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Scott Gessler
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Help Shape Colorado's Election Rules

Topic: Rules to implement legislative changes and clean up revisions

June 26, 2014

What is this about?

Secretary Gessler is considering permanent rulemaking to implement Senate Bills 14-161 and 14-158, and House Bill 14-1164. Other proposed changes are intended to improve the administration and enforcement of Colorado election law[1] and to increase transparency and security in the election process.

The main goals of the proposed rulemaking are to:

- Ensure proper administration of legislation recently passed by the Colorado General Assembly;
- Establish uniformity in the administration of current law;
- Permanently adopt a new rule concerning a ballot returned in an unofficial envelope (temporarily adopted on June 24, 2014);
- Organize existing rules for clarity;
- Eliminate obsolete provisions;
- Remove references to repealed statutory provisions;
- Simplify the language of existing rules; and
- Remove language that is duplicative of statute.

We invite you to share your thoughts and recommendations as we develop a preliminary draft of the proposed rules. Please review the attached working draft. Please note that if an existing rule is not included in the proposed draft, we are not proposing amendments to that rule.

Why does the Secretary need my help?

The Secretary values your feedback and we would very much like to hear your thoughts. We need your help to identify necessary revisions or additional guidance in order to propose a constructive and comprehensive draft rule for consideration during the rulemaking proceedings. Overall, we invite your opinions and recommendations to help shape Colorado's Election Rules.

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

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How do I submit my comments and what is the deadline?

You may email your comments to SOS.Rulemaking@sos.state.co.us. To ensure consideration of your comments before we issue the proposed draft, we must receive your comments by 5:00 p.m. on July 3, 2014.

Will my comments become part of the official record for the anticipated rulemaking?

Yes, we will incorporate your comments into the official record when we commence with formal rulemaking. Our office will identify your comments as information received in anticipation of rulemaking to support the development of the proposed draft rule. Please note that you will have an additional opportunity to provide testimony and/or written comments regarding the proposed rule during the rulemaking proceeding.

To promote transparency and to help generate discussion, our office will post a copy of your comments on the Secretary of State's website. We appreciate privacy concerns and will redact personal contact information that may appear in your comments prior to posting (including your home address, personal email address, and telephone number). To view the comments that we receive, please visit: http://www.sos.state.co.us/pubs/rule_making/ruleComments.html.

Working Draft of Proposed Rules

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

June 26, 2014

Disclaimer:
The following is a working draft. The Secretary values your input and is seeking feedback about the proposed revisions before a formal notice of rulemaking.

Please send your feedback by 5:00 p.m. on July 3, 2014. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

Please note the following formatting key:

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

1   *[Amendments to 8 CCR 1505-1]*

2   *Amendments to Current Rule 1:*

3   *[Currents 21.1.1, 21.1.2, 21.1.3, 21.1.4, 21.1.5, 21.1.6, 21.1.9, 21.1.10, 21.1.13, 21.1.18, 21.1.21*
4   *are amended and incorporated into Rule 1 as follows]*

5   **Rule 1. Definitions**

6   1.1   As used in these Rules, unless stated otherwise:

7   ~~21.1.1~~ 1.1.1   "Audio ballot" means a voter interface containing the list of all candidates,
8   ballot issues, and ballot questions upon which an eligible elector is entitled to vote
9   in an election. It also provides the voter with audio stimuli and allows the voter to
10   communicate voting intent to the voting system through vocalization or physical
11   actions.

12   ~~21.1.2~~ 1.1.2   "Audit log" means a ~~system-generated~~ record GENERATED BY A VOTING
13   SYSTEM, in printed or electronic format, providing a record of activities and
14   events relevant to initializing election MANAGEMENT software and hardware,
15   INCLUDING the identification of files containing election parameters, initializing
16   the tabulation process, processing voted ballots, and terminating the tabulation
17   process.

1 ~~2.1.1.3~~ 1.1.3 "Ballot image" means a DIGITALLY CAPTURED IMAGE OF A PAPER BALLOT
2   OR A ~~corresponding~~ representation in electronic form of the marks or vote
3   positions of a cast ~~ballot that are captured by~~ ON a DRE ~~or a digitally retained~~
4   ~~image of a ballot~~. ^

> Should ballot remain here.
> Appears to be a word missing after 'Cast'

5 ~~2.1.1.4~~ 1.1.4 "Ballot marking device" means a device that may integrate
6   components such as an optical scanner, printer, touch-screen monitor, audio
7   output, and a navigational keypad and uses electronic technology to:

8   (a)   Mark a paper ballot at voter direction~~,~~;

9   (b)   Interpret the ballot selections~~,~~;

10   (c)   Communicate the interpretation for voter verification~~,~~; and ~~then~~

11   (d)   Print a voter-verified ballot.

12 ~~1.1.1~~ 1.1.5 "Ballot measure" means a ballot issue or ballot question as defined in
13   sections 1-1-104(2.3) and (2.7), C.R.S.

14 ~~1.1.2~~ 1.1.6 "Blank ballot" means a ballot on which the voter has made no marks in
15   any voting position, has marked with an unreadable marker, or has consistently
16   marked outside of the "read" area of the scanner.

17 ~~2.1.1.5~~ 1.1.7 "Ballot style" means ~~a specific ballot layout or content for an election. The~~
18   ~~ballot style is the presentation of~~ the unique combination, INCLUDING ORDER AND

> Do we need a definition of precinct style. District styles have been used as opposed to ballot style. Should this be district style and then create a precinct ballot style.

           POSITION, OF CANDIDATE RACES AND BALLOT MEASURES ~~of contests and~~
           ~~candidates~~ for which ~~the voter~~ AN ELECTOR is eligible to vote IN AN ELECTION. ~~It~~
           ~~includes the order of contests and candidates, the list of ballot positions for each~~
           ~~contest, and the binding of candidate names to ballot positions within the~~
           ~~presentation.~~ Multiple precincts may ~~use~~ HAVE a single ballot style. ~~Multiple~~
           ~~styles may appear in a single precinct where voters are split between two or more~~
           ~~districts or other categories defining voter eligibility for particular contests and~~
           ~~candidates.~~ A SINGLE PRECINCT MAY HAVE MULTIPLE BALLOT STYLES IN THE CASE
           OF A SPLIT PRECINCT.

   ~~3~~ 1.1.8 "Canvass workers" means workers appointed or hired by the designated
29   election official to assist in the preparation and conduct of the canvass.

30 ~~1.1.4~~ 1.1.9 "Central count" means the county's principal ballot counting and
31   processing location.

32 ~~1.1.5~~ 1.1.10 "Chain-of-custody log" means a written record showing that a voting
33   system component or data, election record or other item is secured and in the
34   documented and uninterrupted possession and control of an election official
35   through the entire time of a jurisdiction's ownership, use or retention.

21.1.6 1.1.11 "Closed network" means a network CONFIGURATION IN WHICH VOTING SYSTEM COMPONENTS CONNECT TO AND COMMUNICATE ONLY WITH EACH OTHER AND NOT WITH THE INTERNET OR ANY OTHER COMPUTER NETWORK. ~~structure in which devices are not connected to the internet or other office automation networks, except as allowable under this Rule.~~

1.1.6 1.1.12 "Damaged ballot" means a ballot that is torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the optical scanner ballot reader. Damaged ballots include:

    (a)   All ballots that contain a foreign substance that could interfere with the optical scan machine (e.g. food, drink, etc.).

    (b)   Ballots that are marked in a medium or manner other than indicated in the ballot instructions.

    (c)   Ballots that the elector marked in a way that would disclose his or her identity.

1.1.7 1.1.13 "Data entry county" means a county using an election management system that exports a file to be directly uploaded to the Election Night Results system.

1.1.8 1.1.14 "Designated election official" includes the designated election official's sworn, deputized designee.

1.1.9 1.1.15 "Direct Recording Electronic voting device" (DRE) means a voting device that visually displays or audibly presents a ballot and records an elector's votes directly into electronic storage media.

1.1.10 1.1.16 "Duplicated ballot" means a ballot for which a true copy must be made for the ballot to be properly processed and counted because of damage, improper marking, or any issue that would prevent a ballot tabulating machine from accurately counting the ballot.

1.1.11 1.1.17 "Election complaint" means a complaint filed with the Secret[ary] under Articles 1 through 13 of Title 1, C.R.S.

21.1.9 1.1.18 "Election management system" MEANS THE HARDWARE AND SOFTWARE APPLICATIONS USED TO CONFIGURE, PROGRAM, AND REPORT RESULTS FROM ONE OR MORE VOTING SYSTEM COMPONENTS, ~~includes,~~ INCLUDING the ballot definition ~~subsystem~~ and the election reporting subsystem. The election management system may provide utilities for other election administration tasks, including maintaining equipment inventories, estimating ballot printing needs, and maintaining information on voter service and polling centers.

21.1.10 1.1.19 "Election media" means any device including a cartridge, card, memory device, or hard drive used in a voting system for the purposes of storing election setup records (ballot or card styles), recording voting results from electronic vote

tabulating equipment, or any other data storage required by the voting system for a particular election function. The election management system typically downloads ballot style information to the election media and uploads results and ballot images from the election media.

1.1.12 1.1.20 "Election setup records" means the electronic records, often in the form of a database or a set of databases, generated by election MANAGEMENT software to create and define ballots, tabulation instruction, and other functions related to the election.

1.1.13 1.1.21 "Election MANAGEMENT software" means the software for election equipment or computers that controls election setup vote recording, vote tabulation, and reporting.

1.1.14 1.1.22 "Electronic ballot" means a non-paper ballot such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter's choices must be:

(a) Marked and printed on a paper ballot for subsequent counting by a paper ballot scanning device; or

(b) Digitally recorded and counted by the touch screen device, commonly referred to as a Direct Recording Electronic (DRE) device.

1.1.15 1.1.23 "Electronic Transmission" means:

(a) For the purpose of sending an unvoted ballot:

(1) To a military or overseas elector under Article 8.3 of Title 1, C.R.S., by fax, email, or online ballot delivery.

(2) To an elector requesting a replacement for an emergency under section 1-7.5-115, C.R.S., by fax or email.

(3) To an affected elector requesting a ballot because of a disaster emergency under Rule 7.4.7.

(b) For the purpose of returning a voted ballot to the county clerk fax or email.

1.1.16 1.1.24 "Firmware" means computer programs stored on read-only memory devices or other electronic circuitry in voting devices that control the basic operation and function of those devices.

1.1.17 1.1.25 "Help America Vote Act complaint" or "HAVA complaint" means a complaint filed with the Secretary of State under Title III of the Help America Vote Act (HAVA) and Article 1.5 of Title 1, C.R.S.

1.1.18 1.1.26 "Immediate voting area" means the area that is within six feet of the voting equipment, voting booths, and the ballot box.

1.1.19 1.1.27 "Manual entry county" means a county that does not use an election management system to export data to the Election Night Results system.

1.1.20 1.1.29 "Official Observer" means either an observer appointed by the Secretary of State or an observer appointed by the federal government and approved by the Secretary of State. Official Observers may be present in all phases of the election process and perform duties as may be assigned by the Secretary of State, but are subject to Rules and regulations as prescribed by the Secretary of State.

1.13 1.1.28 "Optical scanner" means an ELECTROMECHANICAL DEVICE THAT INTERPRETS, TABULATES, AND STORES IN DIGITAL FORM MARKINGS ON PAPER BALLOTS. optical or digital ballot scanner.

1.1 1.1.29 "Overvote" means an instance where the elector marked votes for more than the maximum number of candidates or responses for a ballot measure.

1.2 1.1.30 "Qualified political organization" means an organization that has placed a candidate for congressional or state office on the ballot in a congressional vacancy or general election, whose officers have filed proof of organization with the Secretary of State, and that continues to meet the requirements of Rules 3.3 and 3.4. [*Baer v. Meyer* , 728 F.2d 47 (10th Cir. 1984)]

1.3 1.1.31 "Related to the second degree" means spouse, civil union partner, parents, children, brothers and sisters, grandparents, and grandchildren.

1.1.24 1.1.32 "Removable card or cartridge" means a programming card or cartridge, except a voter activation card, that stores firmware, software, or data.

1.1.25 1.1.33 "SCORE" means the centralized statewide registration system and the computerized statewide voter registration list described in Part 3 of Article 2 of Title 1.

1.1.26 1.1.34 "Seal" means a serial-numbered tamper-evident device that, if broken or missing, indicates that the chain-of-custody is broken and a device is not secure.

21.1.18 1.1.35 "Split precinct" means a precinct that has MORE THAN ONE POLITICAL SUBDIVISION PARTICIPATING IN A PARTICULAR ELECTION. a geographical divide between one or more political jurisdictions which results in each jurisdiction within the precinct to be assigned different ballot styles for a specific election.

1.1.27 1.1.36 "Statement of Ballots Form" means the form used at the polling location that accounts for all ballots at that location and includes all information required by Rule 10.

Optical scanner (400C, Sequoia) should be separate from digital scanner (hart). Combining the two can be confusing. Proposed Optical scanner definition: the process of interpreting data in printed, handwritten, bar-code or other visual form by a device.

This is not as accurate as the previous definition. Just because there is more than one subdivision does not mean it is a split precinct.

1.1.28 1.1.37 "Target area" means the square, oval, incomplete line, or incomplete arrow corresponding to the candidate's name or ballot response (examples: "Yes", "No", "For" or "Against") on a paper ballot.

1.1.29 1.1.38 "Teleprocessing lines" means secure, dedicated communication transmission facilities used for the purpose of accessing SCORE, and ensuring the security and integrity of voting information so that no deviation can go undetected.

1.1.30 1.1.39 "Trusted build" means the write-once installation disk or disks for software and firmware for which the Secretary of State has established the chain of evidence CHAIN-OF-CUSTODY to the building of the disk(s), which is then used to establish or re-establish the chain-of-custody of any component of a voting system that contains firmware or software. The trusted build is the origin of the chain of evidence CHAIN-OF-CUSTODY for any software and firmware component of the voting system.

1.1.31 1.1.40 "Undervote" means an instance where the voter marked votes for fewer than the maximum number of candidates or responses for a ballot measure.

