auditing. The problem is in the use of the possessive form voters'- this implies a violation of the CO constitution. The choices must not be identifiable, not to election officials, the equipment, not to anyone. So the possessive form of description should definitely not be used here and anonymity not confidentiality is the key to voter privacy.

26 (a) (1) All optical scan devices, associated ballot boxes and V-VPAT  
27 storage devices shall MUST provide physical locks and procedures  
28 to prevent LOSS OF ELECTION DATA disclosure of voters' confidential ballot choices during  
29 and after the vote casting operation.

Comment [S363]: The locks are to prevent stealing or ballot stuffing, not to hide violations of constitutional anonymity.

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30 (b) (2) All DRE devices shall MUST provide randomization of all voter  
31 choices and stored electronic ballot information, regardless of  
32 format, to prevent disclosure of voters' confidential ballot choices  
33 IDENTITY IN RELATION TO VOTER, during and after storage of the voters' ballot selections.

Comment [S364]: Restated in a manner to clarify what the problem and solution are. This rule is violated by the VVPAT order that can be used to reveal identity in relation to voter intent. This is one primary reason why the DRE is not preferred and the ballot marking device is far superior.

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34 45.5.2.2 — Performance Level

35 45.5.2.2.1 — Performance Level shall refer to any operation related to  
36 the speed and efficiency required from the voting system to  
37 accomplish the successful conduct of an election on the voting  
38 system.

1 ~~45.5.2.2.2 — The voting system shall meet the requirements for casting~~  
2 ~~ballots as detailed in the vendor documentation required for~~  
3 ~~certification.~~

4  
5 ~~45.5.2.2.3 — The voting system provider shall publish and specify~~  
6 ~~processing standards for each component of the voting system as~~  
7 ~~part of the documentation required for certification.~~

8 *[Current Rule 45.5.2.2.3 is amended and moved to new Rule 21.5.12(l)]*

9 ~~45.5.2.2.4 — For the purpose of evaluating software, the voting system~~  
10 ~~provider shall be required to provide detailed information as to the~~  
11 ~~type of hardware required to execute the software.~~

12 *[Current Rule 45.5.2.2.4 is amended and moved to new Rule 21.5.12(m)]*

13 ~~45.5.2.2.5 — At no time shall third party hardware or software have a~~  
14 ~~negative effect on performance levels of the voting system~~  
15 ~~application, unless, through documentation, a voting system~~  
16 ~~provider specifically details the specific hardware or software, the~~  
17 ~~performance effect and a workaround for the end user to overcome~~  
18 ~~the issue.~~

19 *[Rule 45.5.2.1 is amended and moved to New Rule 21.5.4. Amendments are shown above.]*

20 ~~45.5.2.3~~ 21.5.5 Physical and ~~Design Characteristics~~-DESIGN CHARACTERISTICS

21 ~~45.5.2.3.1(A) Physical and design characteristics shall MUST address any and all~~  
22 ~~external or internal construction of the physical environment of the voting~~  
23 ~~system or the internal workings of the software necessary for the voting~~  
24 ~~system to function. The voting system shall MUST substantially comply~~  
25 ~~with these requirements to be considered successful in the conduct of an~~  
26 ~~election on the voting system.~~

**Comment [S365]:** Are we kidding here? What does this intend to say? It actually says nothing.

27 ~~45.5.2.3.2 — The voting system shall meet the following environmental controls~~  
28 ~~allowing for storage and operation in the following physical ranges:~~

29 ~~(a) — Operating Temperature — Maximum 95 Degrees Fahrenheit;~~  
30 ~~Minimum 50 Degrees Fahrenheit, with maximum humidity of~~  
31 ~~90%, normal or minimum operating humidity of 15%.~~

32 ~~(b) — Non Operating Temperature — Maximum 140 Degrees Fahrenheit;~~  
33 ~~Minimum minus 4 Degrees Fahrenheit. Non operating humidity~~  
34 ~~ranges from 5% to 90% for various intervals throughout the day.~~

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

6 *[Part of current Rule 45.5.2.3.2 is relocated to new Rule 21.5.12(n)]*

7 ~~45.5.2.3.17~~ (B) The voting system provider shall MUST submit drawings,  
8 photographs and any related brochures or documents to assist with the  
9 evaluation of the physical design of the use of the voting system.

10 ~~45.5.6~~ 21.5.6 BALLOT DEFINITION SUBSYSTEM

11 ~~45.5.2.3.3~~ (A) The ballot definition subsystem of the voting system application  
12 consists of hardware and software required to accomplish the functions  
13 outlined in this Rule ~~45.5.2.3–21.5.6~~. ~~System databases contained in the~~  
14 ~~ballot definition subsystem may be constructed individually or they may~~  
15 ~~be integrated into one database. These databases are treated as separate~~  
16 ~~databases to identify the necessary types of data to be handled and to~~  
17 ~~specify, where appropriate, those attributes that can be measured or~~  
18 ~~assessed for determining compliance with the requirements of this~~  
19 ~~standard.~~

20 ~~45.5.2.3.4~~ The ballot definition subsystem shall be capable of formatting  
21 ballot styles in English and any alternate languages as are necessary to  
22 comply with The “Voting Rights Act of 1965” 42 U.S.C. § 1973e et seq.  
23 (1965).

24 ~~45.5.2.3.5~~ The voting system application shall allow the operator to generate  
25 and maintain an administrative database containing the definitions and  
26 descriptions of political subdivisions and offices within the jurisdiction.

27 ~~45.5.2.3.6~~ The ballot definition subsystem shall provide for the definition of  
28 political and administrative subdivisions where the list of candidates or  
29 contests may vary within the remote site and for the activation or  
30 exclusion of any portion of the ballot upon which the entitlement of a  
31 voter to vote may vary by reason of place of residence or other such  
32 administrative or geographical criteria. This database shall be used by the  
33 system with the administrative database to format ballots or edit formatted  
34 ballots within the jurisdiction.

35 ~~45.5.2.3.7~~ For each election, the subsystem shall allow the user to generate  
36 and maintain a candidate and contest database and provide for the  
37 production and/or definition of properly formatted ballots and software.

38 ~~45.5.2.3.8~~ (B) The ballot definition subsystem shall MUST be capable of handling  
39 at least ~~500~~ 200 potentially active voting positions, arranged to identify

1 party affiliations in a primary election, offices with their associated labels  
2 and instructions, candidate names with their associated labels and  
3 instructions and ballot issues or questions with their associated text and  
4 instructions.

5 ~~45.5.2.3.9~~ The ballot display may consist of a matrix of rows or columns  
6 assigned to political parties or non partisan candidates and columns or  
7 rows assigned to offices and contests. The display may consist of a  
8 contiguous matrix of the entire ballot or it may be segmented to present  
9 portions of the ballot in succession.

10 ~~45.5.2.1.8(g)~~ (C) ~~Ability to~~ THE VOTING SYSTEM MUST accommodate a  
11 SINGLE PAGE ~~BALLOTS~~ (CONTESTS RACES ON ONE FACE OR BOTH FACES) AND  
two page  
12 ballot PAPER BALLOTS (CONTESTS faces on THREE OR four faces) is required.

Comment [S366]: Tense of "ballot" wrong and contests more correct than races.

Comment [S367]: Ditto

13 ~~45.5.2.3.10~~ (D) The voting system application shall BALLOT DEFINITION  
14 SUBSYSTEM MUST:

15 (1) ~~provide~~ PROVIDE a facility for the definition of the ballot, including  
16 the definition of the number of allowable choices for each office  
17 and contest and for special voting options such as write-in  
18 candidates. ~~It shall provide for all voting options and specifications~~  
19 ~~as provided for in Articles 5 and 7, Title 1, C.R.S.;~~

20 (2) ~~The system shall generate~~ GENERATE all required masters and  
21 distributed copies of the voting program in conformance with the  
22 definition of the ballot for each voting device and remote site  
23 ELECTION MANAGEMENT SOFTWARE. ~~The distributed copies,~~  
24 ~~resident or installed, in each voting device shall include all~~  
25 ~~software modules required to monitor system status and generate~~  
26 ~~machine level audit reports, accommodate device control functions~~  
27 ~~performed by remote location officials and maintenance personnel~~  
28 ~~and register and accumulate votes.~~

#### 29 45.5.7 21.5.7 TRUSTED BUILD

30 ~~45.5.2.3.11~~ The trusted build of the voting system software, installation  
31 programs and third party software used to install or to be installed on  
32 voting system devices shall be distributed on a write once media.

33 ~~45.5.2.3.12~~ The voting system shall MUST allow the system administrative  
34 account to verify that the software installed is the certified software by  
35 comparing it to the trusted build or other reference information.

36 ~~45.5.2.3.13~~ All DRE voting devices shall use touch screen technology or other  
37 technology providing visual ballot display and selection. The voting  
38 system provider shall provide documentation concerning the use of touch

1 ~~screen or other display and selection technology including, but not limited~~  
2 ~~to:~~

3 ~~(a) — Technical documentation describing the nature and sensitivity of~~  
4 ~~the tactile device (if the system uses touch screen technology);~~

5 ~~(b) — Technical documentation describing the nature and sensitivity of~~  
6 ~~any other technology used to display and select offices, candidates~~  
7 ~~or issues;~~

8 *[Current Rule 45.5.2.3.13 is amended and moved to new Rule 21.5.4(h).*  
9 *Current Rule 45.5.2.3.13(a)-(b) are amended and moved to new Rule*  
10 *21.5.12(c).]*

11 ~~(c) — Any mean time between failure (MTBF) data collected on the vote~~  
12 ~~recording devices; and~~

13 ~~(d) — Any available data on problems caused for persons who experience~~  
14 ~~epileptic seizures due to the DRE voting device's screen refresh~~  
15 ~~rate.~~

16 *[Current Rule 45.5.2.3.13(d) amended and moved to new Rule*  
17 *21.5.12(o).]*

18 ~~45.5.2.3.14 — All electronic voting devices supplied by the voting system~~  
19 ~~provider shall have the capability to continue operations and~~  
20 ~~provide continuous device availability during a period of electrical~~  
21 ~~outage without any loss of election data.~~

22 *[Current Rule 45.5.2.3.14 amended and moved to new Rule 21.5.4(i)]*

23 ~~(a) — For optical scan devices, this capability shall include, at a~~  
24 ~~minimum, for a period of not less than two hours the ability~~  
25 ~~to:~~

26 ~~(i) — Continue to scan or image voters' ballots;~~

27 ~~(ii) — Accurately tabulate voters' choices from the ballots;~~

28 ~~(iii) — Accurately store voters' ballot choices; and~~

29 ~~(iv) — Transmit required results files accurately if power~~  
30 ~~failure occurs during transmittal of results.~~

31 ~~(b) — For DRE devices, this capability shall include, at a~~  
32 ~~minimum, for a period of not less than two hours the ability~~  
33 ~~to:~~



- 1 (i) ~~Continue to present ballots accurately to voters;~~  
2 (ii) ~~Accept voters' choices accurately on the devices;~~  
3 (iii) ~~Tabulate voters' choices accurately;~~  
4 (iv) ~~Store voters' choices accurately in all storage~~  
5 ~~locations on the device; and~~  
6 (v) ~~Transmit required results files accurately if power~~  
7 ~~failure is experienced during transmittal of results.~~
- 8 (e) ~~For V VPAT devices connected to DREs, this capability~~  
9 ~~shall include, at a minimum, for a period of not less than~~  
10 ~~two hours the ability to:~~
- 11 (i) ~~Continue to print voters' choices on the DRE~~  
12 ~~accurately and in a manner that is identical to the~~  
13 ~~manner of the printers' operations during a period~~  
14 ~~of normal electrical operations; and~~
- 15 (ii) ~~Continue to store the printed ballots in a secure~~  
16 ~~manner that is identical to the manner of the~~  
17 ~~printers' operations during a period of normal~~  
18 ~~electrical operations.~~
- 19 (d) ~~The voting system provider shall deliver to the Secretary of~~  
20 ~~State documentation detailing estimated time of battery~~  
21 ~~operation for each type of optical scanner, ballot imager,~~  
22 ~~DRE and V VPAT they provide, assuming continuous use~~  
23 ~~of the devices by voters during an interruption of normal~~  
24 ~~electrical power.~~
- 25 (e) ~~The voting system provider shall deliver to the Secretary of~~  
26 ~~State documentation specifying the steps and times~~  
27 ~~required for charging batteries for each type of optical~~  
28 ~~scanner, ballot imager, DRE and V VPAT they provide.~~

**Comment [S368]:** Rule 45 seems to be drastically eviscerated in this rule proposal. What about this terribly vague but crucial requirement?