1.1.32 1.1.41 "Video security surveillance recording" means video monitoring by a device that continuously records a designated location or a system using motion detection that records one frame, or more, per minute until detection of motion triggers continuous recording.

1.1.33 1.1.42 "Voting system" as defined in section 1-1-104(50.8), C.R.S., means:

    (a)   The total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to:

        (1)   Define ballots;

        (2)   Cast and count votes;

        (3)   Report or display election results; and

        (4)   Maintain and produce any audit trail information.

    (b)   The practices and associated documentation used to:

        (1)   Identify system components and versions of such components;

        (2)   Test the system during its development and maintenance;

        (3)   Maintain records of system errors and defects;

(4)   Determine specific system changes to be made to a system after the initial qualification of the system; and

(5)   Make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

(c)   "Voting system" does not include any other component of election administration, such as voter registration applications or systems, electronic pollbooks, ballot delivery and retrieval systems, signature verification and ballot sorting devices, ballot on demand printers, election night reporting and other election reporting systems, and other components used throughout the election process that do not capture and tabulate votes.

21.1.21 1.1.43 "Voting system test laboratory" (VSTL) means a federally accredited laboratory, as defined in section 1-1-104(16.5), C.R.S., which is accredited by the EAC to conduct ENTITY THAT CONDUCTS certification testing for voting systems.

1.1.34 1.1.44   "VVPAT" has the same meaning as in section 1-1-104(50.6), C.R.S.

1.1.35 1.1.45   "Watcher" has the same meaning as in section 1-1-104(51), C.R.S.

(a)   A watcher may be appointed for a recall election in the same manner as in a primary election.

(b)   For the purpose of appointing a watcher, the proponent or opponent of a ballot measure means a registered issue committee supporting or opposing the ballot measure.

(c)   A designated watcher need not be a resident of the county he or she is designated in as long as he or she is an eligible elector in the State of Colorado.

1.1.36 1.1.46   "Write-in vote" means a vote where the voter physically writes in the name of a qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the target area according to voter instructions.

1.1.37 1.1.47   "Zero tape" means a printout of the internal data registers in electronic vote-tabulating equipment indicating a zero value before any ballots are tabulated on that machine.

Rule 2.1 is amended as follows:

Rule 2. Voter Registration

2.1   Submission of voter registration forms

[This is actually envelope sorting devices as opposed to ballot sorting devices. Perhaps each should be defined.]

2.1.1   An applicant may submit a properly executed voter registration form to the county clerk in person, by mail, by fax, by online voter registration, or as an email attachment.

~~2.1.2   All applications submitted by mail, fax, or as an email attachment are mail registrations. [Section 1-2-501, C.R.S.]~~

~~2.1.3~~ 2.1.2   If any portion of a mail application is illegible, the county clerk must notify the applicant of the additional information required in accordance with section 1-2-509, C.R.S.

~~2.1.4~~ 2.1.3   For submitting applications by fax, email, or online voter registration, close of business is 11:59 p.m. MT.

~~2.1.5~~ 2.1.4   Under section 1-2-508, C.R.S., the effective date of a voter registration application received by the Secretary of State is the date of the postmark, if legible. If there is no legible postmark, the effective date is the date the application is received.

~~2.1.6   If a county clerk receives a paper voter registration application other than in-person between 21 and 7 days before election day, the county clerk must send the applicant notification by regular mail, or email if provided, within one business day stating that the application is received but the applicant will not receive a ballot by mail The notice must state that, if the applicant wishes to vote in the upcoming election, the applicant must register:~~

~~(a)   Through the online voter registration system on or before the eighth day before election day, or~~

~~(b)   In person at the county clerk's office or a voter service and polling center through election day.~~

~~2.1.7   In accordance with section 1-2-204(1)(a), C.R.S. and the Colorado voter registration form affidavit, an elector may not register to vote in a new district or county unless he or she has already moved and established his or her primary residence in the new district or county. Intent to move to a new district or county, in and of itself, is not enough to establish residency.~~

.1.5   THE COUNTY CLERK MUST IMPLEMENT A PROCESS TO ENSURE THAT THE COUNTY ACCURATELY PROCESSES VOTER REGISTRATION APPLICATIONS IN SCORE.

ents to Current Rule 2.2:

or purposes of precinct caucus lists ~~and registration lists for municipal, special district,~~ ~~school district director elections,~~ the elector's ~~length~~ DURATION of residency is based upon the date the elector moved to his or her current residence address, as provided by the elector in his or her application. [SECTION 1-3-101, C.R.S.]

2.2.1 ~~Effective January 1, 2014,~~ IN SCORE, the county clerk must enter the date provided by the elector THAT HE OR SHE MOVED TO HIS OR HER CURRENT RESIDENCE ADDRESS. ~~in the registration record maintained in SCORE. [Sections 1-3-101, 31-10-201, and 32-1-103(5), C.R.S.]~~

2.2.2 If the elector submits an application and does not include the date he or she moved, the county clerk must use the date the application is received or postmarked, whichever is earlier, as the date moved. ~~If the elector submits the application during the 22 days before election day and does not provide the date he or she moved, the county clerk must use as the date moved the twenty-second day before election day based upon the affidavit.~~

~~2.3 In accordance with section 1-2-104, C.R.S., if a municipality, special district, or school district coordinates with a county clerk to conduct an election, the county clerk must apply the residency requirements of the municipality, special district, or school district. Nothing in these Rules supersedes any durational or other requirements in local charters, ordinances, or titles 22, 3~~

2.3.4:

3.4 DOCUMENTS OBTAINED IN ACCORDANCE WITH 42-2-505 ARE NOT ~~ACCEPTABLE~~ FORMS OF IDENTIFICATION FOR ANY PURPOSE UNDER TITLE 1, C.R.S.

Current Rule 2.5.4 is repealed as follows:

~~2.5.4 When the county clerk provides a list of eligible electors to a municipality or special district for an election not coordinated with the county, the county clerk must request the designated election official of the municipality or special district provide the vote history information following the election. As soon as feasible after receiving the information, the county clerk must remove the ID Required flag in SCORE from the record of each person who voted, as provided in section 1-2-605(4)(b), C.R.S.~~

Amendments to Current Rule 2.10:

2.10 An elector who has received notice that his or her application for registration may not be processed or whose registration was cancelled because his or her name was matched with a record bearing the same name, date of birth, and social security number in the databases provided by Colorado Department of Corrections ~~or Colorado Department of Public Health and Environment,~~ and who believes that the match was erroneous, may request that his or her application be processed or registration be reinstated if he or she~~:~~ SUBMITS A COMPLETED REINSTATEMENT FORM TO THE COUNTY CLERK.

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

| | 2.10.2 | ~~Submits a statement to the county clerk affirming that the applicant believes the match was in error. The applicant must include his or her printed name, residential address, and date of birth on the signed and dated statement.~~ |

Amendments to Current Rule 2.12.1 concerning voter registration confidentiality:

| | 2.12.1 | Information about an agency's name and location for an application completed at a voter registration agency or driver's license office is confidential. [42 USC ~~§ §~~ §§ 1973gg-3(c)(2)(D)(iii)] |

Amendments to Current Rule 2.13.2 through 2.13.5 (concerning list maintenance under section 8 of the National Voter Registration Act of 1993):

| | 2.13.2 | The Secretary of State will provide monthly National Change of Address (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk by the fifth of each month. |

(a) The county must process the data to update registration records and send notifications in accordance with section 1-2-302.5, C.R.S., by the end of each month.

    (1) The county may not change a residential address to a non-residential address, like a post office box, based on the information in the NCOA data.

    (2) The county is not required to automatically update a voter registration record during the 60 days before ~~a coordinated~~ AN election CONDUCTED BY THE COUNTY CLERK.

    (3) If the county clerk has previously mailed a confirmation card to an elector whose record is marked inactive FOR ANY REASON, the county clerk is not required to mail another confirmation card to the elector at the same address.

    (4) IF AN ELECTOR MOVES WITHIN A COUNTY, THE COUNTY MAY NOT MARK THE ELECTOR'S RECORD "ACTIVE" BASED ON THE NCOA DATA IF THE RECORD IS INCOMPLETE, PENDING, OR CANCELED.

(b) When the county updates a voter registration record using NCOA data, the county must use the NCOA transaction source.

(C) IF AN ELECTOR WHOSE ADDRESS WAS UPDATED UNDER SECTION 1-2-302.5 (2)(B)(I)(A), C.R.S., RETURNS THE VOTED BALLOT THAT WAS MAILED TO THE ELECTOR'S PREVIOUS ADDRESS, THE VOTED BALLOT SERVES AS NOTIFICATION UNDER SECTION 1-2-302.5(2)(B)(I)(B), C.R.S. AND THE COUNTY MUST CORRECT THE ELECTOR'S RECORD UNDER SECTION 1-2-302.5 (2) (B) (I) (B), C.R.S.

[Margin annotation:] How would this work? If it is returned as undeliverable, that doesn't seem like notice from the voter. Not sure what the purpose of this is.

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

    (a)   Whose records have been marked "Inactive – returned mail", "Inactive – undeliverable ballot", or "Inactive – NCOA";

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

    (c)   Who have since failed to vote in two consecutive General elections.

~~2.13.4 An elector whose registration record was cancelled during the previous six years under section 1-2-605(7), C.R.S., and Rule 2.13.3, may request reinstatement of the record. The elector must affirm that he or she has continuously resided at the address shown on the registration record since the record was cancelled.~~

~~2.13.5 No county may consolidate or cancel duplicate records in accordance with section 1-2-604, C.R.S., within the period beginning 90 days before a Primary or General Election.~~

2.13.4 THE COUNTY MUST PROCESS ALL RECORDS DESIGNATED FOR CANCELATION BY THE SECRETARY OF STATE WITHIN <mark>SEVEN BUSINESS DAYS</mark> OF RECEIPT.

> If research is required, counties should have 21 days if it is a large amount. Perhaps the SOS could also notify the counties in advance of sending the file so that counties can hire additional staff if needed.

Amendments to Current Rule 2.14:

2.14   Voter registration at a voter service and polling center

2.14.1 A person registering voters or updating voter registration [at a voter] service and polling center must:

    (a)   Be a permanent or temporary county employee, state employee, or temporary staff hired by the county clerk;

    (b)   Successfully pass the criminal background check described in Rule 6.5~~.~~ ~~Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from handling voter registration applications or conducting voter registration and list maintenance activities~~; and

The deleted portion of Current Rule 2.14.1(b) moved to New Rule 6.5.

    (c)   ~~Effective January 1, 2014, successfully~~ SUCCESSFULLY complete a training course provided by the Secretary of State.

[Current rule 2.14.2 is retained; unaltered]

Amendments to Current Rule 2.15:

2.15   Voter registration records and data

2.15.1 Notwithstanding the retention timelines specified in section 1-2-227, C.R.S., the county clerk may destroy paper voter registration records as soon as they have been digitally recorded in SCORE. The SCORE system must retain digital images of voter registration applications in perpetuity in accordance with ~~Title 1, C.R.S. and this Rule~~ SECTION 1-5-301, C.R.S.

[Current rules 2.15.2 through 2.15.4 are retained; unaltered]

New Rule 4.1.3 concerning participation in coordinated elections:

4.1.3 THE DESIGNATED ELECTION OFFICIAL OF EACH PARTICIPATING POLITICAL SUBDIVISION MUST CERTIFY THE COMPLETENESS AND ACCURACY OF THE ADDRESSES WITHIN THE DISTRICT NO LATER THAN THE 70TH BEFORE ELECTION DAY.

Amendments to Current Rule 4.8.3(a):

4.8.3 Printing primary election ballots

> How would this certification actually work? Also, missing the word 'day' after '70th'. Larimer sends a street locator with the list once they have notified the County Clerk that they are conducting an election. Address locator, however would not include land that does not include a valid VR address. Douglas also provides maps of the districts.

   (a) If a major political party nominates more than on[e]... conduct the primary election for all major political parties.

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

      (2) If there are no candidates for any particular office, the county clerk must print on the ballot "There are no candidates for this office".

    [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule ~~10.3~~ 10.1.1]

    [Current Rule 4.8.3(b) is retained; unaltered]

Amendments to Current Rule 4.8.4(a) and (b):

4.8.4 Use of unique numbers on ballots

   (a) Except for ballots sent to military or overseas electors by electronic transmission under Rule 16.2, a county may not print a ballot for use in a state or federal election that has a unique number, or a barcode containing a unique number, that is specific to a single ballot.

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

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

1	(b)	After an election official dissociates a voted ballot from its envelope and
2		removes the stub, IF ANY, the county may write or print unique numbers on
3		the voted ballot for auditing and accounting purposes, including
4		duplication of damaged ballots and risk limiting audits.

5   *[Current Rule 4.8.4(c) is retained; unaltered]*

6   *Amendments to Current Rule 5:*

7   **Rule 5. Nonpartisan Elections not Coordinated by the County Clerk**

8   ~~5.1 Election Notice~~

9   ~~5.1.1~~ 5.1   The designated election official must send notice of the election to the clerk of the
10   county in which the election will be held. The notice must include the date by which the
11   list of registered electors must be submitted to the political subdivision.

12   ~~5.1.2~~ 5.2   For multi-county political subdivisions, the notice sent to each clerk must also
13   include the names of all other counties in which the election will be held.

14   ~~5.2   Mail ballot elections~~

15   ~~5.2.1~~ 5.3   If a political subdivision coordinates with the county clerk, the designated election
16   official is not required to submit a separate mail ballot plan for the election.

17   *Current Rules 5.2.2 through 5.8 are repealed as follows:*

18   ~~5.2.2   If a local governing board determines an election will be conducted by mail~~
19   ~~ballot, the designated election official must submit a mail ballot plan to the~~
20   ~~Secretary of State no later than 55 days before the election. The designated~~
21   ~~election official must use the approved mail ballot plan template.~~

22   ~~(a)   The designated election official must include an actual sample of the~~
23   ~~secrecy sleeve or envelope that the designated election official plans to use~~
24   ~~in the election.~~

25   ~~(b)   A home rule municipality must check the appropriate box on the plan~~
26   ~~indicating whether there are locally adopted election procedures different~~
27   ~~from those set forth in Title 1, C.R.S. The Secretary of State will not~~
28   ~~review any home rule municipality's mail ballot plan that fails to include~~
29   ~~this information.~~

30   ~~5.2.3   Ballots and ballot packets~~

31   ~~(a)   For non-partisan elections where multiple ballots will be included in the~~
32   ~~same packet or will be sent in separate packets, the ballots and return~~
33   ~~envelopes must include distinctive markings or colors to identify political~~

subdivisions when the colors or distinctive markings will aid in the distribution and tabulation of the ballots.