29 *[Current 45.5.2.3.14 (d) and (e) are amended and moved to new rule*  
30 *21.5.12(e) and (p) and (q).]*

31 45.5.2.3.15 ~~The voting system provider's software application shall be~~  
32 ~~able to recover operations after a power outage or other abnormal~~  
33 ~~shutdown of the system on which that application and database are~~  
34 ~~operating without loss of more than the current transaction data~~  
35 ~~record on which the administrative account or authorized operator~~  
36 ~~account is currently working.~~

1 *[Current 45.5.2.3.15 is amended and moved to new Rule 21.5.4(j)]*

2 ~~45.5.2.3.16 — The voting system shall provide capabilities to protect the~~  
3 ~~confidentiality of voters' ballot choices.~~

4 ~~(a) — All optical scan devices, associated ballot boxes and V-~~  
5 ~~VPAT storage devices shall provide physical locks and~~  
6 ~~procedures to prevent disclosure of voters' confidential~~  
7 ~~ballot choices during and after the vote casting operation.~~

8 ~~(b) — All DRE devices shall provide randomization of all voter~~  
9 ~~choices and stored electronic ballot information, regardless~~  
10 ~~of format, to prevent disclosure of voters' confidential~~  
11 ~~ballot choices during and after storage of the voters' ballot~~  
12 ~~selections.~~

13 *[Current 45.5.2.3.16 is amended and moved to new Rule 21.5.4(j)]*

14 ~~45.5.2.3.17 — The voting system provider shall submit drawings,~~  
15 ~~photographs and any related brochures or documents to assist with~~  
16 ~~the evaluation of the physical design of the use of the voting~~  
17 ~~system.~~

18 *[Current 45.5.2.3.17 is moved to new Rule 21.5.5(b).]*

19 ~~45.5.2.4 — Documentation Requirements~~

20 ~~45.5.2.4.1 — In addition to other documentation requirements in this~~  
21 ~~rule, the voting system provider shall provide the following~~  
22 ~~documents:~~

23 ~~(a) — Standard Issue Users/Operator Manual;~~

24 ~~(b) — System Administrator's/Application Administration~~  
25 ~~Manual;~~

26 ~~(c) — Training Manual and related materials;~~

27 ~~(d) — Systems Programming and Diagnostics Manuals; and~~

28 ~~(e) — A list of minimum services needed for the successful,~~  
29 ~~secure and hardened operation of all components of voting~~  
30 ~~system.~~

31 *[Current Rule 45.5.2.4 amended and moved to new rule 21.5.12.]*

32 ~~45.5.2.4.2 — For the review of VSTL or other state testing in Rule~~  
33 ~~45.5.1.3 copies of all VSTL or state qualification reports, test logs~~

1 and technical data packages shall be provided to the Secretary of  
2 State.

3 (a) ~~The voting system provider shall execute and submit any~~  
4 ~~necessary releases for the applicable VSTL, state and/or~~  
5 ~~EAC to discuss any and all procedures and findings~~  
6 ~~relevant to the voting system submitted for certification~~  
7 ~~with the Secretary of State and allow the review by the~~  
8 ~~Secretary of State of any documentation, data, reports or~~  
9 ~~similar information upon which the VSTL or other state~~  
10 ~~relied in performing its testing. The voting system provider~~  
11 ~~shall provide a copy of the same to the Secretary of State.~~

12 (b) ~~The voting system provider, the VSTL, the state and/or the~~  
13 ~~EAC will identify to the Secretary of State any specific~~  
14 ~~sections of documents for which they assert a legal~~  
15 ~~requirement for redaction.~~

16 *[Current Rule 45.5.2.4.2 amended and moved to new rule 21.5.12(d).]*

17 45.5.2.4.3 ~~Prior to completion of functional testing, all voting system~~  
18 ~~providers submitting a voting system shall have completed an~~  
19 ~~independent analysis of the system.~~

20 (a) ~~The independent analysis shall include:~~

21 (i) ~~An application penetration test conducted to analyze~~  
22 ~~the system for any potential vulnerabilities that may~~  
23 ~~result from poor or improper system configuration,~~  
24 ~~known and/or unknown hardware or software flaws,~~  
25 ~~or operational weaknesses in process or technical~~  
26 ~~countermeasures. The test shall involve active~~  
27 ~~exploitation of security vulnerabilities of the voting~~  
28 ~~system, whether or not the vulnerabilities can be~~  
29 ~~mitigated through compensating controls.~~

30 (ii) ~~A source code evaluation conducted pursuant to the~~  
31 ~~requirements identified in Rule 45.5.2.6.1(f),~~  
32 ~~requiring compliance with the 2002 voting system~~  
33 ~~standards.~~

34 (b) ~~A complete report detailing all findings and recommended~~  
35 ~~compensating controls for vulnerabilities and deficiencies~~  
36 ~~identified.~~

37 (c) ~~The vendor shall use an EAC approved VSTL to perform~~  
38 ~~the independent analysis, or submit the results of testing~~  
39 ~~conducted in another state, or some combination of such~~

1 VSTL and state testing that meets the requirements of this  
2 rule.

3 ~~(d) — The Secretary of State shall conduct a quality review of all  
4 work under this section. The review may include an  
5 examination of the testing records, interviews of the  
6 individuals who performed the work, or both. Review of  
7 testing records may be conducted at the VSTL, the state in  
8 which the testing was conducted, or at the site of any  
9 contractor or subcontractor utilized by another state to  
10 conduct the testing.~~

11 ~~(e) — When an analysis performed by another state is used, the  
12 Secretary of State has the right to reject any evaluation if  
13 not satisfied with the work product and to require  
14 additional analysis to meet the requirements of section 15-  
15 608.5, C.R.S., and this Rule.~~

16 *[Current Rule 45.5.2.4.3 amended and moved to New Rule 21.5.3.]*

17 ~~45.5.2.4.4 — Documentation submitted to the Secretary of State shall be  
18 reviewed to determine the extent to which the voting system has  
19 been tested to federal standards.~~

20 *[Current Rule 45.5.2.4.4 amended and moved to new rule 21.5.12(f)]*

21 ~~45.5.2.4.5 — Documentation shall include the financial statements set  
22 forth in Rule 45.13, which shall be for the prior fiscal year, and any  
23 quarterly financial statements for the period following the prior  
24 fiscal year and preceding the date of application for certification.~~

25 *[Current Rule 45.5.2.4.5 amended and moved to new rule 11]*

26 ~~45.5.2.4.6 — Failure by the voting system provider to provide any  
27 documentation with their application for certification will delay  
28 processing the application until the documentation is provided.~~

29 *[Current Rule 45.5.2.4.6 amended and moved to new rule 21.5.12 (g)]*

30 ~~45.5.2.5 45.5.8-21.5.8~~ Audit capacity CAPACITY

31 ~~45.5.2.5.1 — The voting system shall be capable of producing electronic and  
32 printed audit logs of system operation and system operators' actions which  
33 shall be substantially compliant to allow operations and input commands  
34 to be audited.~~

1 45.5.2.5.2 ~~The voting system shall include detailed documentation as to the~~  
2 ~~level, location and programming of audit trail information throughout the~~  
3 ~~system. The audit information shall apply to:~~

- 4 (a) ~~Operating Systems (workstation, server and/or DRE);~~
- 5 (b) ~~Election Programming Software;~~
- 6 (c) ~~Election Tabulation Devices — optical scan and DRE; and~~
- 7 (d) ~~Election Reporting Subsystem.~~

8 *[Current Rule 45.5.2.5.2 amended and moved to new rule 21.5.12 (h)]*

9 45.5.2.5.3 (A) ~~The voting system shall~~ MUST track and maintain audit information  
10 of the following ~~voting system application~~ ELECTION MANAGEMENT  
11 SYSTEM events:

- 12 (a) (1) Log on and log off activity;
- 13 (b) (2) Application start and stop;
- 14 (c) (3) Printing activity, where applicable;
- 15 (d) (4) Election events – setup, set for election, unset for election, open  
16 polls, close polls, end election, upload devices, download devices,  
17 create ballots, create precincts, create districts, create ~~poll places~~  
18 ~~(or Vote Centers)~~ VOTER SERVICE AND POLLING CENTERS, initialize  
19 devices, backup devices and voting activity; and
- 20 (e) (5) Hardware events – add hardware, remove hardware, initialize  
21 hardware and change hardware properties: **POWER FAIL, POWER**

RESTORED

**Comment [S369]:** Among many other event that need to be logged.  
**Formatted:** Font: 9 pt

22 45.5.2.5.4 (B) All tabulation devices ~~shall~~ MUST display the unit serial number(s)  
23 both physically and within any applicable software, logs or reports.

24 45.5.2.5.5 (C) Vote tabulation devices ~~shall~~ MUST allow for an alternate method  
25 of transfer of audit records if the device or a memory storage device is  
26 damaged or destroyed.

27 45.5.2.5.6 (D) All transaction audit records of the ~~voting system application~~  
28 ELECTION MANAGEMENT SYSTEM database ~~shall~~ MUST be maintained in a  
29 file outside of or separate from the database IN A READ-ONLY FORMAT,  
30 which is not accessible by user/operator accounts.

31 ~~45.5.2.6~~ 45.5.9 21.5.9 Security Requirements REQUIREMENTS

32 45.5.2.6.1 (A) All voting systems ~~submitted for certification shall~~ MUST meet the  
33 following minimum system security requirements:

1                    ~~(a)~~(1) The voting system ~~shall~~ MUST MEET THE FOLLOWING  
2                    REQUIREMENTS TO accommodate a general system of access by  
3                    least privilege and ~~role based~~ ROLE-BASED access control. ~~The~~  
4                    ~~following requirements shall apply:~~

5                    ~~(i)~~ (A) ~~The operating~~ OPERATING system administrative ~~account~~  
6                    ACCOUNTS ~~shall~~ MAY not have access to read or write data  
7                    to the database ~~and shall not have the ability or knowledge~~  
8                    ~~of the database administrator password;~~

9                    ~~(ii)~~ ~~The operating system administrative account shall not be~~  
10                    ~~required to use any function of the voting system during~~  
11                    ~~normal operations;~~

12                    ~~(iii)~~ (B)        A ~~unique~~ OPERATING system user/operator ~~account~~  
13                    ACCOUNTS ~~shall~~ MUST be ABLE TO BE created ~~for operating~~  
14                    ~~system use that is~~ ARE restricted from the following aspects  
15                    of the operating system:

16                    ~~a.~~ (I)    No access to system root directory;

17                    ~~b.~~ (II)    No access to operating system specific folders;

18                    ~~e.~~ (III)   No access to install or remove programs; and

19                    ~~d.~~ (IV)   No access to modify other user accounts on the  
20                    system.