(b) The designated election official for each political subdivision for whom one or more county clerks are conducting the election must provide a complete list of eligible electors in their political subdivision to each appropriate county clerk, unless otherwise provided in the intergovernmental agreement. The political subdivision must list each elector only once to ensure that each elector receives one and only one ballot unless otherwise authorized.

(c) All election materials prepared by the designated election official, including the Article X, Section 20 notice, may be included in the mail ballot packet.

5.2.4 Receipt of Ballots

(a) The designated election official must appoint sufficient election officials to process ballots.

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

(c) An election official must date-stamp the envelopes upon receipt. If any ballot is received after the time set for the closing of the elections, the envelope must be date-stamped but the ballot must not be counted.

(d) Election officials must record the number of ballot packets returned as undeliverable.

(e) The designated election official must seal and store ballots in a safe, secure place until the counting of the ballots.

5.2.5 Recall elections. The designated election official must submit a written plan to the Secretary of State within five days after the designated election official sets the date of the election. The Secretary of State will approve or disapprove the plan within five days from the date it is received. [Section 1-12-111.5, C.R.S.]

5.3 If a designated election official conducts an election on a day other than described in section 1-7-116(1), C.R.S., the designated election official may mail the notice required by Article X, Section 20 of the Colorado Constitution to people who are not eligible electors if the mailing is done at the "least cost" possible.

5.4 If the designated election official for the political subdivision is unable to establish a polling location within the political subdivision, the designated election official may designate a polling location outside of the political subdivision if the location is convenient for the electors.

5.5   For elections not conducted in November and not coordinated with the county clerk, the ballot issue or question must be identified by the name of the jurisdiction submitting the ballot issue or ballot question followed by a number in the case of initiatives or by a letter in the case of referred measures.

5.6   Elections authorized by Part 1, Article 45 of Title 37, C.R.S., must be conducted in accordance with Articles 1 through 13 of Title 1, C.R.S., where applicable, unless otherwise ordered by the district court having jurisdiction over the water conservancy district, under section 37-45-103 (3), C.R.S. ("Court").

5.6.1   The form and verification of any petition requesting an election conducted by a water conservancy district under sections 37-45-114 (2) and 37-45-136(3.5), C.R.S., ("Petition"), must conform with sections 1-40-113 and 1-40-116, C.R.S., and Rule 15; except that petitioners need not seek petition format approval from the Secretary of State. Petitioners must file the petition with the court and the water conservancy district must verify the signatures on the petition.

5.6.2   The procedures for issuing the statement of sufficiency or insufficiency of the petition must conform with section 1-40-117, C.R.S., and Rule 15; except that the statement must be issued by the water conservancy district named in the petition, unless otherwise ordered by the court.

5.6.3   The procedures for cure of a petition deemed insufficient must conform with section 1-40-117, C.R.S., and Rule 15; except any addendum to the petition must be filed with both the court and the water conservancy district named in the petition, unless otherwise ordered by the court.

5.6.4   The procedures for protesting the determination that a petition is insufficient must conform with section 1-40-118, C.R.S., and Rule 15, unless otherwise ordered by the court.

5.6.5   The designated election official must conduct any election under section 37-45-114(2), C.R.S., after the sixtieth but before the one hundredth day after the date of the court order, regardless of the actual expiration date of the term of the office, unless the Court order establishes an alternate date or the water conservancy district has notified the court that the election must be coordinated and conducted in accordance with section 1-7-116, C.R.S.

5.6.6   The form and procedures for filing candidate nomination forms and call for candidate nominations for the office to be voted upon at the court-ordered election described in this Rule must be conducted under Article 1, Title 32, C.R.S., unless otherwise ordered by the court.

5.7   Non-Partisan Elections: Polling location procedures

5.7.1   For polling place elections conducted in accordance with Article 1, Title 32, C.R.S., upon execution of the self affirming oath or affirmation under section 32-

1   ~~1-806(2), C.R.S., an eligible elector must show identification as defined in section~~
2   ~~1-1-104(19.5), C.R.S.~~

3   ~~5.7.2   The designated election official must ensure that each polling location has an~~
4   ~~adequate number of provisional ballots and affidavits.~~

5   ~~5.7.3   The designated election official must follow the provisional ballot procedures~~
6   ~~contained in Articles 1 through 13 of Title 1, C.R.S., and Rule 17.~~

7 ~~5.8   The clerk for a county that contains any portion of a political subdivision within its~~
8   ~~borders must provide election day registration for the political subdivision.~~

9   ~~5.8.1   The county clerk must provide voter registration through the 22-day period before~~
10   ~~the election during normal business hours, Monday through Friday, and 7:00 a.m.~~
11   ~~to 7:00 p.m. on election day.~~

12   ~~5.8.2   The county clerk must provide daily registration updates beginning 22 days~~
13   ~~before election day through the day before election day, to the designated election~~
14   ~~official by secure transmission as outlined in Rule 20.~~

15   ~~5.8.3   On election day, the county clerk must provide a certificate of registration to any~~
16   ~~elector who registers to vote or updates his or her registration.~~

17 *New Rules 5.4 through 5.6:*

18 5.4   REGISTRATION LIST FOR A SPECIAL DISTRICT ELECTION

19   5.4.1   NO LATER THAN THE 40TH DAY BEFORE A SPECIAL DISTRICT ELECTION, THE
20   DESIGNATED ELECTION OFFICIAL MUST <mark>ORDER</mark> ONE OF THE FOLLOWING FROM THE
21   COUNTY:

22   (A)   A LIST OF REGISTERED ELECTORS AS OF THE 40TH DAY BEFORE THE
23   ELECTION TO BE DELIVERED ON THE 30TH DAY BEFORE THE ELECTION,
24   FOLLOWED BY A LIST OF ALL REGISTERED ELECTORS AS OF THE CLOSE OF
25   BUSINESS ON THE 22ND DAY BEFORE THE ELECTION TO BE DELIVERED ON THE
26   20TH DAY BEFORE THE ELECTION; OR

27   (B)   A COMPLETE LIST OF REGISTERED ELECTORS AS OF THE <mark>SIXTH</mark> DAY BEFORE
               THE ELECTION.

UPON REQUEST, THE COUNTY MUST PROVIDE THE DESIGNATED ELECTION OFFICIAL A LIST OF UOCAVA ELECTORS WHO RESIDE WITHIN THE SPECIAL DISTRICT.

BEGINNING THE 40TH DAY BEFORE THE DATE OF ELECTION AND THROUGH ELECTION DAY, THE COUNTY MUST <mark>STAY CURRENT</mark> WITH ALL VOTER REGISTRATION DATA ENTRY.

> 5.4.1(B) and 5.5.2 should be similar in terms of language and time. One says the DEO must order and one says the CC must provide.

5.4.4   FOR EVERY REGISTRATION LIST SENT TO THE SPECIAL DISTRICT, THE COUNTY MUST INFORM THE DESIGNATED ELECTION OFFICIAL OF THE PROPER PROCEDURES FOR HANDLING PROTECTED OR CONFIDENTIAL ELECTOR INFORMATION. 24-72-204(3.5), (8), AND PART 21, ARTICLE 30, TITLE 24, C.R.S.]

remove 'of' after procedures. Instructions and procedures should be similar. Will this be a form from SOS?

5.5   REGISTRATION LISTS FOR MUNICIPAL ELECTIONS

5.5.1   IF A MUNICIPALITY IS CONDUCTING A MAIL BALLOT ELECTION, THE COUNTY CLERK MUST PROVIDE THE MUNICIPALITY WITH:

(A)   A PRELIMINARY LIST OF ALL ELIGIBLE ELECTORS NO LATER THAN THE 30TH DAY BEFORE THE ELECTION; AND

(B)   A SUPPLEMENTAL LIST OF ELECTORS NO LATER THAN THE 20TH DAY BEFORE THE ELECTION. THE LIST MUST CONTAIN THE NAMES OF ALL ELIGIBLE ELECTORS IN THE MUNICIPALITY WHO WERE NOT ON THE 30-DAY LIST AND WHO REGISTERED ON OR BEFORE THE 22ND DAY BEFORE THE ELECTION.

see note above.

5.5.2   THE COUNTY CLERK MUST PROVIDE THE MUNICIPALITY WITH A REGISTRATION LIST NO LATER THAN THE FIFTH DAY BEFORE THE ELECTION. IF PROVIDED ON THE FIFTH DAY, THE LIST MUST INCLUDE ALL REGISTERED ELECTORS IN THE MUNICIPALITY AS OF THE SIXTH DAY BEFORE THE ELECTION.

5.5.3   BEGINNING THE 40TH DAY BEFORE THE ELECTION AND THROUGH ELECTION, THE COUNTY CLERK MUST STAY CURRENT WITH ALL VOTER REGISTRATION ENTRY.

in 5.4.3 as well. What does this mean 'stay current'. Within statutory timeframes?

Should say municipality as opposed to special districts.

FOR EVERY REGISTRATION LIST SENT TO THE SPECIAL DISTRICT, THE COUNTY CLERK MUST INFORM THE DESIGNATED ELECTION OFFICIAL OF THE PROPER PROCEDURES OF FOR HANDLING PROTECTED OR CONFIDENTIAL ELECTOR INFORMATION. [SECTION 24-72-204(3.5), (8), AND PART 21, ARTICLE 30, TITLE 24, C.R.S.]

5.6   IF AN ELIGIBLE ELECTOR ATTEMPTS TO REGISTER OR UPDATE HIS OR HER REGISTRATION AT THE COUNTY CLERK'S OFFICE, THE COUNTY MUST PROCESS THE REQUEST AND ENSURE THAT THE ELECTOR APPEARS ON THE NEXT REGISTRATION LIST PROVIDED TO THE MUNICIPALITY OR ISSUE THE ELECTOR A CERTIFICATE OF REGISTRATION.

Amendments to Rules 6.4 and 6.5 concerning election judges:

6.4   A supervisor judge in a voter service and polling center must:

6.4.1   Successfully pass the criminal background check described in Rule 6.5. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from handling voter registration applications or conducting voter registration and list maintenance activities.

6.4.2   ~~Effective January 1, 2014, successfully~~ SUCCESSFULLY complete provided by the Secretary of State.

What standard does 'successfully' mean. Pass a test, attend the training? Perhaps strike Successfully.

	6.5	The county clerk must arrange for a criminal background check [for] each staff member conducting voter registration activities.

1　6.5　The county clerk must arrange for a criminal background che[ck for]
2　　　each staff member conducting voter registration activities.

3　　(A)　The criminal background check must be conducted [by the]
4　　　　Bureau of Investigation in the Department of Publi[c Safety or]
5　　　　Sheriff's department for the county in which the count[y is located.]

6　　(B)　APERSON CONVICTED OF AN ELECTION OFFENSE OR A[N OFFENSE WITH AN]
7　　　　ELEMENT OF FRAUD MAY NOT:

8　　　(1)　HANDLE VOTER REGISTRATION APPLICATIO[NS OR OTHERWISE CONDUCT VOTER]
9　　　　　REGISTRATION AND LIST MAINTENANCE ACTIVITIES; OR

10　　　(2)　HAVE ACCESS TO A CODE, COMBINATION, PASSWORD, OR ENCRYPTION KEY
11　　　　　FOR THE VOTING EQUIPMENT, BALLOT STORAGE AREA, COUNTING ROOM, OR
12　　　　　TABULATION WORKSTATION.

13　*Amendments to Rule 7.1.1 (concerning mail ballot plans for elections conducted by the county*
14　*clerk and recorder):*

15　7.1.1　The county clerk must submit a mail ballot plan to the Secretary of State by email
16　　　no later than 90 days before every election.

17　　(a)　~~For recall elections, the county clerk must submit a mail ballot plan to the~~
18　　　　~~Secretary of State by email within five days after the appropriate official~~
19　　　　~~sets the election date. The Secretary of State will approve or disapprove~~
20　　　　~~the plan within five days after receipt.~~

21　　(b)　The county clerk must submit with the mail ballot plan the VOTER
22　　　　INSTRUCTIONS AND secrecy sleeve ~~or envelope~~ that the clerk intends to use
23　　　　in the election.

24　*New Rule 7.2.5 and 7.2.6 (concerning mail ballot and ballot packets):*

25　7.2.5　EACH MAIL BALLOT RETURN ENVELOPE AND MAIL BALLOT [MUST]
26　　　　INCLUDE A STATEMENT INFORMING VOTERS THAT IT IS A VIO[LATION TO]
27　　　　DROP OFF MORE THAN TEN BALLOTS IN ANY ELECTION.

28　7.2.6　EACH MAIL BALLOT RETURN ENVELOPE MUST INCLUDE THE FOLLOWING
29　　　　AFFIRMATION: "TO VOTE, I HAVE MARKED AND SEALED MY BALLOT IN PRIVATE
30　　　　AND HAVE NOT ALLOWED ANY PERSON TO OBSERVE THE MARKING OF THE BALLOT,
31　　　　EXCEPT FOR THOSE AUTHORIZED TO ASSIST VOTERS UNDER STATE OR FEDERAL
　　　　　[LAW.]"

[New Rule 7.2.5 and 7.2.6 (concerning mail ballot] and ballot packets for elections conducted by

Handwritten/margin annotations:

> Add national search as an option in the event that a county wants to run it. In Douglas, if the person has not lived in CO for 5 years, they run a national search. Denver runs a national check on FTEs and new temporary employees, with a Colorado check on everyone who works yearly. In small counties, most of the judges are returning. Current wording seems to work to cover all counties.

> Perhaps just add this to the instructions as opposed to the envelopes.

> 7.2.5 and 7.2.6 - Would this apply to 2014? Many counties have already ordered envelopes. Significant cost if implemented in 2014. This additional affirmation makes the mail ballot affirmation different than the in person affirmation. Also, this affirmation is poorly worded as to its intent. Very difficult for bi-lingual counties. Envelope artwork needs to be in the next few weeks. This affirmation seems to go beyond what the law requires.

| | | (c) | In coordinated elections, the county clerk must mail ballots to all active eligible electors of each political subdivision. ~~For special district elections, the designated election official of each district must certify to the county clerk the list of electors eligible to vote under section 32-1-806, C.R.S.~~ |

Amendments to Rule 7.4.6:

also could be election officials

| | 7.4.6 | Upon receipt of the ballot, a bipartisan team of ==election judges== must verify the signature on the affidavit under Rule ~~7.7~~ 7.8. After the affidavit has been verified, a bipartisan team of election judges must duplicate the ballot following the procedures outlined in Rule 18. Duplicating judges must not reveal how the elector has cast his or her ballot. |

Rule 7.4.7, concerning emergency ballot transmission, is repealed (this information is currently addressed by section 1-7.5-115, C.R.S.):

| | ~~7.4.7~~ | ~~Notwithstanding any other provision of law, the following procedures apply to delivery and return of ballots to electors affected by a disaster emergency.~~ |

~~(a)~~ ~~Definitions~~

~~(1)~~ ~~"Affected elector" means an elector who is displaced from or isolated in the elector's residence, as a result of a disaster emergency.~~

~~(2)~~ ~~"Affected county" means a county in which a disaster emergency exists.~~

~~(3)~~ ~~"Disaster emergency" means a state of disaster emergency declared by an authorized public officer under applicable law.~~

~~(b)~~ ~~The county clerk of an affected county may issue an original or replacement ballot to an affected elector in person at the county clerk's office under section 1-7.5-107(2.7), C.R.S., or by mail at any time after official ballots are printed and in the possession of the county clerk under section 1-5-403(1), C.R.S.~~

~~(c)~~ ~~Disaster Emergency mail ballots~~

~~(1)~~ ~~An affected elector who is unable to obtain his or her ballot in person or by mail because he or she is isolated in his or her residence may apply for a disaster emergency mail ballot on a form provided by the Secretary of State.~~

~~(2)~~ ~~A disaster emergency mail ballot may be issued to and returned by an affected elector by mail, fax, or email.~~

1		(3)	The county clerk must record the issuance and receipt of disaster
2			~~emergency mail ballots sent by electronic transmission on a log~~
3			~~approved by the Secretary of State.~~

4		(d)	~~The county clerk of an affected county must submit to the Secretary of~~
5			~~State an amendment to the county's contingency plan. The amendment, at~~
6			~~a minimum, must include:~~

| 7 | | (1) | ~~A general description of the affected areas;~~ |

| 8 | | (2) | ~~A plan for notifying affected electors of procedures to obtain and~~ |
| 9 | | | ~~return ballots;~~ |

| 10 | | (3) | ~~Procedures for delivery and return of ballots to and from affected~~ |
| 11 | | | ~~electors; and~~ |

| 12 | | (4) | ~~Any procedures necessary to ensure the security of ballots~~ |
| 13 | | | ~~delivered to or returned by affected electors.~~ |

New Rule 7.5(c) concerning receipt and processing of ballots:

15		(C)	SIGNAGE AT EACH DROP-OFF LOCATION MUST INFORM VOTERS THAT IT IS A
16			VIOLATION OF LAW TO DROP OFF MORE THAN TEN BALLOTS IN ANY
17			ELECTION.

Amendments to Rule 7.5.8:

19	7.5.8	The county clerk must dissociate any batch number that could trace a ballot back
20		to the specific voter who cast it from the counted ballots OR ANY REPORTS
21		GENERATED BY THE TABULATION SOFTWARE no later than the final certification of
22		the abstract of votes cast.

> Make sure that this is after the recount and contest period.

New Rule 7.5.9 concerning ballots received by the wr

24	7.5.9	IF AN ELECTOR DELIVERS A BALLOT TO THE WRONG COUNTY, THAT COUNTY MUST
25		DATE STAMP THE BALLOT AND FORWARD IT TO THE CORRECT COUNTY. THE
26		CORRECT COUNTY MUST TREAT THE BALLOT AS RECEIVED AS OF THE DATE AND
27		TIME OF THE DATE STAMP.

> Perhaps more clarification needed here.

New Rule 7.6:

| 29 | 7.6 | BALLOT RETURNED IN UNOFFICIAL ENVELOPE |

30	7.6.1	IF THE COUNTY RECEIVES A MAIL BALLOT FROM AN ELIGIBLE ELECTOR IN AN
31		ENVELOPE OTHER THAN THE OFFICIAL BALL
32		PARTICULAR ELECTION, THE COUNTY MUST C
33		WITHIN THREE CALENDAR DAYS OF RECEIVING
34		TWO CALENDAR DAYS AFTER ELECTION DAY. T

> Does the envelope remain with CC or go to the special district or municipality for the post election records process. Seems to be broad. What about a scenario with Larimer receiving a larimer envelope with a douglas ballot? Would this rule mean that if the voter is eligible in Larimer, the choices on the douglas ballot count?

AND AFFIDAVIT PRESCRIBED BY THE SECRETARY OF STATE AND KEEP A COPY AS
PART OF THE OFFICIAL ELECTION RECORD. IF THE COUNTY RECEIVES THE
COMPLETED AFFIDAVIT NO LATER THAN THE EIGHTH DAY AFTER ELECTION DAY,
THE COUNTY MUST COUNT THE BALLOT.

[Current Rules 6.7 through 7.7.8 are renumbered accordingly]

New Rule 7.8.9 concerning voter service and polling centers:

7.8.9   SIGNAGE AT EACH VOTER SERVICE AND POLLING CENTER MUST INFORM VOTERS
THAT IT IS A VIOLATION OF LAW TO DROP OFF MORE THAN TEN BALLOTS IN ANY
ELECTION.

[Current Rules 7.8 through 7.10.3 are renumbered accordingly]

[Renumbering and amendments to Rules 7.11 and 7.12:]

7.11 7.12   Assisting voters with disabilities in a voter service and polling center

7.11.1 7.12.1   The designated election official must post a sign at the voter service and
polling center that states:

NOTICE

VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

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

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

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

3.   *If you select a person other than an election judge, he or she must complete a
Voter Assistance Form, which includes an oath that states:*

*I, ………, certify that I am the individual chosen by the elector to assist the elector
in casting a ballot.² I FURTHER CERTIFY THAT I WILL NOT IN ANY WAY ATTEMPT TO
PERSUADE OR INDUCE THE ELECTOR TO VOTE IN A PARTICULAR MANNER, NOR WILL I
CAST THE ELECTOR'S VOTE OTHER THAN AS DIRECTED BY THE ELECTOR I AM ASSISTING.*

4.   *The person you select may provide any assistance you need, including entering
the voting booth, preparing the ballot, or operating the voting machine.*

5.   *The person assisting you may not seek to persuade you or induce you to vote in a
particular manner.*

6.   *The election judge must record the name of each voter who receives assistance
and the name of the person who provides assistance on the signature card.*

1   ~~7.11.2~~ 7.12.2 If a voter has spoiled two ballots and requests a third ballot, an election
2   official must offer assistance in voting procedures and casting the ballot.

3 ~~10.10~~ 7.13   Voter history

4 ~~10.10.1~~ 7.13.1 After the canvass, the designated election official must give vote credit to
5   each voter who voted in the election.

6 ~~10.10.2~~ 7.13.2 If the voter history records do not match the number of voters who voted
7   at that election, the designated election official must ensure the following:

8   (a)   Each voter received credit for voting; and

9   (b)   All signature cards are accounted for.

10 ~~10.10.3~~ 7.13.3 All research concerning discrepancies must be explained and documented.

11 *[Current Rule 10.10 is relocated and incorporated into New Rule 7.13 as shown above]*

12 ~~7.12~~ 7.14   Reimbursement to counties for state ballot measure elections. No later than 90
13   days after an election, the county must submit a completed request for reimbursement
14   under section 1-5-505.5, C.R.S. The county must submit the request using the form
15   provided by the Secretary of State.

16 *Amendments to Rule 8.6.1:*

17 8.6   A watcher may not:

18   8.6.1   Interrupt, STOP, or disrupt the processing, verification, and counting of any ballots
19   or any other stage of the election.

20   *[Current rules 8.6.2 through 8.6.7 are retained; unaltered. New Rules 8.6.8 through*
21   *8.6.10 follow:]*

> Change this to observe per SOS IT policy.

22   8.6.8   ATTEMPT TO DETERMINE HOW ANY ELECTOR VOTED OR OBTAIN CONFIDENTIAL
23   VOTER INFORMATION.

24   8.6.9   DISCLOSE OR RECORD ANY CONFIDENTIAL VOTER INFORMATION THAT HE OR SHE
25   MAY OBSERVE.

26   8.6.10 ATTEMPT TO DETERMINE OR DISCLOSE ANY RESULTS BEFORE THE POLLS HAVE
27   CLOSED.

> Separate this out. 1. Attempt to determine how someone voted. 2. Observe confidential information.

28 *Amendments to Rule 9*

29 Rule 9. Voting Challenges

30 9.1   CHALLENGING AN IN-PERSON VOTER

9.~~1~~9.1.1   Under Section 1-9-201, C.R.S., an election official, watcher, or eligible elector of the precinct may challenge an elector's right to vote. A person whose eligibility is challenged while voting in-person, must be offered a regular ballot by an election judge if the person satisfactorily answers the applicable challenge questions specified in section 1-9-203, C.R.S., and this Rule. If the person challenged provides unsatisfactory answers or refuses to answer the challenge questions, an election judge must offer the person a provisional ballot.

9.~~2~~9.1.2   Citizenship. The election judge must ask the elector, "Are you a citizen of the United States?"

9.~~3~~9.1.3   Residency. The election judge must ask the elector the following questions:

     ~~9.3.1~~(A)   "Will you have resided in Colorado for the 22 days before election day?"

     ~~9.3.2~~(B)   "Do you reside at the address stated in your voter registration record?"

     ~~9.3.3~~(C)   "Have you been absent from Colorado during the past 22 days?" If the elector responds that he or she was absent during the 22-day period, the election judge must also ask the following questions:

         ~~(a)~~(1)   "Have you been absent for a temporary purpose with the intent of returning, or did you intend to remain outside Colorado?"

         ~~(b)~~(2)   "While you were absent, did you consider Colorado to be your home or did you maintain a home or domicile elsewhere?"

         ~~(c)~~(3)   "While you were absent, did you vote in any other state or territory of the United States?"

9.~~4~~9.1.4   Age. The election judge must ask the elector, "Will you be 18 years of age or older on election day?"

9.2   IF AN INDIVIDUAL CHALLENGES A MAIL BALLOT UNDER SECTION 1-9-201, C.R.S., THE ELECTION JUDGE MUST FORWARD THE BALLOT TO TWO OTHER ELECTION JUDGES OF DIFFERENT POLITICAL PARTY AFFILIATIONS WHO MUST REVIEW THE ELECTOR'S ELIGIBILITY TO VOTE.

~~Suggest to strike 9.2 since signature verification is not a watcher duty. The whole purpose of bi-partisan teams verifying signatures. Seems to extend the challenge that can occur for a mail ballot. 1-9-201 is actually for in person challenges as opposed to mail ballot challenges.~~

[...] BOTH ELECTION JUDGES DETERMINE THE ELECTOR IS NOT ELIGIBLE TO [...] ON A PARTICULAR BALLOT ISSUE, BALLOT QUESTION, OR RACE, THE [...]ES MUST COUNT ONLY THOSE BALLOT ISSUES, BALLOT QUESTIONS, OR [...]S FOR WHICH THE ELECTOR IS ELIGIBLE.

9.2.2 IF BOTH ELECTION JUDGES DETERMINE THE SIGNATURE ON THE RETURN ENVELOPE DOES NOT MATCH THE ELECTOR'S SIGNATURE IN SCORE, THE JUDGES MUST FOLLOW THE PROCEDURES IN SECTION 1-7.5-107.3(2), C.R.S.,

9.2.3 IF BOTH ELECTION JUDGES DETERMINE THE ELECTOR IS ELIGIBLE AND THAT ELECTOR'S SIGNATURE IS VALID, THE ELECTION JUDGES MUST COUNT THE ELECTOR'S BALLOT.

Amendments to Rule 10:

Rule 10. Canvassing and Recount

[Current Rule 10.1 is relocated to New Rule 10.2]

[New Rule 10.1 includes relocated portions of Current Rules 10.3, 10.4, and 10.5 as shown below]

10.1   PRECANVASS ACCOUNTING

Should include DRE ballots as well.

10.1.1 FOR PURPOSES OF ARTICLE 10 OF TITLE 1, "BALLOTS CAST IN AN ELECTION" OR "BALLOTS CAST IN EACH PRECINCT" MEANS PAPER BALLOTS CAST BY ELECTORS IN A VOTER SERVICE AND POLLING CENTER AND MAIL BALLOTS RECEIVED FOR PROCESSING BY THE COUNTY CLERK.

~~10.3~~ 10.1.2   Detailed Ballot Log. The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are ordered and received. The election officials must reconcile the log at the conclusion of each workday.

~~10.4~~ 10.1.3   Daily voter service and polling center ballot accounting. ~~10.4.1~~ The designated election official must supply each polling location with a Statement of Ballots Form. Election judges must record the following information on a separate statement of ballots form for each day that the polling location is open:

(a)   The name or number of the polling location;

(b)   The number of ballots provided to or printed on-demand at the polling location;

(c)   The number of ballots cast;

(d)   The number of unvoted ballots;

(e)   The number of damaged or spoiled ballots;

(f)   The number of voted provisional ballots; and

(g)   The date.

10.4.2 10.1.4 After a polling location closes for the day election judges must complete the following tasks:

    (a) Reconcile the total number of voted ballots with the number of voters who voted.

    (b) Verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to or printed at the polling location.

    (c) Reconcile the number of people who signed signature cards to the total number of ballots cast.

    (d) Provide a written explanation of any discrepancy in the numbers on the Statement of Ballots form, (for example, the voter signed in but left the polling location without voting, etc.).