21                    ~~(iv)~~ (C) A ~~unique application~~ APPLICATION administrative ~~account~~  
22                    ACCOUNTS ~~shall~~ MUST ~~be created which has~~ HAVE full  
23                    access and rights to the application and database;

24                    ~~(v)~~ (D) A ~~unique application~~ APPLICATION user/operator ~~account~~  
25                    ACCOUNTS ~~shall~~ MUST ~~be created with~~ HAVE limited rights  
26                    specifically designed to perform functional operation  
27                    within the scope of the application. This user/operator ~~shall~~  
28                    MUST be restricted in the creation or modification of any  
29                    user/operator accounts. ~~;~~ ~~and~~

30                    ~~(vi)~~ ~~The voting system provider shall not have an administrative~~  
31                    ~~account or administrative account access.~~

32                    *[Current Rule 45.5.2.6.1(a)(vi) Moved to Rule 20]*

33                    ~~(b)~~ (2) The voting system ~~shall~~ MUST meet the following requirements for  
34                    network security:

1 (i) (A) All components of the voting system ~~shall~~ MUST have the  
2 ability to operate on a closed network dedicated to the  
3 voting system;

4 (ii) (B) All components of the voting system ~~shall~~ MUST include the  
5 limited use of non-routable IP address configurations for  
6 any device connected to the closed network. For the  
7 purposes of this requirement, non-routable IP addresses are  
8 those defined in the RFC 1918 Address base; and

9 (iii) (C) The voting system ~~shall~~ MUST be tested to contain  
10 provisions for updating security patches, software and/or  
11 service packs without access to the open network.

12 (e) (3) All voting systems ~~submitted for certification~~ THAT USE  
13 DATABASES ~~shall~~ MUST ~~meet the following requirements for~~  
14 ~~database security~~;

15 (i) ~~All voting systems submitted for certification shall have~~  
16 ~~HAVE~~ databases hardened to specifications developed by  
17 the voting system provider. Documentation included with  
18 the application ~~shall~~ MUST provide a detailed ~~prescription~~  
19 PROCEDURE for hardening ~~and the procedure used to harden~~  
20 ~~the system~~. Any government or industry guidelines adopted  
21 in whole, or in part, are to be identified in the  
22 documentation.

Comment [S370]: ??? really?

23 (e) (4) The voting system ~~shall~~ MUST meet the following requirements for  
24 operating system security:

25 (i) (A) All voting systems ~~submitted for certification shall~~ MUST  
26 have all operating systems hardened to specifications  
27 developed by the voting system provider. Documentation  
28 included with the application ~~shall~~ MUST provide a detailed  
29 ~~prescription~~ PROCEDURE for hardening ~~and the procedure~~  
30 ~~used to harden the system~~. Any government or industry  
31 guidelines adopted in whole, or in part, are to be identified  
32 in the documentation.

Comment [S371]: Ditto. Shocking.

33 (ii) ~~The voting system provider shall submit documentation~~  
34 ~~containing a list of minimum services and executables~~  
35 ~~required to run the voting system application.~~

36 *[Current Rule 45.5.2.6.1(d)(ii) is amended and moved to new Rule 21.5.12*  
37 *(r)]*

38 (iii) (B) The voting system provider ~~shall~~ MUST configure  
39 the voting system operating system of the workstation

- 1 and/or server used for the election management software to  
2 the following requirements:
- 3 a- (I) The ability for the system to take an action upon  
4 inserting a removable media (~~Auto~~-AUTO run) shall  
5 MUST be disabled; and
- 6 b- (II) The ~~voting~~-OPERATING system shall MUST only boot  
7 from the drive or device identified as the primary  
8 drive. ~~The voting system shall not boot from any~~  
9 ~~alternative device.~~
- 10 (iv) (C) The voting system provider shall MUST use a virus  
11 protection/prevention application on the election  
12 management server(s)/workstations which shall MUST be  
13 capable of manual updates without the use of DIRECT  
14 CONNECTION TO the internet.
- 15 (e) (5) The voting system shall MUST meet the following requirements for  
16 password security:
- 17 (i) (D) All passwords shall MUST be stored and used in a non-  
18 reversible format;
- 19 (ii) (E) Passwords to THE database shall MUST not be stored in THE  
20 database;
- 21 (iii) (F) Password to THE database shall MUST be owned and only  
22 known by the application;
- 23 (iv) (G) The application's database management system  
24 shall MUST require separate passwords for the  
25 administrative account and each operator account ~~with~~  
26 ~~access to the application;~~
- 27 (v) (H) The system shall MUST be designed in such a way to ensure  
28 THAT the use of the administrative account password shall  
29 IS not be required for normal operating functions ~~at any~~  
30 ~~remote location;~~
- 31 (vi) (I) The system shall MUST be designed in such a way to  
32 facilitate the ~~changing of passwords for each election cycle;~~
- 33 (vii) (J) The use of blank or empty passwords shall MUST not be  
34 permitted at any time with the exception of a limited one-  
35 time use startup password which requires a new password  
36 to be assigned before the system can be used; and



- 1                                   (viii) (K)       All voting systems ~~submitted for certification shall~~  
2    MUST have all components of THE voting system capable of  
3    supporting passwords of a minimum of eight characters,  
4    ~~which AND shall MUST~~ be capable of including numeric,  
5    alpha and special characters in upper case or lower case  
6    used in any combination.
- 7                                   ~~(f) — All voting system software submitted for certification shall be in~~  
8                                   ~~compliance with the Software Design and Coding Standards of the~~  
9                                   ~~Voting System Standards adopted in Rule 37.3.~~
- 10                                  ~~(g) (6)~~ (6) All modules of the system ~~shall~~ MUST meet the ~~following—~~2002  
11    VOTING SYSTEM STANDARDS requirements for installation of  
12    software, including hardware with embedded firmware:
- 13                                   ~~(i) — If software is resident in the system as firmware, the voting~~  
14                                   ~~system provider shall provide documentation that describes~~  
15                                   ~~how devices may be retested to validate each ROM prior to~~  
16                                   ~~the start of elections operations.~~
- 17                                   ~~(ii) — No software shall be permanently installed or resident in~~  
18                                   ~~the voting system unless the system documentation states~~  
19                                   ~~that the jurisdiction shall provide a secure physical and~~  
20                                   ~~procedural environment for the storage, handling,~~  
21                                   ~~preparation and transportation of the system hardware.~~
- 22                                   ~~(iii) — The voting system bootstrap, monitor and device controller~~  
23                                   ~~software may be resident permanently as firmware,~~  
24                                   ~~provided that this firmware has been shown to be~~  
25                                   ~~inaccessible to activation or control by any means other~~  
26                                   ~~than by the authorized initiation and execution of the vote~~  
27                                   ~~counting program and its associated exception handlers.~~
- 28                                   ~~(iv) — The election specific programming may be installed and~~  
29                                   ~~resident as firmware, provided that such firmware is~~  
30                                   ~~installed on a component (such as a computer chip) other~~  
31                                   ~~than the component on which the operating system resides.~~
- 32                                   ~~(v) — After initiation of Election Day testing under Rule 11.5.3,~~  
33                                   ~~no source code, compilers or assemblers shall be resident or~~  
34                                   ~~accessible.~~
- 35                                   ~~(vi) (A)~~       Where the system includes a feature to interpret and  
36    control execution using data from a script, code tokens, or  
37    other form of control data file separate from the source  
38    code, the human-readable source information ~~shall~~ MUST be  
39    made available as part of ~~the~~ A source code review ~~and the~~

1 data files used shall be defined and controlled as part of the  
2 Trusted Build as if it were part of the executable code.

3 ~~(vii)~~ (B) Security features and procedures shall MUST be  
4 defined and implemented to prevent any changes of  
5 interpreted data files after the initial election testing of the  
6 final election definition ~~and only allow authorized~~  
7 ~~replacement~~ REPLACEMENT of the data files with tested and  
8 approved files from the ~~Trusted Build~~ TRUSTED BUILD  
9 ~~SHALL MUST~~ BE by authorized personnel before the election  
10 definition is finalized for an election.

11 ~~(viii)~~ (C) The introduction of interpreted data during  
12 execution shall MUST not be permitted unless defined as a  
13 ~~pre-defined~~ PREDEFINED set of commands or actions subject  
14 to security review and the interpretation function provides  
15 security edits on input to prevent the introduction of other  
16 commands or the modification or replacement of existing  
17 code.

18 ~~(ix)~~ Independent analysis will test for the following conditions  
19 and report on absence or presence of the following input  
20 validations in accordance with Rule 45.5.2.4.3:

- 21 a. ~~Path manipulation;~~
- 22 b. ~~Cross Site Scripting;~~
- 23 c. ~~Resource Injection;~~
- 24 d. ~~OS Command Injection (also called “Shell~~  
25 ~~Injection”); and~~
- 26 e. ~~SQL Injection.~~

27 ~~(x)~~ Independent analysis will test for the following conditions  
28 and report on their absence or presence of the following  
29 range errors in accordance with Rule 45.5.2.4.3:

- 30 a. ~~Stack Overflow;~~
- 31 b. ~~Heap Overflow;~~
- 32 c. ~~Format string vulnerability; and~~
- 33 d. ~~Improper Null Termination.~~

- 1                    ~~(xi) Independent analysis will test for the following conditions~~  
2                    ~~and report on their absence or presence of the following~~  
3                    ~~Application Programming Interface (API) abuses in~~  
4                    ~~accordance with Rule 45.5.2.4.3:~~
- 5                    ~~a. Heap Inspection; and~~
- 6                    ~~b. String Management/Manipulation.~~
- 7                    ~~(xii) Independent analysis will test for the following conditions~~  
8                    ~~and report on the absence or presence of the following time~~  
9                    ~~and state conditions in accordance with Rule 45.5.2.4.3:~~
- 10                   ~~a. Time of check/Time of use race condition; and~~
- 11                   ~~b. Unchecked Error Condition.~~
- 12                   ~~(xiii) Independent analysis will test for the following conditions~~  
13                   ~~and report on the absence or presence of the following code~~  
14                   ~~quality conditions accordance with Rule 45.5.2.4.3:~~
- 15                   ~~a. Memory Leaks;~~
- 16                   ~~b. Unrestricted Critical Resource Lock;~~
- 17                   ~~c. Double Free;~~
- 18                   ~~d. Use After Free;~~
- 19                   ~~e. Uninitialized variable;~~
- 20                   ~~f. Unintentional pointer scaling;~~
- 21                   ~~g. Improper pointer subtraction; and~~
- 22                   ~~h. Null Dereference.~~
- 23                   ~~(xiv) Independent analysis will test for the following conditions~~  
24                   ~~and report on the absence or presence of the following~~  
25                   ~~encapsulation conditions in accordance with Rule~~  
26                   ~~45.5.2.4.3:~~
- 27                   ~~a. Private Array Typed Field Returned from a Public~~  
28                   ~~Method;~~
- 29                   ~~b. Public Data Assigned to Private Array Typed Field;~~
- 30                   ~~c. Overflow of static internal buffer; and~~

- 1 d. ~~Leftover Debug Code.~~
- 2 (xv) (D) The application ~~shall~~ MUST not open database tables  
3 for direct editing.
- 4 (h) All voting systems ~~submitted for certification shall~~ MUST meet the  
5 following minimum requirements for removable storage media  
6 with data controls:
- 7 (i) All voting data stored that includes ~~vote records~~, ballot  
8 images, tally data and cast ~~votes~~ VOTE RECORDS ~~shall~~ MUST  
9 be authenticated and validated.
- 10 (ii) All non-voting data stored ~~shall~~ MUST be authenticated,  
11 encrypted, and validated.
- 12 (iii) All removable media, upon insertion ~~of media or media~~  
13 ~~device~~ on server and/or workstations hosting the elections  
14 management software, ~~shall~~ MUST AUTOMATICALLY be  
15 scanned by antivirus software.

**Comment [S372]:** Here I see ballot image and cast vote record as presumably different things. But this is contrary to the definition. What constitutes authentication and validation? Shouldn't this rule be specifying what those mean?