Return AFTER THE VOTER SERVICE AND POLLING CENTER CLOSES ON ELECTION NIGHT, THE ELECTION JUDGE MUST RETURN the completed Statement of Ballots form FOR EACH DAY THE LOCATION WAS OPEN ALONG WITH ALL and voted, unvoted, spoiled, and provisional ballots to one of the election offices designated in the mail ballot plan.

10.5 10.1.5 Designated Election Official's disposition of forms

    10.5.1 (A) The designated election official must review the Statement of Ballots form FORMS for completion and accuracy.

    10.5.2 (B) If the designated election official or the canvass board discovers a problem with the A Statement of Ballots form that cannot be easily resolved, they may contact the election judges for an explanation or correction.

[Current Rules 10.1 and 10.9 are amended and renumbered as New Rule 10.2 as follows:]

10.1 10.2 Appointment to the Canvass Board

    10.1.1 10.2.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.

    10.1.2 10.2.2 For a partisan election, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.

    10.1.3 10.2.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents.

<div style="border:1px solid red">
Perhaps more clear wording on this rule. It says a singular election judge and we are supposed to have bi-partisan teams.
</div>

| 1 | ~~10.1.4~~ 10.2.4 | | A candidate for office and members of the candidate's immediate family may not serve on the canvass board. |

1 ~~10.1.4~~ 10.2.4   A candidate for office and members of the candidate's immediate family
2   may not serve on the canvass board.

3 ~~10.9~~ 10.2.5   Appointment of Canvass Workers. The designated election official may
4   appoint canvass workers to help prepare and conduct the canvass.

5 *[Current Rules 10.2 and 10.12 are amended renumbered as New Rule 10.3 as follows:]*

6 ~~10.2~~ 10.3   Duties of the Canvass Board

7 ~~10.2.1~~ 10.3.1   The canvass board must make its determinations by majority vote in
8   accordance with section 1-10-101.5(1)(c), C.R.S.

9 ~~10.2.2~~ 10.3.2   The canvass board's duties are to:

10   (a)   Conduct the canvass in accordance with section 1-10-101.5, C.R.S.,
11   including:

12   (1)   Account and balance the election and certify the official abstract of
13   votes;

14   (2)   Reconcile the number of ballots counted to the number of ballots
15   cast; and

16   (3)   Reconcile the number of ballots cast to the number of voters who
17   voted by reviewing the reconciled detailed ballot logs and
18   Statement of Ballots.

19   (b)   Observe the post-election audit in accordance with section 1-7-514(4),
20   C.R.S., and Election Rule 11.3.3(k);

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

23   (d)   Conduct any recount in accordance with section 1-10.5-107, C.R.S., and
24   this Rule. The canvass board's role in conducting a recount includes
25   selecting ballots for the random test, observing the recounting of ballots,
26   and certifying the results.

27 ~~10.2.3~~ 10.3.3   If the board identifies a discrepancy in ~~the~~ A Statement of Ballots FORM,
28   the board may review the particular ballots at issue to identify, correct, and
29   account for the error.

30 ~~10.2.4~~ 10.3.4   The canvass board may not perform duties typically reserved for election
31   judges, including:

32   (a)   Determining voter intent;

33   (b)   Evaluating voter eligibility; and

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

10.12 10.3.5 Role of Watchers. Watchers appointed under section 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.

Current Rule 10.3 is amended and renumbered as New Rule 10.1.1.

Current Rules 10.4 and 10.4.1 are amended and renumbered as New Rule 10.1.2.

Current Rule 10.4.2 is amended and renumbered as New Rule 10.1.3.

Current Rule 10.5 is amended and renumbered as New Rule 10.1.4.

Current Rules 10.6, 10.7.2(e)-(7) and 10.11 are amended and renumbered as New Rule 10.4 as follows:

10.6 10.4 Procedures for the day of the Canvass

10.6.1 10.4.1 The designated election official must provide the following information to the canvass board:

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

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

(c) The number of ballots cast, including the number of accepted and rejected mail ballots; and

(d) The number of provisional ballots cast, including the number accepted and rejected.;

[Current Rules 10.7.2(e)-(h) are relocated to this New Rule 10.4.1 (e)-(h) as follows:]

(e) The number of mail ballots counted and the number rejected;

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

(g) The number of provisional ballots counted and the number rejected listed by each rejection code; and

(h) The number of damaged and spoiled ballots.

10.6.2 10.4.2 Any written documentation regarding official numbers is RESULTS MUST BE included as part of the canvass.

10.11 10.4.3 Written Complaints

1   ~~10.11.1~~ (A)   The designated election official must provide the canvass board
2   with any written complaint submitted by a registered elector about a
3   voting device.

4   ~~10.11.2~~ (B)   If the complaint is resolved, the designated election official must
5   provide the details of the resolution.

6   ~~10.11.3~~ (C)   If the complaint is pending resolution when the board meets to
7   conduct the canvass, the designated election official must provide a
8   proposal for how the issue will be resolved.

9   ~~10.7~~ 10.5   Official Abstract and Reporting to the Secretary of State

10   ~~10.7.1 The canvass board must use the official abstract in a f~~[...]
11   ~~Secretary of State.~~ *[Current Election Rule 10.7.1 is incor*[...]
12   *10.5.2.]*

13   ~~10.7.2~~ 10.5.1 The official county abstract must include, by p[...]
14   where applicable:

15   (a)   The total number of active registered electors on ele[...]
16   BY THE SECRETARY OF STATE;

17   (b)   The total number of registered electors (active an[...]
18   day AS PROVIDED BY THE SECRETARY OF STATE;

19   (c)   The statement of votes counted by race and ballot question or issue; AND

20   (d)   The total number of ballots cast in the election~~;~~.

21   *[Current Election Rules 10.7.2(e)-(h) are relocated to New Rules 10.4.1(e)-(h).]*

22   ~~10.7.3~~ 10.5.2 The state portion of the abstract, which the county must USE THE FORMAT
23   APPROVED BY THE SECRETARY OF STATE AND transmit to the Secretary of State,
24   must include:

25   (a)   The total number of active registered electors on election day AS PROVIDED
26   BY THE SECRETARY OF STATE;

27   (b)   The total number of registered electors (active and inactive) on election
28   day AS PROVIDED BY THE SECRETARY OF STATE;

29   (c)   ~~The statement of votes counted by race and~~ THE SUMMARY OF VOTES CAST
30   FOR EACH STATE RACE AND EACH ballot question or issue ;

31   (d)   The total number of ballots cast in the election; and

32   (e)   The Canvass ENR upload required under Rule 11.10.4.

Conflicts with new rule 11.3.2 (E)(4) where it says you can't change election database (this depends on which system you have) after we complete logic and accuracy test. Perhaps discussion on this would be wise to be sure numbers balance with canvass numbers and to determine the best point to pull this data.

10.8 10.6   The County Abstract is the Official Permanent Record

> 10.8.1 10.6.1   The designated election official must keep all official canvass reports and forms as part of the official permanent election record.

> 10.8.2 10.6.2   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.

Current Rule 10.9 is renumbered as New Rule 10.2.5.

Current Rule 10.10 is relocated and incorporated into New Rule 7.13

Current Rule 10.11 is renumbered as New Rule 10.4.3.

Current Rule 10.12 is renumbered as New Rule 10.3.5.

10.13 10.7   Role of the Secretary of State

> 10.13.1 10.7.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections as outlined below.

> 10.13.2 10.7.2 The county clerk or the canvass board may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.

> 10.13.3 10.7.4 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.

> 10.13.4   Imperfect returns or failure to certify

>> (a)   If the canvass board fails to certify or certifies imperfect returns that have no reasonable potential to change the outcome of any race or ballot measure, the Secretary of State and county clerk must certify the election and order recounts, if any, in accordance with Part 1, Article 11 of Title 1, C.R.S.

>> (b)   If the canvass board fails to certify or certifies imperfect returns that have a reasonable potential to change the outcome of any race or ballot measure, the Secretary of State will conduct an investigation to identify the nature of, and advise the county clerk in correcting, the inaccuracy.

[Current Rule 10.13.4 is repealed; this information is addressed by Article 10, of Title 1, C.R.S.]

10.14 10.8   Recount generally

1   ~~10.14.1~~ 10.8.1 The purpose of a recount is to re-tabulate the ballots.

2   ~~10.14.2~~ 10.8.2 For statewide or federal races, ballot issues or ballot questions, the county
3   clerk must coordinate scheduling the recount through the Secretary of State's
4   office so that it can ensure adequate observer coverage.

5   ~~10.15~~ 10.9   Recount cost estimates and reimbursements

6   ~~10.15.1~~ 10.9.1 A county must submit a request for reimbursement for a mandatory
7   recount of a state or federal race or ballot measure using the Secretary of State
8   approved form. The county may not request reimbursement for meals or normal
9   overhead costs or regular employee compensation. The county must include
10   itemized costs for reasonable expenditures, including:

11   (a)   Mailings and notices;

12   (b)   Election judges, temporary staff, canvass board pay, and overtime pay;
13   and

14   (c)   Copies and other office expenses related to the recount.

15   ~~10.15.2~~ 10.9.2 Requested recounts

16   (a)   The county clerk must provide an itemized cost estimate in accordance
17   with section 1-10.5-106, C.R.S., upon submission of a formal request for a
18   recount.

19   (b)   In preparing a cost estimate for a requested recount, the county must use
20   the Secretary of State approved form. The estimate must include
21   reasonable itemized costs for conducting the recount. The county may not
22   request reimbursement for normal overhead costs.

23   (c)   The county clerk must submit a cost estimate to the Secretary of State
24   when the clerk provides it to a requesting party.

25   ~~10.16~~ 10.10   In accordance with section 1-10.5-107, C.R.S., and Rule ~~10.2.2(d)~~ 10.3.2(D), the
26   canvass board's role in conducting a recount includes selecting ballots for the test,
27   observing the recounting of ballots, and certifying the results.

28   ~~10.17~~ 10.11   Watchers and observers DURING A RECOUNT

29   ~~10.17.1~~ 10.11.1   The Secretary of State may appoint official observers in any
30   recount.

31   ~~10.17.2~~ 10.11.2   Each candidate or the candidate's watcher, media observers, and
32   official observers, may be present and witness the recount in accordance with
33   Rule 8.

1 ~~10.17.3~~ 10.11.3   The recount board must take the canvass board oath, assisting
2   election judges must take the election judge's oath, and any person observing the
3   recount must take a watcher's oath.

4 ~~10.17.4~~ 10.11.4   Complaints. A watcher may submit a complaint in writing to the
5   county clerk or designee. Written complaints during a recount will be addressed
6   in accordance with Rule 13.

7 ~~10.18~~ 10.12   Testing recount equipment

8 ~~10.18.1~~ 10.12.1   The canvass board must review the post-election audit before
9   selecting the equipment for testing under section 1-10.5-102(3), C.R.S. To the
10   extent feasible, the board must select equipment for testing that was not included
11   in the post-election audit.

12 ~~10.18.2~~ 10.12.2   The county clerk must test all scanners that will be used in the
13   recount. The purpose of the test is to ensure that the tabulation machines are
14   counting properly.

15   (a)   The test deck must include 50 ballots or 1% of the total number of ballots
16   cast in the election, whichever is greater, except that the total number of
17   ballots tested may not exceed the total number of ballots comprising the
18   county's test deck for the Logic and Accuracy test before the election. The
19   ballots must be marked to test every option for the race or measure that
20   will be recounted.

21   (1)   In a mandatory recount, the canvass board must select the ballots
22   to be tested from the county's test deck for the Public Logic and
23   Accuracy test.

24   (2)   In a requested recount, the person requesting the recount may mark
25   up to 25 ballots. Any other candidate in the race may also mark up
26   to 25 ballots. The canvass board must randomly select ballots from
27   the county's test deck for the Public Logic and Accuracy test to
28   ensure the minimum number of test ballots required by this Rule.

29   (b)   Sworn judges or staff must hand tally the test ballots for comparison to the
30   tabulation results.

31   (c)   The test is limited to the race or measure that is recounted.

32 ~~10.18.3~~ 10.12.3   The county clerk must test the VVPAT records from 1% of the
33   DREs that had votes cast for the race or measure being recounted.

34   (a)   Sworn judges or staff must manually verify the results on the machines
35   selected for the test.

36   (b)   The test is limited to the race or measure that is recounted.

1   ~~10.19~~ 10.13   Counting ballots DURING A RECOUNT

2   ~~10.19.1~~ 10.13.1   In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no
3   discrepancies in the test under Rule ~~10.18~~ 10.12, the recount must be conducted in
4   the same manner as the ballots were counted in the election except as outlined in
5   this Rule. If there are unresolvable discrepancies in the test, the recount must be
6   conducted as a hand count under Rule ~~10.19.5~~ 10.13.5.

7   ~~10.19.2~~ 10.13.2   A clear audit trail must be maintained throughout the recount
8   including, but not limited to, a log of seal numbers on transfer cases or ballot
9   boxes, and the corresponding numbered seal for each transfer case or ballot box.

10   ~~10.19.3~~ 10.13.3   Ballots must be reviewed for voter intent using the standards in
11   Rule 18.

12   (a)   Every over-vote or under-vote in the race(s) or measure(s) subject to the
13   recount must be reviewed for voter intent under Rule 18.

14   (b)   The judges conducting the voter intent review may resolve the intent
15   differently than the judges in the election.

16   ~~10.19.4~~ 10.13.4   To recount ballots using "Ballot Now":

17   (a)   Back up the official election database.

18   (b)   Open Ballot Now with an unused Mobile Ballot Box (MBB) from the
19   election and create a Ballot Now recount database.

20   (c)   Scan and resolve all recount ballots according to this Rule 10.

21   (d)   Save all recount Cast Vote Records to the MBBs after verifying that the
22   number of ballots processed matches the number of ballots cast in the
23   recount contest.

24   (e)   Open a new recount election in "Tally" and process the recount MBBs
25   following the tabulation procedures above.

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

27   (g)   Backup the test database and the official recount database.

28   ~~10.19.5~~ 10.13.5   To recount ballots by hand count.

29   (a)   If the tabulation of the original count was conducted by hand count, the
30   recount must be conducted by hand count.