- 16 ~~45.5.2.6.2 The voting system provider shall provide documentation detailing~~  
17 ~~voting system security in the areas listed below. The system shall contain~~  
18 ~~documented configurations, properties and procedures to prevent, detect~~  
19 ~~and log changes to system capabilities for:~~
- 20 (a) ~~Defining ballot formats;~~
- 21 (b) ~~Casting and recording votes;~~
- 22 (c) ~~Calculating vote totals consistent with defined ballot formats;~~
- 23 (d) ~~Reporting vote totals;~~
- 24 (e) ~~Altering of voting system audit records;~~
- 25 (f) ~~Changing or preventing the recording of a vote;~~
- 26 (g) ~~Introducing data for a vote not cast by a registered voter;~~
- 27 (h) ~~Changing calculated vote totals;~~
- 28 (i) ~~Preventing access to vote data, including individual votes and vote~~  
29 ~~totals, to unauthorized individuals; and~~
- 30 (j) ~~Preventing access to voter identification data and data for votes~~  
31 ~~cast by the voter such that an individual can determine the content~~  
32 ~~of specific votes cast by the voter.~~

1 *[Current Rule 45.5.2.6.2 amended and moved to new Rule 21.5.12(i)]*

2 ~~45.5.2.6.3~~—The voting system provider shall submit to the Secretary of State  
3 its recommended policies or guidelines governing:

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

12 ~~45.5.2.6.4~~—The voting system shall include detailed documentation regarding  
13 the security measures it has in place for all systems, applicable software,  
14 devices that act as connectors (upload, download, and other programming  
15 devices) and any security measures the voting system provider  
16 recommends to the jurisdictions that purchase the voting system.

17 *[Current Rule 45.5.2.6.4 amended and moved to New Rule 21.5.12(j).]*

18 ~~45.5.2.7~~ 21.5.10 Telecommunications ~~Requirements~~ REQUIREMENTS

19 ~~45.5.2.7.1~~ (A) Telecommunications includes all components of the system that  
20 transmit data outside of the closed network as defined in this Rule ~~45-21~~.

21 ~~45.5.2.7.2~~ (B) All electronic transmissions from a voting system ~~shall~~ MUST meet  
22 the ~~following minimum standards~~—2002 VOTING SYSTEM STANDARDS.

23 (a) (C) Modems from remote devices ~~shall~~ MUST be PROGRAMMED TO BE “dial  
24 only” and ~~cannot be programmed to~~ NOT receive a call;

25 (b) ~~Use an encryption standard currently documented and validated for~~  
26 ~~use by an agency of the United States Federal Government; and~~

27 (c) ~~Provide a means to detect the presence of an intrusive process,~~  
28 ~~such as an Intrusion Detection System.~~

29 ~~45.5.2.7.3~~ (D) Any modem ~~in any component failing~~ THAT FAILS to meet ~~these~~  
30 ~~criteria~~—THE REQUIREMENTS OF THIS RULE ~~shall~~ MAY not be used by any  
31 voting system.

1 45.5.2.7.4(E) All wireless components in voting systems shall be disabled with  
2 the exception of line-LINE of sight infrared technology SHALL MAY ONLY  
3 BE used in a closed environment where the transmission and reception is  
4 shielded from external infrared signals and can only accept infrared  
5 signals generated from within the system.

6 45.5.2.7.5(F) All systems that transmit data over public telecommunications  
7 networks shall MUST maintain a clear audit trail that can be provided to the  
8 Secretary of State when election results are transmitted by telephone,  
9 microwave or other type of electronic communication.

Comment [S373]: Is this allowed?

10 45.5.2.7.6 — Systems designed for transmission of voter information over public  
11 networks shall meet security standards that address the security risks  
12 attendant with the casting of ballots at remote sites controlled by election  
13 officials using the voting system configured and installed by election  
14 officials and/or their voting system provider or contractor, and using in-  
15 person authentication of individual voters.

16 45.5.2.7.7 — Any voting system provider of systems that cast individual ballots  
17 over a public telecommunications network shall provide detailed  
18 descriptions of:

19 (a) — All activities mandatory to ensure effective system security to be  
20 performed in setting up the system for operation, including testing  
21 security before an election.

22 (b) — All activities that should be prohibited during system setup and  
23 during the time frame for voting operations, including the hours  
24 when polls are open and when polls are closed.

25 45.5.2.7.8(G) In any situation in which the voting system provider's system  
26 transmits VOTING SYSTEMS THAT TRANSMIT data through any  
27 telecommunications medium, the system shall MUST be able to recover,  
28 either automatically or with manual intervention, from incomplete or  
29 failed transmission sessions and resume transmissions automatically when  
30 telecommunications are re-established-REESTABLISHED.

31 (a)(1) Recovery of transmissions shall MUST include notations of the  
32 interrupted transmission session and the resumed transmission  
33 session in the system and application transaction logs.

34 (b)(2) Failure and recovery of transmissions shall MUST not cause any  
35 error in data transmitted from the polling place VOTER SERVICE AND  
36 POLLING CENTERS to the central election site during a recovered  
37 transmission session.

38 45.5.2.7.9 — Voting systems that use public telecommunications networks shall  
39 provide system documentation that clearly identifies all COTS hardware

1 ~~and software products and communications services used in the~~  
2 ~~development and/or operation of the voting system, including operating~~  
3 ~~systems, communications routers, modem drivers and dial up networking~~  
4 ~~software. Documentation shall identify the name, voting system provider~~  
5 ~~and version used for each such component.~~

6 ~~45.5.2.7.10 Voting systems providers shall document how they plan to monitor~~  
7 ~~and respond to known threats to which their voting systems are vulnerable.~~  
8 ~~This documentation shall provide a detailed description, including~~  
9 ~~scheduling information, of the procedures the voting system provider will~~  
10 ~~use to:~~

11 ~~(a) Monitor threats, such as through the review of assessments,~~  
12 ~~advisories and alerts for COTS components;~~

13 ~~(b) Evaluate the threats and, if any, proposed responses;~~

14 ~~(c) Develop responsive updates to the system and/or corrective~~  
15 ~~procedures; and~~

16 ~~(d) As part of the certification requirements of the proposed system,~~  
17 ~~provide assistance to customers, either directly or through detailed~~  
18 ~~written procedures, how to update their systems and/or to~~  
19 ~~implement the corrective procedures within the timeframe~~  
20 ~~established by the Secretary of State.~~

21 ~~45.5.2.8 Repealed.~~

22 ~~45.5.2.9-21.5.11 Voter Verifiable Paper Record Requirements (V VPAT)-VOTER-~~  
23 ~~VERIFIABLE PAPER RECORD REQUIREMENTS~~

24 ~~45.5.2.9.1 V VPAT shall refer to a Voter verified paper record as defined in~~  
25 ~~section 1-1-104(50.6)(a), C.R.S.~~

26 *[Current Rule 45.5.2.9.1 is amended and moved to New Rule 21.1.22.]*

27 ~~45.5.2.9.2 (A) Existing systems that are retrofitted to comply with this law~~  
28 ~~SECTION 1-5-802(1), C.R.S., shall MUST be examined for certification by~~  
29 ~~the Secretary of State. Any retrofitted voting system shall MUST comply~~  
30 ~~with the process and application for certification as identified by this Rule~~  
31 ~~45-21.~~

32 ~~45.5.2.9.3 (B) The V VPAT VVPAT shall consist of MUST INCLUDE the following~~  
33 ~~minimum components:~~

34 ~~(a)(1) The voting device shall contain a A paper audit trail writer or~~  
35 ~~printer that shall MUST be attached, built into or used in~~

1 conjunction with the DRE, ~~The printer~~ AND shall MUST duplicate a  
2 voter's selections from the DRE onto a paper record;

3 (b)(2) ~~The unit or device shall have a~~ A paper record display unit or area  
4 that shall MUST allow a voter to view his or her paper record; AND

5 (c)(3) ~~The VVPAT unit shall contain a~~ A paper record storage unit that  
6 shall MUST store cast and spoiled paper record copies securely; ~~and~~

7 (d) ~~These devices may be integrated as appropriate to their operation.~~

8 45.5.2.9.4 ~~VVPAT devices shall allow voters to verify his or her selections~~  
9 ~~on a paper record prior to casting ballots. The voter shall either accept or~~  
10 ~~reject the choices represented on the paper record. Both the electronic~~  
11 ~~record and the paper record shall be stored and retained when the ballot is~~  
12 ~~cast.~~

13 45.5.2.9.5 ~~The VVPAT printer connection may be any standard, publicly~~  
14 ~~documented printer port (or the equivalent) using a standard~~  
15 ~~communication protocol.~~

16 (C) THE VVPAT SHALL MUST MEET THE FOLLOWING FUNCTIONAL  
17 REQUIREMENTS:

18 45.5.2.9.6 (1) ~~The printer shall not be permitted to~~ MAY ONLY  
19 ~~communicate with any device other than~~ the voting device to  
20 ~~which it is connected;~~

21 45.5.2.9.7 (2) ~~The printer shall only be able to~~ MAY ONLY function as a  
22 ~~printer, and not perform any other non-printer related services;~~

23 45.5.2.9.8 (3) ~~Every electronic voting record shall have a corresponding~~  
24 ~~paper record.~~ PRODUCE A PAPER RECORD FOR EVERY  
25 ~~CORRESPONDING ELECTRONIC VOTING RECORD;~~

26 45.5.2.9.9 ~~The paper record shall be considered an official record of~~  
27 ~~the election available for recounts, and shall be sturdy, clean, and~~  
28 ~~of sufficient durability to be used for this purpose.~~

29 45.5.2.9.16 (4) ~~The VVPAT unit shall provide~~ PROVIDE a "low supply"  
30 ~~warning to the election~~ JUDGE OFFICIAL to add paper, ink,  
31 ~~toner, ribbon or other like supplies. In the event that an election~~  
32 ~~judge official~~ JUDGE OFFICIAL is required to change supplies during the process of  
33 ~~voting, the voter shall~~ MUST be allowed to reprint and review the  
34 ~~paper audit trail~~ RECORD without having to ~~re-mark~~ MARK his or  
35 ~~her ballot, and the~~ THE device shall MUST prevent the election  
36 ~~judge official~~ JUDGE OFFICIAL from seeing ~~any voters' ballots~~ A VOTER'S BALLOT.



1 45.5.2.9.17 (5) ~~All voting systems submitted for certification shall stop the~~  
2 ~~V VPAT printer of all forward operations of the DRE. STOP ALL~~  
3 ~~OPERATIONS if the printer is not working due to paper jams, out of~~  
4 ~~other consumables or any other issue which may cause the correct~~  
5 ~~readable printing of information on the V VPAT record as~~  
6 ~~designed.~~

7 45.5.2.9.20 (6) ~~The V VPAT shall allow~~ ALLOW a voter to spoil his or her  
8 paper record no more than two times. Upon spoiling, the voter  
9 ~~shall~~ MUST be able to modify and verify selections on the DRE  
10 without having to reselect all of his or her choices.

11 45.5.2.9.21 (7) ~~Before the voter causes a third and final record to be~~  
12 ~~printed, the voter shall be presented~~ THE VVPAT MUST PRESENT  
13 THE VOTER with a warning notice that the selections made on  
14 screen shall be final and the voter ~~shall~~ MAY see and verify a  
15 printout of his or her vote, but ~~shall~~ MAY not be given additional  
16 opportunities to change their vote.

17 45.5.2.9.22 (8) ~~When V VPAT-VVPAT components are integrated into A~~  
18 ~~PREVIOUSLY CERTIFIED voting systems~~ SYSTEM the new  
19 configuration of the VOTING system must comply with existing  
20 state testing and auditing requirements.

21 45.5.2.9.23 (9) ~~The V VPAT component should print~~ PRINT a barcode with  
22 each record that contains the human readable contents of the paper  
23 record ~~and digital signature information~~. The voting system  
24 provider ~~shall~~ MUST include documentation of the barcode type,  
25 protocol, and/or description of barcode and the method of reading  
26 the barcode as applicable to the voting system.

**Comment [S374]:** This barcode and its potential use are problematic. If it is to help know what the voter verified, it will not suffice.

27 45.5.2.9.25 (10) ~~If used for provisional ballots, the V VPAT system~~  
28 ~~VVPAT shall~~ MUST be able to mark paper records as a provisional  
29 ballot through the use of human readable text and optionally  
30 printing barcode and/or serial number information, which ~~shall~~  
31 MUST provide for mapping the record back to the electronic record  
32 and the provisional voter for processing after verification in  
33 accordance with Article 8.5 of Title 1, C.R.S.

**Comment [S375]:** If I recall correctly CO does not allow provisional ballots on DRE. And this paragraph looks like a potential privacy problem.

34 (D) THE VVPAT ~~shall~~ MUST MEET THE FOLLOWING DESIGN REQUIREMENTS:

35 45.5.2.9.10 (1) ~~The V VPAT device shall be designed to allow~~ ALLOW  
36 every voter to review and accept or reject his/her paper record in as  
37 private and independent manner as possible ~~for both disabled and~~  
38 ~~non-disabled voters~~ REGARDLESS OF WHETHER THE VOTER HAS  
39 DISABILITY.

1 ~~45.5.2.9.11 — The V VPAT system shall be designed in conjunction with~~  
2 ~~state law to ensure the secrecy of votes so that it is not possible to~~  
3 ~~determine which voter cast which paper record.~~

4 ~~45.5.2.9.12(2)The V VPAT printer shall print PRINT at a font size no less~~  
5 ~~than ten point 14-POINT SANS-SERIF ARIAL for ease of readability.~~  
6 ~~Any protective covering intended to be transparent shall be in such~~  
7 ~~condition that it can be made transparent by ordinary cleaning of~~  
8 ~~its exposed surface.~~

9 ~~45.5.2.9.13 (3)The V VPAT system shall be designed to allow ALLOW~~  
10 ~~each voter to verify his or her vote on a paper record in the same~~  
11 ~~language THAT they voted in on the DRE.~~

12 ~~45.5.2.9.14(4)The V VPAT system shall be designed to prevent PREVENT~~  
13 ~~tampering with unique keys and/or seals for the compartment that~~  
14 ~~stores the paper record as well as meet the security requirements of~~  
15 ~~this rule. Additional security measures may be in place on the~~  
16 ~~printer to prevent tampering with the device.~~

17 ~~45.5.2.9.15(5)The V VPAT system shall be capable of printing and~~  
18 ~~storing PRINT AND STORE paper record copies for at least 75 ballots~~  
19 ~~cast without requiring the paper supply source, ink or toner supply,~~  
20 ~~or any other similar consumable supply to be changed, assuming a~~  
21 ~~fully printed double sided 18 inch ballot with a minimum of 20~~  
22 ~~contests.~~

23 ~~45.5.2.9.16 — The V VPAT unit shall provide a “low supply”~~  
24 ~~—— warning to the election judge to add paper, ink, toner,~~  
25 ~~ribbon or other like supplies. In the event that an election judge is~~  
26 ~~required to change supplies during the process of voting, the voter~~  
27 ~~shall be allowed to reprint and review the paper audit trail without~~  
28 ~~having to re mark his or her ballot, and the device shall prevent the~~  
29 ~~election judge from seeing any voters’ ballots.~~

30 *[Current Rule 45.5.2.9.16 is amended and moved to New Rule*  
31 *21.5.11(c)(4).]*

32 ~~45.5.2.9.17 — All voting systems submitted for certification shall stop the~~  
33 ~~V VPAT printer of all forward operations of the DRE if the printer~~  
34 ~~is not working due to paper jams, out of other consumables or any~~  
35 ~~other issue which may cause the correct readable printing of~~  
36 ~~information on the V VPAT record as designed.~~

1 *[Current Rule 45.5.2.9.17 amended and moved to New Rule*  
2 *21.5.11(c)(5).]*

3 ~~45.5.2.9.18 — The voting system provider shall provide procedures and~~  
4 ~~documentation for the use of the V VPAT device.~~

5 *[Current Rule 45.5.2.9.18 amended and moved to New Rule 21.5.12(k).]*

6 ~~45.5.2.9.19 (6) The printed information on the printed ballot or verification~~  
7 ~~portion of the V VPAT device PAPER RECORD SHALL MUST contain~~  
8 ~~at least the following items:~~

9 ~~(a)-(A) Name or header information of race, question or issue;~~

10 ~~(b)-(B) Voter's selections for the race information;~~

11 ~~(c)-(C) Write-in candidate's names if selected;~~

12 ~~(d)-(D) Undervote or overvote information—this is in addition to~~  
13 ~~the information on the review screen of the DRE;~~

14 ~~(e)-(E) Ability to optionally produce a unique serial number~~  
15 ~~(randomized to protect privacy); and~~

16 ~~(f)-(F) Identification that the ballot was cancelled or cast.~~

17 ~~45.5.2.9.20 — The V VPAT shall allow a voter to spoil his or her paper~~  
18 ~~record no more than two times. Upon spoiling, the voter shall be~~  
19 ~~able to modify and verify selections on the DRE without having to~~  
20 ~~reselect all of his or her choices.~~

21 *[Current Rule 45.5.2.9.20 amended and moved to New Rule*  
22 *21.5.11(c)(6).]*

23 ~~45.5.2.9.21 — Before the voter causes a third and final record to be~~  
24 ~~printed, the voter shall be presented with a warning notice that the~~  
25 ~~selections made on screen shall be final and the voter shall see and~~  
26 ~~verify a printout of his or her vote, but shall not be given additional~~  
27 ~~opportunities to change their vote.~~

28 *[Current Rule 45.5.2.9.21 amended and moved to New Rule*  
29 *21.5.11(c)(7).]*

30 ~~45.5.2.9.22 — When V VPAT components are integrated into voting~~  
31 ~~systems the new configuration of the system must comply with~~  
32 ~~existing state testing and auditing requirements.~~

1 *[Current Rule 45.5.2.9.22 amended and moved to New Rule*  
2 *21.5.11(c)(8).]*

3 ~~45.5.2.9.23 — The V VPAT component should print a barcode with each~~  
4 ~~record that contains the human readable contents of the paper~~  
5 ~~record and digital signature information. The voting system~~  
6 ~~provider shall include documentation of the barcode type, protocol,~~  
7 ~~and/or description of barcode and the method of reading the~~  
8 ~~barcode as applicable to the voting system.~~

9 *[Current Rule 45.5.2.9.23 amended and moved to New Rule*  
10 *21.5.11(c)(9).]*

11 ~~45.5.2.9.24(7)The V VPAT component shall be designed such that a~~  
12 ~~voter shall not be able to leave PROHIBIT THE VOTER FROM LEAVING~~  
13 ~~the voting area with the paper record.~~

14 ~~45.5.2.9.25 — If used for provisional ballots, the V VPAT system shall be~~  
15 ~~able to mark paper records as a provisional ballot through the use~~  
16 ~~of human readable text and optionally printing barcode and/or~~  
17 ~~serial number information which shall provide for mapping the~~  
18 ~~record back to the electronic record and the provisional voter for~~  
19 ~~processing after verification in accordance with Article 8.5 of Title~~  
20 ~~1, C.R.S.~~

21 *[Current Rule 45.5.2.9.25 amended and moved to New Rule*  
22 *21.5.11(c)(10).]*

23 ~~45.5.2.9.26 (8)The voting system provider SHALL MUST provide~~  
24 ~~procedures to the Secretary of State with the application for~~  
25 ~~certification which describe DOCUMENTATION DESCRIBING how to~~  
26 ~~investigate and resolve malfunctions including, but not limited to~~  
27 ~~the following: misreporting votes, unreadable paper records, paper~~  
28 ~~jams, low ink, misfeeds, preventing the V VPAT from being a~~  
29 ~~single point of failure, recovering votes in the case of malfunction~~  
30 ~~and power failures.~~

- 31 (A) MISREPORTING VOTES;  
32 (B) UNREADABLE PAPER RECORDS;  
33 (C) PAPER JAMS;  
34 (D) LOW-INK;  
35 (E) MISFEEDS;  
36 (F) LOST VOTES; AND

1 (G) POWER FAILURES.

2 ~~45.5.2.4~~ 21.5.12 Documentation ~~Requirements~~-REQUIREMENTS

3 ~~45.5.1.3~~(A) The Secretary of State may ~~use and~~ rely upon the testing of a

4 voting system performed by a VSTL or by another state upon satisfaction

5 of the following conditions:

6 (a)(1) The Secretary of State has ~~complete~~ access to any

7 documentation, data, reports or similar information upon

8 which the VSTL or another state relied in performing its

9 tests and will make such information available to the public

10 subject to any redaction required by law; and

11 (b)(2) The Secretary of State ~~makes written findings and certifies~~

12 ~~that he or she has reviewed such information and~~ HAS DETERMINED that the tests were conducted

13 ~~determines~~ in accordance with appropriate engineering standards ~~in use~~

14 ~~when the tests were conducted~~, and the extent to which the

15 tests satisfy the requirements of sections 1-5-615 and

16 1-5-616, C.R.S., and all rules promulgated under those

17 sections.

18

19 ~~45.5.2.4.1~~(B) In addition to other documentation requirements in this rule, the

20 voting system provider ~~SHALL~~ MUST provide the following documents:

21 (a)(1) Standard ~~Issue—Users/Operator—Manual—~~ISSUE

22 USERS/OPERATOR MANUAL;

23 (b)(2) System ~~Administrator’s/Application—Administration~~

24 ~~Manual—~~ADMINISTRATOR’S/APPLICATION ADMINISTRATION

25 MANUAL;

26 (c)(3) Training ~~Manual—~~MANUAL and related materials;

27 (d)(4) Systems ~~Programming—PROGRAMMING and Diagnostics~~

28 ~~Manuals—~~DIAGNOSTICS MANUALS; and

29 (e)(5) A list of minimum services needed for the successful,

30 secure and hardened operation of all components of THE

31 voting system.

32 ~~45.4.2.13~~(C) The voting system provider ~~SHALL~~ MUST provide documentation

33 concerning the use of touch screen or other display and selection

34 technology including, but not limited to:

1                   (a)-(1) Technical documentation describing the nature and  
2                   sensitivity of the tactile device (if the system uses touch  
3                   screen technology);

4                   (b)-(2) Technical documentation describing the nature and  
5                   sensitivity of any other technology used ~~to display and~~  
6                   ~~select offices, candidates or issues;~~

7                   45.5.2.4.2-(D) For the review of VSTL or other state testing in Rule 45.5.1.3  
8                   21.5.12(A) copies of all VSTL or state qualification reports, test logs and  
9                   technical data packages ~~shall~~ **MUST** be provided to the Secretary of State.

10                  (a)-(1) The voting system provider ~~SHALL~~ **MUST** execute and  
11                  submit any necessary releases for the applicable VSTL,  
12                  state and/or EAC to discuss any and all procedures and  
13                  findings relevant to the voting system ~~submitted for~~  
14                  ~~certification~~ with the Secretary of State and allow the  
15                  review by the Secretary of State of any documentation,  
16                  data, reports or similar information upon which the VSTL  
17                  or other state relied in performing its testing. The voting  
18                  system provider ~~SHALL~~ **MUST** provide a copy of the same to  
19                  the Secretary of State.

20                  (b)-(2) The voting system provider, the VSTL, the state and/or the  
21                  EAC will identify to the Secretary of State any specific  
22                  sections of documents for which they assert a legal  
23                  requirement for redaction.