31   (b)   Ballots must be counted in batches of 25 to ensure that the number of
32   ballots recounted matches the number originally counted.

(c)   Votes must be counted by individual hash marks in 25-count sections by two different judges.

~~10.19.6~~ 10.13.6   For tabulation of DREs, if there are no discrepancies in the test under Rule ~~10.18.3~~ 10.12.3, the county clerk must upload the memory cards.

~~10.19.7~~ 10.13.7   Tabulation of ballots cast must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next container begins.

~~10.19.8~~ 10.13.8   The number of ballots counted according to the final results for that race or measure must be available during the recount for comparison purposes.

~~10.20~~ 10.14   Canvass and reporting results FOR A RECOUNT

~~10.20.1~~ 10.14.1   Totals of recounted ballots must be reported in summary form as follows:

(a)   Sum total of votes cast for each race or measure recounted, under-votes, and over-votes for each location;

(b)   The totals must be a combined total, not totaled by individual precincts or location, unless the tabulation system allows.

~~10.20.2~~ 10.14.2   In accordance with section 1-10.5-107, C.R.S., and this Rule 10, the canvass board must amend, if necessary, and re-submit the abstract of votes cast.

Amendments to Current Rule 11.3.2 concerning voting systems:

11.3.2 Logic and Accuracy Test

[Current Rules 11.3.2(a) and (b) are amended and renumbered as New Rules 11.3.2(c)(1) and (2). Current Rules 11.3.2(c) and (d) are amended and renumbered as New Rules 11.3.2(a) and (b):]

~~(c)~~ (A) The ~~designated election official~~ COUNTY CLERK must conduct the public Logic and Accuracy Test ~~before voting~~ NO LATER THAN THE 18TH DAY BEFORE ELECTION DAY.

> since the DEO is now county clerk, does this leave room for a designee. DEO did and now this specifies county clerks.

~~d)~~ (B) The ~~designated election official~~ COUNTY CLERK must ensure that the Logic and Accuracy Test is open to the media and the public to the extent allowable in accordance with section 1-7-509(2)(b), C.R.S. The ~~designated election official~~ COUNTY CLERK may limit the number of representatives from each group because of space limitations.

(C)   PREPARING FOR THE LOGIC AND ACCURACY TEST

(a) (1) The ~~designated election official~~ COUNTY CLERK must prepare a sufficient number of test ballots that represent 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 race.

(b) (2) The ~~designated election official~~ COUNTY CLERK must create a Testing Board of one registered elector from each of the major political parties, as defined in section 1-1-104(22), C.R.S., if appointed. Testing Board members must be registered to vote in the county.

(e) (3) The ~~designated election official~~ COUNTY CLERK must provide at least 25 ballots that are clearly marked as test ballots to each Testing Board member.

(f) (4) Testing Board members must secretly vote their ballots following the instructions printed on the ballots and retain a record of the tally. Of the 25 test ballots, two must be tested as audio ballots.

(g) (5) The Testing Board must test the ballots on each type of voting device used in the election and each type of ballot including audio ballots.

(h) (D) Conducting the Test

(1)   The ~~designated election official~~ COUNTY CLERK and Testing Board must observe the tabulation of all test ballots, compare the tabulation with the previously retained records of the test vote count, and correct any discrepancies before the device is used in the election.

(2)   The ~~designated election official~~ COUNTY CLERK must reset the public counter to zero on all devices and present zero tapes to the Testing Board for verification. For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-

[Annotation: on page 35, line 26, it says board must identify 2 audio ballots. Here it says 2 for each board member. Perhaps a clarification.]

1) of the firmware or software, the ~~Designated Election Official~~ COUNTY CLERK must verify and document the accuracy of the value for the device.

(3)   The ~~designated election official~~ COUNTY CLERK must make an appropriate number of voting devices available and the Testing Board may witness the programming and/or downloading of memory devices necessary for the test.

(4)   The Testing Board and designated election official must count the test ballots as follows:

    (A)   Optical Scanners:

        (i)   The Testing Board must count test ballots on at least one, but not more than five, central count scanners and at least one scanner used at a voter service and polling center, if applicable.

        (ii)   The Testing Board must randomly select the machines to test.

        (iii)   The Testing Board must count the board and county's test ballot batches separately and generate reports to verify that the machine count is identical to the predetermined tally.

    (B)   DREs:

        (i)   The Testing Board must count the test ballots on at least one, but not more than five, DREs.

        (ii)   The Testing Board must randomly select the machines to test.

        (iii)   The Testing Board must identify and test two ballots as audio ballots.

        (iv)   The Testing Board must count at least 50 of the board's ballots and a random sampling of at least 25 of the county's test ballots separately and generate reports to verify that the machine count is identical to the predetermined tally. For DREs with VVPAT devices, the Testing Board must manually count the paper record to verify that the pre-determined totals of the Testing Board and county test ballot batches match the VVPAT total.

(E)   COMPLETING THE TEST

(v) (1)   The ~~designated election official~~ COUNTY CLERK must keep all test materials, when not in use, in a durable, secure box. Each member of the Testing Board must verify the seals and initial the chain-of-custody log maintained by the ~~designated election official~~ COUNTY CLERK. If the records are opened for inspection, at least two election officials must verify the seals and initial the chain-of-custody log.

(vi) (2)   After testing, the Testing Board must watch the ~~designated election official~~ COUNTY CLERK reset and seal each voting device.

(vii) (3)   The Testing Board and the ~~designated election official~~ COUNTY CLERK must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.

> In Rule 10, with requirement for SOS to provide reg numbers and county must update official obstract, that would be a modification to the database.

(4)   AFTER TESTING, THE TESTING BOARD MUST WATCH THE COUNTY CLERK CREATE A BACKUP COPY OF THE ELECTION DATABASE.

(5)   THE COUNTY CLERK MAY NOT CHANGE THE ELECTION DATABASE OR THE PROGRAMMING OF ANY VOTING DEVICE AFTER COMPLETING THE LOGIC AND ACCURACY TEST FOR AN ELECTION.

> Verify that all systems will do this now.

11.10   Election Night Reporting (ENR). The county must report election night results for all primary, general, coordinated and recall elections.

11.10.1   A data entry county must program the election to support the exporting of election night results in accordance with the following upload requirements:

(a)   List contest names and candidate names exactly as provided on the certified list.

(b)   ~~Provide contest names in all uppercase letters.~~

(c) (B)   For counties that use the ES&S and Premier voting systems, arrange the contests in the order prescribed by section 1-5-403(5), C.R.S.

(d) (C)   Capitalize candidate names (e.g., John A. Smith).

1   (e) (D) Present a precinct name as a ten-digit precinct number.

2   (f) (E) For counties that use the Hart voting systems, use the "Split_name" field
3   split precinct naming purposes.

4   (g) (F) Create a "Provisional" precinct.

5   (h) (G) Use only the party codes certified by the Secretary of State.

6   (i) (H) Do not include the party name or code in the candidate name field.

7 *Current Rule 12.1 is repealed. Rule 12 is reserved:*

8 **Rule 12. Recall**

9 12.1 ~~Notwithstanding any other provision of law, the designated election official must count~~
10 ~~an elector's vote for a successor candidate regardless of whether the elector voted on the~~
11 ~~recall question. [*In Re: Interrogatory Propounded by Governor John Hickenlooper*~~
12 ~~*Concerning the Constitutionality of Certain Provisions of Article XXI, § 3 of the*~~
13 ~~*Constitution of the State of Colorado,* 2013 CO 62.]~~

14 [RESERVED]

15 *Amendments to Current Rule 13:*

16 **Rule 13. Election and HAVA Complaints**

> Perhaps, clarification that something is truly a HAVA complaint should be added to this rule. So what is the determination process for what is a HAVA complaint and thus triggers the Hearing process.

17 13.1   Election complaint procedures

18   13.1.1 Any individual who personally witnesses a violation of ~~Title 1, C.R.S.~~ THE
19   UNIFORM ELECTION CODE OF 1992 may file an election complaint.

20 *[Current Rule 13.1.2 is retained; unaltered]*

21   13.1.3 Processing and docketing election complaints

22   (a)   Within three business days of receiving a complaint, the Secretary's
23   designee will review the complaint to determine if it satisfies Rule 13.1.2
24   and sufficiently alleges a violation OF THE UNIFORM ELECTION CODE OF
25   1992.

26   (1)   If the complaint does not meet the ~~criteria~~ REQUIREMENTS OF RULE
27   13.1.3(A), the Secretary's designee will notify the complainant of
28   the ~~discrepancy~~ DEFICIENCY.

29   (2)   If a complaint meets the criteria, the Secretary's designee will
30   assign a complaint number, notify the complainant, and send a
31   copy of the complaint to the person or entity alleged to have
32   committed a violation.

1   (b)   After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.

4   *[Current Rule 13.1.4 is retained; unaltered]*

5   *[Current Rules 13.1.5 (a), (b), and (d) are retained; unaltered.] Rule 13.1.5(c) is amended as follows:*

7   13.1.5 Investigation

8   (c)   Depending on the violation alleged, the Secretary's designee may:

9   (1)   Review documents;

10   (2)   Visit the county;

11   (3)   Conduct interviews;

12   (4)   Test equipment; ~~or~~

13   (5)   Take other steps necessary~~.~~; OR

14   (6)   CONVENE A HEARING AND TAKE TESTIMONY FROM INTERESTED PARTIES.

16   *Amendments to Current Rule 13.1.6:*

17   13.1.6 Resolution of election complaints

18   (a)   After an investigation and hearing, if applicable, the Secretary's designee will:

20   (1)   Dismiss the complaint as not supported by credible evidence;

21   (2)   Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; or

23   (3)   Find a violation, recommend a resolution, and forward the recommendation for resolution to the Secretary of State~~, who will adopt, amend, or reject the recommendation~~.

26   *[Current Rules 13.1.7 through 13.2.5 are retained; unaltered]*

27   *Amendments to Current Rule 13.2.6:*

28   13.2.6 Hearing and Resolution of HAVA complaints

(a) If the complainant requests, ~~The~~ THE Secretary of State or his or her designee will hold a hearing.

(b) After the investigation and hearing, if any, the Secretary's designee will:

 (1) Dismiss the complaint as not supported by credible evidence;

 (2) Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; or

 (3) Find a violation, recommend a resolution, forward the recommendation for resolution to the Secretary of State~~, who will adopt, amend, or reject the recommendation~~.

13.2.7 ALTERNATIVE DISPUTE RESOLUTION UNDER SECTION 1-1.5-105(2)(J), C.R.S.

 (a) IF THE SECRETARY OF STATE DOES NOT RESOLVE THE COMPLAINT WITHIN 90 DAYS OF THE DATE THAT IT WAS FILED AND THE COMPLAINANT DOES NOT CONSENT TO AN EXTENSION OF TIME, THE SECRETARY OF STATE WILL TRANSFER THE COMPLAINT TO THE OFFICE OF ADMINISTRATIVE COURTS (OAC).

 (B) THE SECRETARY OF STATE WILL PROVIDE THE RECORD AND ANY OTHER MATERIALS FROM THE PROCEEDINGS TO THE OAC.

 (C) THE SECRETARY OF STATE WILL CONSIDER THE INITIAL DETERMINATION BY THE OAC AND ISSUE A FINAL DETERMINATION WITHIN 60 DAYS OF THE DATE THE DETERMINATION IS RECEIVED BY THE SECRETARY.

~~13.2.7~~ 13.2.8 The Secretary of State's determination is a final agency action.

New Rule 14.4.6 concerning Voter Registration Drives:

14.4.6 A VRD ORGANIZER OR CIRCULATOR MAY NOT HIGHLIGHT OR OTHERWISE MARK THE APPROVED VOTER REGISTRATION DRIVE APPLICATION FORM, OTHER THAN TO WRITE THE VRD NUMBER AND CIRCULATOR INFORMATION.

Amendments to Current Rule 15:

Rule 15.   **Preparation, Filing, and Verification of ~~Statewide Initiative~~ Petitions**

Current Rule 15.1 is amended and renumbered as New Rule 15.2. Current Rules 15.5.7, 15.6, and 15.8, are amended and re-codified as New Rule 15.1 as follows:

15.1   THE FOLLOWING REQUIREMENTS APPLY TO CANDIDATE, STATEWIDE INITIATIVE, RECALL, AND REFERENDUM PETITIONS, UNLESS OTHERWISE SPECIFIED.

  ~~15.5.7~~ 15.1.1 The Secretary of State will not accept or count additional signatures after proponents file the original petition or add

1   ~~15.6~~15.1.2   Circulator affidavit

2   ~~15.6.1~~(A)   If a petition section does not have a completed circulator affidavit,
3   the Secretary of State will reject the entire section.

4   ~~15.6.2~~(B)   If a petition section does not have a completed notary clause, or if
5   the date of the notary clause differs from the date the circulator signed the
6   affidavit, the Secretary of State will reject the entire section.

7   ~~15.8~~15.1.3   Verifying individual signatures

8   ~~15.8.1~~(A)   Staff will check each individual contained in SCORE.
9

10 ~~15.8.2~~(B)   Staff will create and maintain a master rejected entry, along with the reason code for each rejected entry.
11

12 ~~15.8.3~~(C)   If an entry does not match the signor's current information in
13 SCORE, staff must check the signor's information in SCORE as of the
14 date the signor signed the petition.

15 ~~15.8.4~~(D)   Secretary of State staff will reject the entry if:

16 ~~(a)~~(1)   The name on the entry is not in SCORE;

17 ~~(b)~~(2)   The middle initial or middle name on the entry does not match the
18 middle initial or middle name in SCORE;

19 ~~(c)~~(3)   The address on the entry does not match the address in SCORE;

20 ~~(d)~~(4)   The address on the entry is a post office box;

21 ~~(e)~~(5)   The entry is incomplete;

22 ~~(f)~~(6)   The signer completed the entry before the designated election
23 official approved the petition format;

24 ~~(g)~~(7)   The signer was not an eligible elector at the time he or she
25 completed the entry;

26 ~~(h)~~(8)   The signer completed the entry after the date on the circulator
27 affidavit;

28 ~~(i)~~(9)   Evidence exists that some other person assisted the signer in
29 completing the entry but no statement of assistance accompanies
30 the entry;

31 ~~(j)~~(10) The name and signature on the entry is illegible and cannot be
32 verified in SCORE;

[Margin annotation: title seems as if they are doing signature verification but the steps below are not signature verification. It is more registration confirmation.]

| 1 | (k) (11) | The entry is a duplicate of a previously accepted entry on |
| 2 | | the same petition; or |

3	(l) (12)	For a candidate petition where an elector may sign only one
4		petition for the same office, the entry is a duplicate of a previously
5		accepted entry on ~~another petition~~ A PREVIOUSLY FILED PETITION
6		for the same office.

| 7 | ~~15.8.6~~(E) | Secretary of State staff will accept the entry if: |

8	(a) (1)	The name on an entry matches or is substantially similar to the
9		information in SCORE, or if the signature on an entry is a common
10		variant of the name;

| 11 | (b) (2) | A middle initial or middle name is present on the entry but not in |
| 12 | | SCORE, or present in SCORE but not on the entry; |

| 13 | (c) (3) | A suffix is present on the entry but not in SCORE, or present in |
| 14 | | SCORE but not on the entry; or |

| 15 | (d) (4) | The address on the entry is missing an apartment letter or number |
| 16 | | or a street direction. |

17 *Current Rules 15.1 and 15.2 are amended and renumbered as New Rules 15.2 and 15.3 as*
18 *follows:*

19 ~~15.1~~ 15.2   Petition entity license, registration, filing, and circulation FOR INITIATIVE AND
20   RECALL PETITIONS

21 ~~15.1.1~~ 15.2.1 A petition entity that intends to pay petition circulators must obtain a
22   petition entity license, pay a fee, and register with the Secretary of State before
23   circulating petitions. The license application must include:

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

25   (b)   The designated agent's name; and

26   (c)   An affirmation that the designated agent has read and understands Article
27   40 of Title 1, C.R.S., and has completed the Secretary of State's circulator
28   training program.

29 ~~15.1.2~~ 15.2.2 Before compensating a circulator, the designated agent must register with
30   the Secretary of State by submitting a signed form that includes a list of the
31   proposed initiatives the petition entity will circulate.

32 ~~15.1.3~~ 15.2.3 If a petition entity fails to register a proposed initiative over any two-year
33   period, the license expires. The Secretary of State will notify a petition entity that
34   its license has expired within 30 days after the date of expiration.

1   15.1.4 15.2.4 A petition entity may renew an expired license without a fee by submitting
2   a new license application.

3 15.2 15.3   Petition representatives FOR INITIATIVE PETITIONS

4   15.2.1 15.3.1 A petition section must list the names of the two proponents or the names
5   of the two designated representatives, as defined in 1-40-104, C.R.S.

6   15.2.2 15.3.2 The term "person responsible," as used in section 1-40-118(2.5)(a),
7   C.R.S., means a person who circulates a petition, or causes a petition to be
8   circulated, and who commits, authorizes, or knowingly permits fraud as defined in
9   sections 1-40-111(3)(a) and 1-40-135(2)(c), C.R.S., that results in invalid
10   signatures or petition sections.

11 15.3 15.4   Petition STATEWIDE INITIATIVE PETITION circulation

12   15.3.1 15.4.1 Petition circulation may begin after the title board's final decision,
13   including disposition of any rehearing motion, after the time for filing a rehearing
14   motion, and after the Secretary of State has approved the petition format. If an
15   appeal is filed with the Supreme Court, the six-month period specified in section
16   1-40-108(1), C.R.S., begins on the date the petition is first signed or on the date
17   the Supreme Court's decision becomes final, whichever is first. Signatures
18   gathered outside of this period are invalid.

19   15.3.2 15.4.2 The petition circulator must provide a permanent residence address on the
20   circulator affidavit. If the circulator is not a permanent Colorado resident, the
21   circulator must also provide the Colorado address where he or she temporarily
22   lives.

23   (a)   For purposes of Article 40 of Title 1, C.R.S., and this Rule, a circulator's
24   permanent "residence" or "domicile" means his or her principal or primary
25   home or place of abode in which a circulator's habitation is fixed and to
26   which the circulator, whenever absent, has the present intention of
27   returning after a departure or absence, regardless of the duration of the
28   absence. A permanent "residence" or "domicile" is a permanent building
29   or part of a building and may include a house, condominium, apartment,
30   room in house, or mobile home. Except as provided in paragraph (b) of
31   this Rule, a vacant lot, business address, or post office box is not a
32   permanent "residence" or "domicile". (Sections 1-2-102(1)(a)(i) and 1-40-
33   121(1)(b), C.R.S.)

34   (b)   A homeless circulator must provide the address or location where he or
35   she is living the date the affidavit is signed. The circulator must provide a
36   physical location; a post office box may not be provided.

37   (c)   For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-
38   121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator's permanent residence

1　　　　　　　　　　address that does not comply with this Rule ~~15.3.2~~ 15.4.2 is a "false
2　　　　　　　　　　address".

3　　　　~~15.4~~ 15.4.3　　Proponents may file a petition or addendum only once, and may not
4　　　　　　　　　　supplement additional signatures after filing the petition or addendum, even if the
5　　　　　　　　　　additional signatures are offered before the deadline to submit the original petition
6　　　　　　　　　　or addendum.

7　　15.5　　~~Petition~~ STATEWIDE INITIATIVE PETITION receipt by Secretary of State

8　　　　15.5.1 Except as specified in Rule ~~15.2.1~~ 15.3.1, the Secretary of State will not accept a
9　　　　　　　　petition that lists proponents other than those authorized by law.

10　　*[Current Rules 15.5.2 through 15.5.6 are retained; unaltered]*

11　　*[Current Rule 15.5.7 moved to New Rule 15.1.1]*

12　　*[Current Rule 15.6 is amended and renumbered as New Rule 15.1.2.]*

13　　~~15.7~~ 15.6　　　~~Petition~~ STATEWIDE INITIATIVE PETITION verification

14　　　　~~15.7.1~~ 15.6.1　Verification by random sample.

15　　　　~~15.7.2~~ 15.6.2　Preliminary count and random number generation.

16　　　　　　(a)　　After counting the entries on each petition section, Secretary of State staff
17　　　　　　　　　will enter the petition identification number, the petition section number,
18　　　　　　　　　the page number, and the number of entries on the page into the database.

19　　　　　　(b)　　Staff will then create a record for each entry that contains the petition
20　　　　　　　　　identification number, petition section number, page number, and the entry
21　　　　　　　　　number. Staff will tally the total number of entries.

22　　　　　　(c)　　If the number of entries is less than the total number of signatures required
23　　　　　　　　　to certify the measure to the ballot, the Secretary of State will issue a
24　　　　　　　　　statement of insufficiency.

25　　　　~~15.7.3~~ 15.6.3　Random sample. The database will generate a series of random numbers
26　　　　　　　　　equal to 4,000 signatures or five percent of the total number of signatures,
27　　　　　　　　　whichever is greater. Staff will check the validity of the random signatures in
28　　　　　　　　　accordance with this Rule. Staff will maintain a master record of each accepted
29　　　　　　　　　and rejected entry, along with the reason code for each rejected entry.

30　　*[Current Rule 15.8 is amended and renumbered as New Rule 15.1.3.]*

31　　~~15.9~~ 15.7　　　Curing insufficient STATEWIDE INITIATIVE petitions

15.9.1 15.7.1 If petition proponents submit additional signatures within the permitted time, Secretary of State staff will verify the additional signatures in accordance with this Rule 15.

15.9.2 15.7.2 If the Secretary of State found the original submission insufficient based on the random sample verification, staff will add the number of additional valid signatures to the number of projected valid signatures in the original submission.

    (a)   If the new projected number of valid signatures equals 110% or more of the required signatures, the Secretary of State will issue a statement of sufficiency.

    (b)   If the new projected number of valid signatures equals more than 90% but less than 110% of the required signatures, staff will verify all previously submitted signatures. Staff will add the total number of valid signatures in the original petition to the number of additional valid signatures submitted in the addendum in order to determine sufficiency.

15.9.3 15.7.3 If the initial verification was of every signature, staff will add the number of additional valid signatures to the number of valid signatures in the original submission in order to determine sufficiency.

15.9.4 15.7.4 Staff will issue a new statement of insufficiency or sufficiency that reports the total number of valid signatures submitted.

[Current Rule 15.10 is repealed:]

15.10   Petition protests

    15.10.1   A petition protest must specifically state the reasons for challenging the determination of sufficiency or insufficiency.

    (a)   A protest alleging the violation of a specific statute or rule must cite the statute or rule and specifically state the violation.

    (b)   A protest alleging the improper acceptance or rejection of individual entries must cite the entry and petition section number and specifically state why the entry should be accepted or rejected, as applicable.

15.11 15.8   Referendum petitions

15.11.1 15.8.1 This Rule applies to statewide referendum petitions under Article V, Section 1 (3) of the Colorado Constitution.

15.11.2 15.8.2 Except where this Rule states otherwise, any statutory or constitutional provision that applies specifically to initiative petitions also applies to referendum petitions.

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

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

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

~~15.11.4~~ 15.8.3 Proponents may submit a referendum petition to the Secretary of State for approval at any time after the General Assembly has passed the bill. The Secretary of State will not issue final approval of the referendum petition form until the bill has become law under Article IV, Section 11 of the Colorado Constitution.

~~15.11.5~~ 15.8.4 Each referendum petition section must consist of the following, in the order listed:

[New Rules 15.8.4 (a)-(g), formerly numbered 15.11.5 (a)-(g), are retained; unaltered]

~~15.11.6~~ 15.8.5 A referendum petition section must include only the matters required by Article 40, Title 1, C.R.S., and this Rule, and no extraneous material.

~~15.11.7~~ 15.8.6 The ballot title must consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:

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

~~15.11.8~~ 15.8.7 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause must consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

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

~~15.11.9~~ 15.8.8 If a referendum petition is timely filed with the Secretary of State with a sufficient number of valid signatures, it will appear on the ballot at the next general election that occurs at least three months after the referendum petition is filed with the Secretary of State.

16.1   General Rules concerning voting by military and overseas electors

      16.1.1 For the purposes of this Rule 16, elector means a covered voter as defined in section 1-8.3-102(2), C.R.S.

      16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule 16, each county clerk's office must have a dedicated fax machine for the purpose of fax ballot transmission.

      16.1.3 ~~In accordance with section 1-8.3-109, C.R.S., a ballot application submitted by an elector is effective through the next regularly scheduled General Election, unless the elector specifies otherwise.~~ THE COUNTY CLERK MUST MAIL OR ELECTRONICALLY TRANSMIT A BALLOT TO ALL ACTIVE ELIGIBLE ELECTORS. AN ELECTOR WHO REQUESTS COVERED-VOTER STATUS MUST SUBMIT AN APPLICATION AFFIRMING HIS OR HER ELIGIBILITY TO DO SO IN ACCORDANCE WITH SECTION 1-8.3-102(2), C.R.S.

      16.1.4 ~~Notwithstanding any other provision of law, an elector may submit an application for registration and ballot request with his or her voted ballot as long as the ballot is timely submitted and received under sections 1-8.3-111 and 1-8.3-113, C.R.S.~~

      ~~16.1.5~~ 16.1.4 ~~Use of a Federal Write-in Absentee Ballot (FWAB) as an application for registration or ballot request. Notwithstanding any other provision of law, if~~ IF an unregistered elector submits a ~~FWAB~~ FEDERAL WRITE-IN ABSENTEE BALLOT (FWAB) by the deadline set forth in sections 1-8.3-111 and 1-8.3-113, C.R.S., the FWAB is a timely application for registration and ballot request.

      ~~16.1.6~~ 16.1.5 In accordance with sections 1-8.3-111 and 1-8.3-113, C.R.S., all ballots cast must be voted and mailed or electronically transmitted no later than 7:00 p.m. MT on election day, and received by the county clerk or the Secretary of State no later than the close of business on the eighth day after election day.

      ~~16.1.7~~ 16.1.6 Ballots received by the Secretary of State

            (a) If the Secretary of State timely receives a ballot under section 1-8.3-113, C.R.S., and Rule 16, the Secretary of State will immediately notify the appropriate county clerk and forward the ballot by the most efficient means available no later than the next business day.

            (b) To ensure voter secrecy, any county notified that the Secretary of State has received a ballot must retain a minimum of ten voted ballots to be counted with the ballot received by the State.

      ~~16.1.8~~ 16.1.7 The county clerk must send a minimum of one correspondence no later than 60 days before the Primary Election to each elector whose record is marked

"Inactive" The correspondence may be sent by email or mail and, at a minimum, must notify the electors of:

(a)   The status of the elector's record and ballot request;

(b)   The upcoming federal elections;

(c)   How to update the elector's mailing information and request a ballot; and

(d)   Any other information the county clerk deems appropriate.

~~16.1.9~~ 16.1.8 No later than 45 days before an election, the county clerk must report to the Secretary of State the number ballots transmitted to military and overseas electors by the 45-day deadline.

~~16.1.10~~ 16.1.9 Failure to meet the 45-day ballot transmission deadline in section 1-8.3-110, C.R.S.

(a)   If a county fails to meet the 45-day ballot transmission deadline provided for any state or federal election, the county clerk must immediately report the failure and reason for the failure to the Secretary of State.

(b)   The county clerk must provide a plan to the Secretary of State for complying with the deadline in the next state or federal election.

(1)   The county must submit the plan to the Secretary of State no later than 60 days before the transmission deadline.

(2)   The county must provide a weekly progress report on implementing the plan to the Secretary of State beginning 50 days before the transmission deadline.

(3)   The county clerk must provide a daily progress report to the Secretary of State beginning five days before the transmission deadline.

Amendments to Current Rule 16.2.1 concerning electronic transmission for military and overseas voters (UOCAVA):

16.2.1 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., an elector may request to receive and return his or her ballot by electronic transmission.

[Current Rules 16.2.1 (a) and (b) are retained; unaltered]

(c)   ~~An~~ IN ACCORDANCE WITH SECTION 1-8.3-113(1), C.R.S., AN elector who chooses to receive his or her unvoted ballot by online ballot delivery may return his or her ballot by fax or email.