24                  45.5.2.3.14(d)-(E)    The voting system provider ~~SHALL~~ **MUST** ~~deliver to the~~  
25                  ~~Secretary of State documentation detailing estimated time of battery~~  
26                  ~~operation for each type of optical scanner, ballot imager, DRE and V-~~  
27                  ~~VPAT they provide, assuming continuous use of the devices by voters~~  
28                  ~~during an interruption of normal electrical power. 45.5.2.3.14(e) The~~  
29                  ~~voting system provider shall deliver~~ **PROVIDE** ~~to the Secretary of State~~  
30                  documentation specifying the steps and times required for charging  
31                  batteries, AND THE TIME OF BATTERY OPERATION for each type of ~~optical~~  
32                  ~~scanner, ballot imager, DRE and V-VPAT-DEVICE~~ they provide, ASSUMING  
33                  CONTINUOUS USE OF THE DEVICES BY VOTERS DURING AN INTERRUPTION OF  
34                  NORMAL ELECTRICAL POWER.

35                  45.5.2.4.4-(F) ~~Documentation submitted to the~~ **THE** Secretary of State ~~shall be~~  
36                  ~~reviewed~~ **WILL REVIEW** SUBMITTED DOCUMENTATION to determine the  
37                  extent to which the voting system has been tested to federal standards.

38                  45.5.2.4.6-(G) Failure by the voting system provider to provide any  
39                  documentation ~~with their application for certification~~ will delay processing

1 the application ~~until the documentation is provided~~ AND MAY BE CAUSE  
2 FOR DENIAL OF CERTIFICATION.

3 ~~45.5.2.5.2~~(H) The voting system ~~shall~~ MUST include detailed documentation,  
4 WHICH INCLUDES ~~as to the level, location and programming~~ A DESCRIPTION  
5 OF THE CONTENT OF THE of audit trail information throughout the system.  
6 The audit information ~~shall apply~~ APPLIES to:

7 ~~(a)~~(1) Operating Systems (workstation, server, OPTICAL SCANNER,  
8 BDM, and ~~or~~ DRE);

9 ~~(b)~~(2) Election ~~Programming Software~~ MANAGEMENT SYSTEM;  
10 AND

11 ~~(c)~~(3) Election Tabulation Devices – optical scan and DRE.; ~~and~~

12 ~~(d)~~ — Election Reporting Subsystem.

13 ~~45.5.2.6.2~~(I) The voting system provider ~~shall~~ MUST provide documentation  
14 detailing voting system security ~~in the areas listed below~~. The system  
15 DOCUMENTATION ~~shall~~ MUST contain ~~documented~~ configurations,  
16 properties and procedures to prevent, detect and log changes to system  
17 capabilities for:

18 ~~(a)~~(1) Defining ballot formats;

19 ~~(b)~~(2) Casting and recording votes;

20 ~~(c)~~(3) Calculating vote totals consistent with defined ballot  
21 formats;

22 ~~(d)~~(4) Reporting vote totals;

23 ~~(e)~~(5) Altering of voting system audit records;

24 ~~(f)~~(6) Changing or preventing the recording of a vote;

25 ~~(g)~~(7) Introducing data for a vote not cast by a registered voter;

26 ~~(h)~~(8) Changing calculated vote totals;

27 ~~(i)~~(9) Preventing access to vote data, including individual votes  
28 and vote totals, to unauthorized individuals; and

29 ~~(j)~~(10) Preventing access to voter identification data and data for  
30 votes cast by the voter such that an individual can  
31 determine the content of specific votes cast by the voter.

1 45.5.2.6.4(J) The voting system PROVIDER shall MUST include detailed PROVIDE  
2 documentation regarding DETAILING the security measures it has in place  
3 for all systems, applicable software, devices that act as connectors  
4 (upload, download, and other programming devices) and any  
5 RECOMMENDED security measures the voting system provider recommends  
6 to the jurisdictions that purchase the voting system.

7 45.5.2.9.18(K)The voting system provider shall MUST provide procedures and  
8 documentation for the use of the ~~V-VPAT device~~ VVPAT.

9 45.5.2.2.3(L) The voting system provider shall MUST publish and specify  
10 processing standards for each component of the voting system as part of  
11 the documentation required for certification.

12 45.5.2.2.4(M) For the purpose of evaluating software, the voting system provider  
13 shall MUST be required to provide detailed information as to the type of  
14 hardware required to execute the software.

15 45.5.2.3.2(N) The documentation supplied by the voting system shall MUST  
16 include a statement of all requirements and restrictions regarding  
17 environmental protection, electrical service, telecommunications service  
18 and any other facility or resource required for the installation, operation  
19 and storage of the voting system.

20 45.5.2.3.13(d)(O) ~~Any~~THE VOTING SYSTEM PROVIDER SHALL MUST PROVIDE  
21 ANY available data on problems caused for persons who experience  
22 epileptic seizures due to the DRE voting device's screen refresh rate.

23 45.5.2.3.14(d)(P) The voting system provider shall MUST deliver to the  
24 Secretary of State documentation detailing estimated time of battery  
25 operation for each type of ~~optical scanner, ballot imager, DRE and V-~~  
26 ~~VPAT they provide~~ DEVICE SUBMITTED FOR CERTIFICATION, assuming  
27 continuous use of the devices by voters during an interruption of normal  
28 electrical power.

29 45.5.2.3.14(e)(Q) The voting system provider shall MUST deliver to the  
30 Secretary of State documentation specifying the steps and times required  
31 for charging batteries for each type of ~~optical scanner, ballot imager, DRE~~  
32 ~~and V-VPAT they provide~~ DEVICE SUBMITTED FOR CERTIFICATION.

33 45.5.2.6.1(d)(ii)(R) The voting system provider shall MUST submit  
34 documentation containing a list of minimum services and executables  
35 required to run the ~~voting system application~~ ELECTION MANAGEMENT  
36 SYSTEM.

37 45.6 21.6 Testing PREPARATION PROCEDURES



1 45.6.1-21.6.1 Voting System Provider Demonstration SYSTEM PROVIDER  
2 DEMONSTRATION

3 45.6.1.1(A) The voting system provider shall MUST demonstrate the exact  
4 proposed SUBMITTED voting system to the Secretary of State prior to any  
5 functional testing.

6 45.6.1.2(B) The demonstration period does not have a pre-determined  
7 PREDETERMINED agenda for the voting system provider to follow;  
8 however, presentations should be prepared to address and demonstrate,  
9 within the specific system, the following items as they pertain to each area  
10 and use within the voting system, IF APPLICABLE:

- 11 (a)-(1) System overview;
- 12 (b)-(2) Verification of complete system matching EAC certification;
- 13 (c)-(3) Ballot definition creation;
- 14 (d)-(4) Printing ballots on demand;
- 15 (e)-(5) Hardware diagnostics-DIAGNOSTIC testing;
- 16 (f)-(6) Programming election media devices for various count COUNTING  
17 methods INCLUDING:
- 18 (i)-(A) Mail-in Ballots-BALLOTS;
- 19 (ii)-(B) Early Voting IN-PERSON BALLOTS; AND
- 20 (iii)-(C) Precinct/Poll Place;
- 21 (iv)-(D) C Provisional BALLOTS; and
- 22 (v)-(E) Vote Center.
- 23 (g)-(7) Sealing and securing system devices;
- 24 (h)-(8) Logic and accuracy testing;
- 25 (i)-(9) Processing ballots;
- 26 (j)-(10) Accessible use;
- 27 (k)-(11) Accumulating results;
- 28 (l)-(12) Post-election audit;
- 29 (m)-(13) Canvass process handling;

1                   ~~(n)~~(14) Audit steps and procedures throughout all processes;

2                   ~~(o)~~(15) Certification of results; and

3                   ~~(p)~~(16) Troubleshooting.

4                   ~~45.6.1.3~~(C) The voting system provider ~~shall~~ WILL have access to the  
5 demonstration room for one day prior to the start of the demonstration to  
6 provide time for setup of the voting system.

7                   ~~45.6.1.4~~(D) A maximum of one business day is normally allowed for the  
8 demonstration. If the voting system provider requests more time for the  
9 demonstration or, if the Secretary of State finds that the complexity of the  
10 system is such that more time is needed for a demonstration, more time  
11 may be granted.

12                   ~~45.6.1.5~~(E) The demonstration ~~shall~~ WILL be open to representatives of the  
13 press and the public to the extent allowable. The Secretary of State may  
14 limit the number of representatives from each group to accommodate  
15 space ~~limitations and other considerations~~.

16                   ~~45.6.1.6~~(F) The Secretary of State ~~shall~~ WILL post notice of the fact that the  
17 demonstration will take place in the designated public place for posting  
18 such notices for at least seven days prior to the demonstration. The notice  
19 ~~shall~~ MUST indicate the general time frame during which the demonstration  
20 may take place and the manner in which members of the public may  
21 obtain specific information about the time and place of the test.

22                   ~~45.6.1.7~~(G) The voting system provider ~~shall~~ MUST provide the same class of  
23 workstation and/or server for testing the voting system as the normal  
24 production environment for the State of Colorado.

25                   ~~45.6.2~~ Functional Testing

26                   ~~45.6.2.1~~ — Voting system provider requirements for testing

27                   ~~45.6.2.1.1~~(H) Based upon the review of VSTL or other state reports and test  
28 records, the Secretary of State will prepare a test plan. The test plan ~~shall~~  
29 WILL be designed to test for any requirements specific to Colorado law  
30 which were not addressed in prior testing and for any federal or Colorado  
31 requirements which were not addressed to the satisfaction of the Secretary  
32 of State in the reports and records from prior testing.

33                   ~~45.6.2.1.2~~(I) The test plan ~~shall~~ MUST include the election definitions to be used  
34 in testing and specifications for test ballots. Test ballots and election  
35 definitions ~~shall~~ MUST generally follow all requirements for election  
36 definitions, ballot layout and printing to verify the system's ability to meet

1 those requirements. Some election definitions and ballots may depart from  
2 the requirements in order to test specific functions.

3 ~~45.6.2.1.3~~(J) For each system tested, a requirements matrix ~~shall~~ MUST be  
4 prepared to identify those requirements satisfied by the review of VSTL or  
5 other state reports and test data and how those requirements not satisfied  
6 are to be tested or otherwise satisfied. If during test planning or testing one  
7 of the requirements in the voting systems standards or in this rule are  
8 determined to be not applicable to the system under test, the reason for the  
9 determination will be documented.

10 ~~45.6.2.1.4~~(K) The voting system provider ~~shall~~ MUST submit for testing the  
11 specific system configuration that will be offered to jurisdictions including  
12 the components with which the voting system provider recommends the  
13 system be used.

14 ~~45.6.2.1.5~~(L) The voting system provider is not required to have a representative  
15 present during the functional testing, but ~~shall~~ MUST provide a point of  
16 contact for technical support. After the delivery, unpacking and initial  
17 inspection of the equipment for shipping damage and missing components,  
18 a vendor representative ~~shall WILL~~ only be allowed to operate or touch the  
19 equipment when approved by the Secretary of State. All such activity by a  
20 vendor representative ~~shall MUST~~ be documented on video ~~and~~ OR in  
21 writing.

22 ~~45.6.2.1.6~~(M) The proprietary software ~~shall~~ MUST be installed on the  
23 workstation/server and all applicable voting system components by the  
24 Secretary of State OR THE VSTL using the trusted build and the installation  
25 procedures provided by the voting system provider. After installation,  
26 hash values for the software and firmware ~~shall~~ MUST be compared to any  
27 published hash values of the trusted build. Any mismatches in hash values  
28 will be investigated and resolved before proceeding with testing.

29 ~~45.6.2.1.7~~(N) All equipment ~~shall~~ MUST be hardened using the voting system  
30 provider's procedures and specifications.

31 ~~45.6.2.1.8~~(O) Testing ~~shall~~ MUST be performed with test election definitions and  
32 test ballots as required in the test plan.

33 ~~45.6.2.1.9~~(P) The results of all testing ~~shall~~ MUST be recorded in the  
34 requirements matrix. The requirements matrix ~~shall WILL~~ be the primary  
35 record describing which requirements were met and specifying which  
36 were not. It ~~shall~~ MUST be supplemented as necessary to support the  
37 findings with test team notes and system reports. Supplemental  
38 information may include photographs and audio or video recordings.

39 ~~45.6.2.1.10~~(Q) Functional testing ~~shall~~ MUST be completed according to the phases  
40 identified in Rule ~~45.3.3~~ 21.3.3.

1                    ~~45.6.2.2~~ Secretary of State requirements for testing

2                    ~~45.6.2.2.1~~(R) The Secretary of State OR THE VSTL ~~shall~~ MUST conduct functional

3                                       testing on the voting system based on this Rule 45-~~and additional testing~~

4                                       ~~procedures as determined by the Secretary of State.~~

5                    ~~45.6.2.2.2~~(S) The voting system ~~shall~~ MUST receive a pass, fail or not applicable

6                                       for each requirement with appropriate notation in the requirements matrix.

7                    ~~45.6.2.2.3~~(T) Records of the test procedures ~~shall~~ MUST be maintained ~~and~~

8                                       ~~recorded on file with the Secretary of State~~ IN ACCORDANCE WITH RULE

9                                       ~~45.4.7~~ 21.4.7. The records ~~shall~~ MUST identify the system and all

10                                       components by voting system provider name, make, model, serial number,

11                                       software version, firmware version, date tested, test number, test plan,

12                                       requirements matrix, test team notes and other supplemental information,

13                                       and results of test. The test environment conditions ~~shall~~ MUST be

14                                       described.

15                    ~~45.6.2.2.4~~(U) In the event that a deviation from the test plan is required, it ~~shall~~

16                                       MUST be documented in a test team note. The note ~~shall~~ MUST provide a

17                                       description of the deviation, the reason for the deviation and effect of the

18                                       deviation on testing and determining compliance with requirements.

19                    ~~45.6.2.3~~ 21.6.2                    General Testing Procedures and Instructions—TESTING ~~PROCEUDRES~~

20                                       ~~PROCEDURES~~ AND INSTRUCTIONS

21                    ~~45.6.2.3.1~~(A) Certification tests ~~shall~~ MUST be used to determine compliance

22                                       with applicable performance standards for the system and its components.

23                                       The general procedure for these tests ~~shall~~ WILL:

24                                       (a)-(1) Verify, by means of the applicant's VOTING SYSTEM PROVIDER'S

25                                                          standard operating procedure, that the device is in a normal

26                                                          condition and status;

27                                       (b)-(2) Establish the standard test environment or the special environment

28                                                          required to perform the test;

29                                       (c)-(3) Invoke all operating modes or conditions necessary to initiate or to

30                                                          establish the performance characteristic to be tested;

31                                       (d)-(4) Measure and record the value or the range of values of the

32                                                          performance characteristic to be tested; and

33                                       (e)-(5) Verify all required measurements have been obtained, and that the

34                                                          device is still in a normal condition and status.

1 45.6.2.3.2 (B) All tests shall WILL be generally conducted in regular election  
2 mode. Tests of test mode and diagnostic functions may be conducted in  
3 the appropriate test mode.

4 45.6.2.3.3 (C) The voting system provider is required to MUST produce ballots  
5 and assemble marked test decks and spare ballots as specified in the test  
6 plan.

7 45.6.2.3.4 The voting system provider shall provide a minimum of ten ballot  
8 marking pens/pencils/markers as defined by their system for marking  
9 ballots by the Secretary of State.

10 45.6.2.3.5 (D) For mark-sense or optical scan devices, the Secretary of State OR  
11 THE VSTL will prepare 100 or more test ballots with marking devices of  
12 various color, weight and consistency to determine the range of marks that  
13 can be read and the range and consistency of reading marginal marks.

14 45.6.2.3.6 (E) Ballots shall MUST be cast and counted in all applicable counter  
15 types (or counter groups) as necessary based on the parts included in the  
16 voting system. These are, at a minimum, Poll Place (or Vote Center),  
17 Mail in, Provisional and Early Voting POLLING PLACE (OR VOTE CENTER),  
18 MAIL-IN IN-PERSON, MAIL, AND PROVISIONAL AND EARLY VOTING BALLOTS.  
19 Ballots may be run through components more than one time depending on  
20 components and counter group being tested to achieve a minimum number  
21 of ballots cast as follows for each group:

- 22 (a) Polling Place PLACE-LOCATION / OS = 1,000;
- 23 (b) Polling Place PLACE-LOCATION / DRE = 500;
- 24 (c) Vote Center CENTER and Early Voting EARLY VOTING / OS =  
25 2,500;
- 26 (d) Vote Center CENTER and Early Voting EARLY VOTING / DRE = 500;
- 27 (e-c) Mail in-MAIL = 1, 500; and
- 28 (f-d) Provisional = 500.

29 45.6.2.3.7 (F-E) Ballot design shall MUST be sufficient to verify the scope of  
30 allowable ballot designs for the given system under Colorado election law.

31 45.6.2.3.8 Ballots shall be printed in applicable languages as required by state  
32 or federal law, or both.

33 45.6.2.3.9 Ballots shall include candidates to represent the maximum number  
34 of political parties in the State of Colorado, and shall accommodate all  
35 qualified political parties and political organizations.

1 45.6.2.3.10 (G-F) The requirements matrix shall MUST include the following  
2 requirements for election definitions and ballots to simulate and test “real  
3 world” situations in the State of Colorado. Election definitions and ballots  
4 shall MUST include the following minimum contest criteria:

5 (a) (1) Parties for different races;

6 (b) (2) Selection of a pair of candidates;

7 (c) (3) In a ~~Primary Election~~ PRIMARY ELECTION, allow voters to vote for  
8 the candidates of the party for which they are eligible and for any  
9 and all non-partisan candidates and measures, while preventing  
10 them from voting on candidates of another party;

11 (d) (4) In a general election, allow a voter to vote for any candidate for  
12 any office, in the number of positions allowed for the office, and to  
13 vote for any measure on the ballot that the voter is allowed to vote  
14 in, regardless of party;

15 (e) (5) Allow for programming to accommodate Colorado recall questions  
16 as prescribed in Article 12 of Title 1, C.R.S.;

17 (f) (6) A minimum of 20 pairs of “yes” and “no” positions for voting on  
18 ballot issues; and

19 (g) (7) Ability to contain a ballot question or issue of at least 200 words.

20 45.6.2.3.11 ~~Additional tests and procedures may be requested at the discretion~~  
21 ~~of the Secretary of State.~~

22 45.6.2.3.12 (H-G) A county clerk ~~and recorder~~ OR HIS/OR HER designated  
23 representative may observe the functional testing of a voting system. The  
24 representative may assist at the request of the Secretary of State. ~~All such~~  
25 ~~activity by a county representative shall be documented on video and in~~  
26 ~~writing.~~

27 45.6.2.3.13 (H-H) The public shall MUST be allowed to view all functional  
28 testing conducted by the Secretary of State. However, legal limitations  
29 may require that certain testing, including but not limited to proprietary  
30 information and system security, be done outside the view of the public. If  
31 the functional testing is outsourced to a testing lab or contractor, public  
32 viewing ~~shall be~~ IS subject to limitations set forth by the testing lab or  
33 contractor.

34 45.6.2.3.14 (H-I) If any malfunction or data error is detected, its occurrence  
35 and the duration of operating time preceding it shall MUST be recorded for  
36 inclusion in the analysis ~~and the test shall be interrupted.~~ If corrective

1 action is taken to restore the devices to a fully operational condition within  
2 eight hours, then the test may be resumed at the point of suspension.

3 ~~45.6.3 The Secretary of State shall certify voting systems that substantially comply with~~  
4 ~~the requirements in this Rule 45, Colorado Election Code, and any additional~~  
5 ~~testing that is deemed necessary by the Secretary of State.~~

6 *[Current Rule 45.6.3 moved to New Rule 21.3.4]*

7 ~~45.7~~ 21.7 Temporary Use

8 ~~45.7.1~~ 21.7.1 If a voting system provider has a system that has not yet been approved for  
9 certification through the Secretary of State, the voting system provider or the  
10 designated election official may apply to the Secretary of State for temporary  
11 approval of the system to be used for up to one year.

12 ~~45.7.2~~ 21.7.2 Upon approval of temporary use, a jurisdiction may use the voting system,  
13 or enter into a contract to rent or lease the voting system for a specific election  
14 upon receiving written notice from the Secretary of State's office. At no time ~~shall~~  
15 MAY a jurisdiction enter into a contract to purchase a voting system that has been  
16 approved for temporary use.

17 ~~45.7.3 The Secretary of State shall approve use of a temporarily approved voting system~~  
18 ~~for each election that a jurisdiction requests permission to conduct with the voting~~  
19 ~~system.~~

20 ~~45.7.4~~ 21.7.3 Temporary use does not supersede the certification requirements and/or  
21 process, and may be revoked at any time at the discretion of the Secretary of  
22 State.

23 ~~45.8~~ Periodic Review

24 ~~45.8.1 The Secretary of State shall periodically review the voting systems in use in~~  
25 ~~Colorado to determine if the system(s):~~

26 ~~(a) Are defective, obsolete or unacceptable for use based on the requirements~~  
27 ~~of this Rule 45; and~~

28 ~~(b) Have been modified from certified and trusted build versions of hardware~~  
29 ~~or software;~~

30 ~~45.8.2 The Secretary of State shall review a minimum of two randomly selected~~  
31 ~~jurisdictions and voting systems per calendar year at the choosing of the Secretary~~  
32 ~~of State.~~

33 ~~45.8.3 The Secretary of State shall conduct an annual visual inspection of all software~~  
34 ~~incident records maintained by each voting system provider certified for use in the~~  
35 ~~State of Colorado.~~

**Comment [S376]:** Former rule 45 has been utterly gutted to remove practices intended to maintain integrity. With voting systems going more electronic, more centralized, more technical and less exposed to the public, how can this reduction in oversight possibly be seen to compensate for the additional oversight that is actually needed?

1 ~~45.8.4 After such review, certification or temporary approval for use may be withdrawn.~~  
2 ~~Three months notice shall be given prior to withdrawing certification of any~~  
3 ~~voting system unless the Secretary of State shows good cause for a shorter notice~~  
4 ~~period.~~

5 ~~45.8.5 All forms, notes and documentation from a periodic review shall be kept on file~~  
6 ~~with the Secretary of State.~~

7 *[Current Rule 45.8 amended and moved to New Rule 11]*

8 ~~45.9~~ 21.8 Decertification

9 ~~45.9.1~~ 21.8.1 If, after any time the Secretary of State has certified a voting system, it is  
10 determined that the voting system fails to substantially meet the standards set  
11 forth in this Rule ~~45-21~~, the Secretary of State ~~shall~~ WILL notify any jurisdictions  
12 in the State of Colorado and the voting system provider of that particular voting  
13 system that the certification of that system for future use and sale in Colorado is  
14 to be withdrawn.

15 ~~45.9.2~~ 21.8.2 Certification of a voting system may be revoked ~~and/or~~ suspended at the  
16 discretion of the Secretary of State based on information that may be provided  
17 after the completion of the initial certification. This information may come from  
18 any of the following sources:

- 19 (a) The Election Assistance Commission (EAC);
- 20 (b) Voting System Test Laboratory (VSTL);
- 21 (c) The Federal Election Commission (FEC);
- 22 (d) The National Software Reference Library (NSRL);
- 23 (e) National Association of State Election Directors (NASED);
- 24 (f) The National Association of Secretaries of State (NASS);
- 25 (g) Information from any state elections department or Secretary of State;
- 26 (h) Information from Colorado ~~County Clerk and Recorders~~ COUNTY CLERKS  
27 AND RECORDERS RECORDS or their association;
- 28 (i) Any other source the Secretary of State deems reliable.

29 ~~45.9.3~~ 21.8.3 If any voting system provider, provides for use, ~~or~~ installs, or causes to be  
30 installed an uncertified or decertified voting system or component, the Secretary of  
31 State may suspend use of the component or the voting system. ~~[Section 1-5-~~  
32 ~~618(6), C.R.S.]~~

**Comment [S377]:** Clerks ok sources, public not?  
Election judges, canvas boards not?



1 ~~45.9.4~~ 21.8.4 Pursuant to IN ACCORDANCE WITH section 1-5-621, C.R.S., the Secretary  
2 of State shall WILL hold a public hearing to consider the decision to decertify a  
3 voting system.

4 ~~45.10~~-21.9 Modifications and ~~Re-examination~~ REEXAMINATION.

5 ~~45.10.1~~——Any modification, change or other alteration to a certified voting system  
6 shall require certification—REQUIRES CERTIFICATION or review of the modification  
7 under section 1-5-618, C.R.S., unless the voting system provider decides to  
8 present the modified system for certification under this Rule ~~45~~ 21.

9 ~~45.11~~ 21.10 Acceptance Testing by Jurisdictions

10 ~~45.11.1~~21.10.1 Whenever an election—A jurisdiction acquires a new system or  
11 modification of an existing system certified by the Secretary of State—VOTING  
12 EQUIPMENT, the election—jurisdiction shall MUST perform acceptance tests of the  
13 system before it may be used to cast or count votes at any election. The voting  
14 system shall MUST be operating correctly, pass all tests as directed by the  
15 acquiring jurisdiction’s project manager or contract negotiator and shall MUST be  
16 identical to the voting system certified by the Secretary of State.

17 ~~45.11.2~~21.10.2 The voting system provider shall MUST provide all manuals and  
18 training necessary for the proper operation of the system to the jurisdiction, ~~or as~~  
19 indicated by their contract.

20 ~~45.11.3~~21.10.3 The election jurisdiction shall MUST perform a series of functional  
21 and programming tests that shall test—FOR all functions of the voting system at  
22 their discretion.

23 ~~45.11.4~~——The jurisdiction shall coordinate acceptance testing with the Secretary of  
24 State and complete a Jurisdiction Acceptance Test form provided by the Secretary  
25 of State.

26 *[Current Rule 45.11.4 amended and moved to New Rule 11]*

27 ~~45.12~~ Purchases and Contracts

28 ~~45.12.1~~——Any voting system that has been certified under the procedures of this  
29 Rule 45 are eligible for purchase, lease, or rent for use by jurisdictions within the  
30 State of Colorado providing the contract contains the following items:

- 31 (a)——The voting system is certified for use within the state;
- 32 (b)——Contract contains training and maintenance costs for jurisdiction; and
- 33 (c)——Contract identifies components contained in the certified voting system  
34 and appears complete with all accessories necessary for successfully  
35 conducting an election within the laws and rules of the State of Colorado.

1       45.12.2 ~~— The Secretary of State shall maintain on file a list of all components used~~  
2       ~~and purchased for use. The list shall include, at a minimum, the name of the~~  
3       ~~jurisdiction, the date of purchase, the serial number(s) of voting devices and name~~  
4       ~~of the voting systems that was purchased.~~

5   45.13 ~~Financial Statements of Voting System Providers~~

6       45.13.1 ~~— All voting system providers applying for certification in the State of~~  
7       ~~Colorado, or doing business in the State of Colorado, shall provide quarterly~~  
8       ~~financial statements and an annual auditor's report to the Secretary of State. All~~  
9       ~~financial statements and reports shall be due:~~

10       ~~(a) — Prior to the completion of functional testing for any voting system being~~  
11       ~~submitted for certification;~~

12       ~~(b) — At the conclusion of each accounting quarter for providers with equipment~~  
13       ~~certified for use in the State of Colorado; and~~

14       ~~(c) — Upon issuance of a final auditor's report after the completion of each~~  
15       ~~annual audit.~~

16       45.13.2 ~~— Financial statements submitted to the Secretary of State shall include a~~  
17       ~~Statement of Cash Flow, Statement of Retained Earnings, Balance Sheet, and~~  
18       ~~Income Statement.~~

19       *[Current Rule 45.13 amended and moved to New Rule 11]*

20   ~~11.8-21.11~~ Escrow of ~~Voting System Software by Voting System Provider~~ VOTING SYSTEM  
21   SOFTWARE AND FIRMWARE BY VOTING SYSTEM PROVIDER. THE VOTING SYSTEM PROVIDER  
22   MUST MEET THE REQUIREMENT FOR SOFTWARE ESCROW PER THE FOLLOWING:

23   ~~11.8.1 21.11.1 Voting System Providers~~—THE VOTING SYSTEM PROVIDER must place in  
24   escrow a copy of the election software, FIRMWARE, and supporting documentation  
25   being certified with either the Secretary of State or an independent escrow agent  
26   approved by the Secretary of State. ~~See section~~ [SECTION 1-7-511, C.R.S.]

27   ~~11.8.2 21.11.2~~ Within ten days of the ~~Voting System~~ VOTING SYSTEM provider receiving  
28   notification of examination of voting equipment as part of the certification  
29   process, the ~~Voting System Provider shall~~ VOTING SYSTEM PROVIDER MUST  
30   arrange for the completion of escrow requirements as indicated by this rule.

31   ~~11.8.3 21.11.3 Voting System Provider shall~~—THE VOTING SYSTEM PROVIDER MUST sign a  
32   sworn affidavit that the election software in escrow is the same as the election  
33   software used in its voting systems in this state. An annual update of the affidavit  
34   will be on file in a secured location with the Secretary of State's office.

35   ~~11.8.4 21.11.4~~ A complete copy of the certified election software including any and all  
36   subsystems of the certified software ~~shall~~ WILL be maintained in escrow.

- 1 ~~11.8.5~~21.11.5 Any changes to current configurations or new installations must be  
2 approved through the certification program of the Secretary of State.
- 3 ~~11.8.6~~21.11.6 In addition to the requirements listed below, the ~~Voting System Provider~~  
4 VOTING SYSTEM PROVIDER must include a cover/instructions sheet for any escrow  
5 material to include the ~~Voting System Provider Name, Address~~ VOTING SYSTEM  
6 PROVIDER, ADDRESS and pertinent contact information, ~~Software Version,~~  
7 ~~Hardware Version, Firmware Revision Number~~ SOFTWARE VERSION, HARDWARE  
8 VERSION, FIRMWARE REVISION NUMBER, and other uniquely identifying numbers of  
9 the software submitted for certification.
- 10 ~~11.8.7~~21.11.7 Election ~~Software Source Code~~ SOFTWARE SOURCE CODE, maintained in  
11 escrow, ~~shall~~ MUST contain internal documentation such that a person reasonably  
12 proficient in the use of the programming language can efficiently use the  
13 documentation to understand the program structure, control techniques, and error  
14 processing logic in order to maintain the ~~Source Code~~ SOURCE CODE should it be  
15 removed from escrow for any reason.
- 16 ~~11.8.8~~21.11.8 System documentation ~~shall~~ WILL include instructions for converting the  
17 escrowed ~~Source Code~~ SOURCE CODE into ~~Object Code~~ OBJECT CODE, organized  
18 and configured to produce an executable system, if warranted.
- 19 ~~11.8.9~~21.11.9 System documentation ~~shall~~ WILL include technical architecture design,  
20 analysis, detail design, testing and an installation and configuration guide.
- 21 ~~11.8.10~~21.11.10 A set of schematics and drawings on electronic vote casting and counting  
22 equipment purchased or in use by the county clerk ~~and recorder~~ ~~shall~~ MUST be ~~on~~  
23 ~~file~~ FILED with the Secretary of State.
- 24 ~~11.8.11~~21.11.11 All parties ~~shall~~ MUST treat as confidential the terms of this ~~Section~~  
25 RULE including all escrow materials and any other related information that comes  
26 into their possession, control or custody ~~pursuant to~~ IN ACCORDANCE WITH this  
27 section.
- 28 ~~11.8.12~~21.11.12 Copies of ~~Electronic~~ ELECTRONIC media and supporting  
29 documentation for ~~Escrow~~ ESCROW within the Secretary of State ~~shall~~ WILL be  
30 sent to:  
31 Colorado Secretary of State  
32 Attn: Voting Systems Specialist  
33 1700 Broadway – Suite ~~270~~ 200  
34 Denver, CO 80290
- 35 ~~11.8.13~~21.11.13 Any cost of using an alternative third party escrow agent ~~shall~~  
36 MUST be borne by the ~~Voting System~~ VOTING SYSTEM provider

1 *[Current Rule 11.8 is amended and moved to New Rule 21.11. Modifications are shown*  
2 *above.]*

3 **Rule 51. Rule 22. Use of approved and recommended election forms**

4 ~~51.1~~ 22.1 Where the Secretary of State ~~has issued~~ ISSUES an approved election form,  
5 notice, application, or correspondence ~~provided for by the “Uniform Election Code~~  
6 ~~of 1992”~~, all designated election officials and registration offices ~~shall~~ MUST use  
7 the approved form.

8 ~~51.1.1~~ 22.1.1 A designated election official or registration office that wishes to  
9 SUBSTANTIVELY modify the content of any form approved ~~or recommended~~  
10 by the Secretary of State ~~shall~~ MUST submit a written request via email to  
11 the Secretary of State’s office stating the requested modification and the  
12 reasons it is needed.

13 (a) The Secretary of State ~~shall have~~ WILL APPROVE OR DENY A  
14 REQUEST TO MODIFY AN APPROVED FORM WITHIN five business days.  
15 ~~in which to approve or deny the modification request.~~ Failure of the  
16 Secretary of State to issue a decision within five business days ~~shall~~  
17 DOES not constitute an approval of the request. If the modification  
18 request is denied, the Secretary of State will ~~provide an explanation~~  
19 ~~stating the basis~~ EXPLAIN THE REASON for denying the request.

20 (b) A non-substantive customization OF AN APPROVED FORM, such as  
21 placing the form on county letterhead or language translation, ~~shall~~  
22 DOES not require THE SECRETARY OF STATE’S approval.

23 ~~51.2~~ 22.2 The Secretary of State ~~shall~~ WILL approve standard voter registration and  
24 ballot application forms ~~recommended~~ for use by political parties and organizations  
25 that provide such forms to the public. The Secretary of State will PUBLISH ON THE  
26 DEPARTMENT’S WEBSITE ~~ensure that~~ the current approved REGISTRATION forms ~~for~~  
27 ~~registration and ballot request~~ are publicly available ~~on~~ ~~it’s~~ the website.

28 ~~51.2.1~~ 22.2.1 Political parties and organizations may also use the National Mail  
29 Voter Registration form. Because the forms approved by the Secretary of  
30 State contain all ~~of the~~ information ~~specific to~~ SPECIFICALLY REQUIRED BY  
31 Colorado law, the applicants and the organization are afforded greater  
32 protection ~~when~~ BY DISTRIBUTING OR USING the ~~standard~~ STATE forms  
33 approved by the Secretary of State ~~are used~~.

34 ~~51.2.2~~ 22.2.2 All political parties and organizations that conduct a mass mailing  
35 of either registration or ballot request forms to the public ~~shall~~ MUST  
36 identify ~~the party or organization conducting the mailing~~ THEMSELVES by  
37 printing the organization name and contact information on the form.

1       ~~51.2.3~~ 22.2.3 Any political party or organization may contact the Secretary of  
2           State ~~prior to~~ BEFORE sending a mailing to request a review of the form and  
3           information to be mailed.

4   ~~51.3~~ 22.3     ~~In accordance with~~ UNDER section 1-1-107(2)(d), C.R.S., the Secretary of State  
5       ~~may~~ WILL seek injunctive action or other ~~penalties as a remedy to~~ REMEDIES FOR  
6       violations of this Rule.

7    *[Current Rule 51 is amended and moved to new Rule 22. Amendments are shown above.]*