(d)   To return a voted ballot and self-affirmation by email, the elector must scan and return the documents as an email attachment.

(E)   IF AN ELECTOR REQUESTS TO RECEIVE HIS OR HER BALLOT BY ELECTRONIC TRANSMISSION, THE COUNTY CLERK MUST TRANSMIT THE ELECTOR'S BALLOT ELECTRONICALLY FOR ALL COVERED ELECTIONS UNTIL THE ELECTOR REQUESTS OTHERWISE. ← Would suggest adding that they can lose electronic transmission if email is no longer valid so undeliverable.

Amendments to Rule 16.2.6:

16.2.6 Upon receipt of a voted ballot sent by electr[...] [c]lerk must verify the elector's signature in accord[...] the affidavit has been verified, a bipartisan team of judges must duplicate the ballot. Duplicating judges must not reveal how the elector voted.

Amendments to Current Rule 18.3.2(d)(6) concerning sequence of resolution procedures for central count optical scan:

(6)   The county must separately log the seal number of each box containing one or more valid write-in votes. ~~The total write-in votes must be indicated on the final summary along with seal numbers for each sealed box of scanned ballots.~~

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

~~21.1   Definitions. The following definitions apply to their use in this Rule only.~~

Current Rule 21.1.1 is moved to New Rule 1.1.1.

Current Rule 21.1.2 is amended and moved to New Rule 1.1.2.

Current Rule 21.1.3 is amended and moved to New Rule 1.1.3

Current Rule 21.1.4 is amended and moved to New Rule 1.1.4.

Current Rule 21.1.5 is amended and moved to New Rule 1.1.7.

Current Rule 21.1.6 is amended and move to New Rule 1.1.11.

Current Rule 21.1.8 is repealed as follows:

~~21.1.8 "EAC" means the United States Election Assistance Commission.~~

Current Rule 21.1.9 is amended and moved to New Rule 1.1.18.

Current Rule 21.1.10 moved to New Rule 1.1.19.

Current Rules 21.1.11 and 21.1.12 are repealed as follows:

21.1.11   "Equipment" or "device" means a complete and inclusive term to represent all items submitted for certification by the voting system provider. This can include, any voting device, accessory to voting device, DRE, touch screen voting device, card programming device, software, and hardware. "Equipment" may also mean a complete end to end voting system solution.

21.1.12   "Modification" means a revision or a new release of an electronic or electromechanical voting system.

Current Rule 21.1.13 is amended and moved to New Rule 1.1.28.

Current Rules 21.1.14 through 21.1.17 are repealed as follows:

21.1.14   "Remote site" means any physical location identified by a designated election official as a location where the jurisdiction conducts the casting of ballots for a given election. A remote site includes, locations such as voter service and polling centers.

21.1.15   "Removable storage media" means storage devices that can be removed from the system and transported to another location for readout and report generation. Examples of removable storage media include, but are not limited to, programmable read-only memory (PROM), random access memory (RAM) with battery backup, thumb drives, magnetic media, and optical media.

21.1.16   "Secretary of State" means the Colorado Secretary of State, his or her designee, and agents including employees, contractors, and volunteers.

21.1.17   "Security" means the ability of a voting system to protect election information and election system resources with respect to confidentiality, integrity, and availability.

Current Rule 21.1.18 is amended and moved to New Rule 1.1.35.

Current Rules 21.1.19 and 21.1.20 are repealed as follows:

21.1.19   "Test Log" or "test records" means the documentation of certification testing and processes. This documentation may include, certification testing reports, test plans, requirements matrices, photographs, written notes, video, and audio recordings.

21.1.20   "Trusted build" means the write-once installation disk or disks for software and firmware for which the Secretary of State has established the chain of evidence to the building of a disk, which is then used to establish or re-establish the chain of custody of any component of the voting system that contains firmware or software. The trusted build is the origin of the chain of evidence for any software and firmware component of the voting system.

Current Rule 21.1.21 is amended and moved to New Rule 1.1.43.

1   21.2 21.1   Introduction

2   21.2.1 21.1.1   For Colorado purposes, no single component of a voting system, or
3   device, meets the definition of a voting system except that nothing in this Rule
4   requires the testing of an entire modified system if the Secretary of State
5   determines in accordance with section 1-5-618, C.R.S., that a modification to any
6   certified voting system requires testing for security and accuracy. Only the
7   modification and any affected features or capabilities must be tested to ensure
8   compliance with this Rule.

9   21.2.2 21.1.2   Sufficient components must be assembled to create a configuration that
10   allows the system or modification as a whole to meet the requirements as
11   described for a voting system in this Rule.

12   21.2.3 21.1.3   The certification of a voting system is not a requirement that a county
13   purchase or lease all of the components of the voting system. Counties may
14   choose to configure and use a subset of the certified voting system and may use
15   the services of a vendor or third party to provide ballot definition and election
16   programming of memory cards. Counties are not required to use a paper ballot
17   tabulation device if they choose to manually tabulate the election results.

18   21.3 21.2   Certification Process Overview and Timeline

19   21.3.1 21.2.1   The voting system will be considered as a unit, and all components tested
20   at once, unless the circumstances necessitate otherwise. Any change made to
21   individual components of a voting system will require the entire voting system to
22   be recertified unless the change is a modification that can be approved under
23   section 1-5-618(1.5), C.R.S.

24   21.3.2 21.2.2   For a voting system to be certified, the voting system provider must
25   successfully complete all phases of the certification process. The certification
26   process includes: submission of a complete application, a documentation review,
27   a public demonstration of the system, and functional testing.

28   21.3.3 21.2.3   The flow of each phase of certification is as follows:

29   (a)   Phase I – The voting system provider must submit an application and all
30   documentation required in Rule 21.4. The Secretary of State will review
31   the application and inform the voting system provider whether or not the
32   application is complete. If the application is incomplete, the Secretary of
33   State will identify the deficiencies and the voting system provider will
34   have 30 days to remedy the deficiencies and make the application
35   complete. When the application is complete, the Secretary of State will
36   make arrangements with the voting system provider for a public
37   demonstration.

(b)   Phase II – The Secretary of State will review the submitted documentation, VSTL reports from previous testing, and evaluations provided by other states.

(c)   Phase III – The Secretary of State will prepare a certification test plan. If a VSTL is contracted to test the voting system, the VSTL will work with the Secretary of State to prepare a certification test plan. The certification test plan will be presented to the voting system provider for review before execution of the test plan.

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

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

21.3.4 21.2.4 The Secretary of State will certify voting systems that substantially comply with the requirements in this Rule 21, Colorado Election Code, and any additional testing the Secretary of State finds necessary.

21.4 21.3   Application Procedure

21.4.1 21.3.1 Any voting system provider may apply to the Secretary of State for certification at any time.

21.4.2 21.3.2 A voting system provider that desires to submit a voting system for certification must complete the Secretary of State's "Application for Certification of Voting System" that is available on the Secretary of State's website.

21.4.3 21.3.3 The Secretary of State, in accordance with section 24-21-104(1)(a), C.R.S., will charge the voting system provider all direct and indirect costs associated with the testing of a voting system submitted for certification. The Secretary of State will provide an estimate of costs for certification testing before the certification process begins. In order to begin testing, the voting system provider must provide a written approval of the cost estimate. The voting system provider must pay all costs before the Secretary of state will issue a final determination.

21.4.4 21.3.4 Along with the application, the voting system provider must submit all documentation required in this Rule 21 in electronic format.

21.4.5 21.3.5 The vendor must identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, Part 2, Article 72 of Title 24, C.R.S., together with a citation to the specific grounds for exemption before beginning Phase III of the certification process.

21.4.6 21.3.6 The voting system provider must coordinate with the Secretary of State for the establishment of the trusted build. The voting system provider must submit all documentation and instructions necessary for the creation and guided installation of files contained in the trusted build which will be created at the start of functional testing and will be the model tested. At a minimum, the trusted build must include a compilation of files placed on write-once media, and an established hash file distributed from a VSTL or the National Software Reference Library to compare federally certified versions. The trusted build disks should all be labeled with identification of the voting system provider's name and release version.

21.4.7 21.3.7 All materials submitted to the Secretary of State must remain in the custody of the Secretary of State as follows:

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

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

21.5 21.4 Voting System Standards

21.5.1 21.4.1 The 2002 Voting Systems Standards are incorporated by reference. Material incorporated by reference in the Election Rules does not include later amendments or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Federal Election Commission, 999 E Street NW, Washington, DC, 20463, 800-424-9530. Copies are also available online at http://www.eac.gov/testing_and_certification/voluntary_voting_system_guideline s.aspx.

21.5.2 21.4.2 All voting systems must meet the 2002 Voting System Standards.

21.5.3 21.4.3 The voting system provider must document that all voting system software, hardware, and firmware meet all requirements of federal law that address accessibility for the voter interface of the voting system. These laws include:

(a) The Help America Vote Act,

(b) The Americans with Disabilities Act, and

(c) The Federal Rehabilitation Act.

21.5.4 21.4.4 Independent Analysis.

1   (a)   Before completion of functional testing, all voting system providers
2   submitting a voting system must complete an independent analysis of the
3   system, which includes:

4   (1) (A) An application penetration test conducted to analyze the system for
5   potential vulnerabilities ~~according to current industry standards~~ that may
6   result from poor or improper system configuration, known or unknown
7   hardware or software flaws, or operational weaknesses in process or
8   technical countermeasures. The test must involve active exploitation of
9   security vulnerabilities of the voting system, whether or not the
10   vulnerabilities can be mitigated through compensating controls.

11   (2) (B) A source code evaluation conducted in accordance with Software Design
12   and Coding Standards of the 2002 Voting System Standard or the most
13   current version of the Voluntary Voting System Guidelines approved after
14   January 1, 2008.

15   (3) (C) A complete report detailing all findings and recommended compensating
16   controls for vulnerabilities and deficiencies identified.

17   (4) (D) The voting system provider must use at least one of the following to
18   perform the independent analysis:

19   (A) (1) An EAC approved VSTL;

20   (B) (2) Testing conducted in another state; or

21   (C) (3) Some combination of such VSTL and state testing that meets the
22   requirements of this Rule.

23   (5) (E) The Secretary of State or VSTL will conduct a quality review of all work
24   under this section. The review may include an examination of the testing
25   records, interviews of the individuals who performed the work, or both.
26   Review of testing records may be conducted at the VSTL, the state in
27   which the testing was conducted, or at the site of any contractor or
28   subcontractor utilized by another state to conduct the testing.

29   (6) (F) The Secretary of State may reject any evaluation if not satisfied with the
30   work product and to require additional analysis to meet the requirements
31   of section 1-5-608.5, C.R.S., and this Rule.

32   ~~21.5.5~~ 21.4.5 Functional Requirements

33   (a)   Functional requirements must address all detailed operations of the voting
34   system related to the management and controls required to successfully
35   conduct an election.

36   (b)   The voting system must provide for appropriately authorized users to:

| 1 | | (1) | Set up and prepare ballots for an election; |

1   (1)   Set up and prepare ballots for an election;

2 (2) Lock and unlock system to prevent or allow changes to ballot
3   design;

4 (3) Conduct hardware diagnostic testing;

5 (4) Conduct logic and accuracy testing;

6 (5) Conduct an election and meet requirements as identified in this
7   Rule 21 for procedures for voting, auditing information, inventory
8   control where applicable, counting ballots, opening and closing
9   polls, recounts, reporting and accumulating results;

10 (6) Conduct the post-election audit; and

11 (7) Preserve the system for future election use.

12 (c) The voting system must integrate election day voting results with mail and
13   provisional ballot results.

14 (d) ~~The voting system must provide for the tabulation of votes cast in~~
15   ~~combined precincts at remote sites, where more than one precinct is voting~~
16   ~~at the same location, on either the same ballot style or on a different ballot~~
17   ~~style.~~

18 ~~(e)~~(D) The election management system must provide authorized users with the
19   capability to produce electronic files including election results in either
20   ASCII (both comma-delimited and fixed-width) or web-based format. The
21   software must provide authorized users with the ability to generate these
22   files on an "on-demand" basis. After creating such files, the authorized
23   users must have the capability to copy the files to diskette, tape, CD-ROM
24   or other media type.

25 (1) Exports necessary for the Secretary of State must conform to a
26   format approved by the Secretary of State. The format must be
27   compatible with a commercially available data management
28   program such as a spreadsheet, database, or report generator.

29 ~~(f)~~(E) The voting system must include hardware or software to enable the
30   closing of the voting location and disabling the acceptance of ballots on all
31   vote tabulation devices to allow for the following:

32 (1) Printout of the time the voting system was closed.

33 (2) Printout of the public counter and protective counter upon closing
34   the ballot casting functionality.

	(3)		Ability to print a report which must contain:
1			
2		(A)	Names of the offices;
3		(B)	Names of the candidates and party, when applicable;
4 5		(C)	A tabulation of votes from ballots of different political parties at the same voting location in a primary election;
6		(D)	Ballot titles;
7 8		(E)	Submission clauses of all initiated, referred or other ballot issues or questions;
9 10		(F)	The number of votes counted for or against each candidate or ballot issue;
11		(G)	Date of election (day, month and year);
12		(H)	Precinct number (ten digit format);
13		(I)	County or jurisdiction name;
14		(J)	"State of Colorado";
15		(K)	Count of votes for each contest; and
16 17 18 19		(L)	An election judge's certificate with an area for judges' signatures with the words similar to: "Certified by us", and "Election Judges". Space must allow for a minimum of two signatures.
20 21	(4)		Votes counted by a summary of the voting location and by individual precincts.
22 23	(5)		Ability to produce multiple copies of the unofficial results at the close of the election.

24 (g) (F) The election management system must ensure that an election setup may
25 not be changed once ballots are printed and/or election media devices are
26 downloaded without proper authorization and acknowledgement by the
27 application administrative account. The application and database audit
28 transaction logs must accurately reflect the name of the system operator
29 making the change(s), the date and time of the change(s), and the "old"
30 and "new" values of the change(s).

31 (h) (G) All DRE or BMD voting devices must use technology providing visual or
32 auditory ballot display and selection methods used by people with
33 disabilities.

(i) (H) All electronic voting devices supplied by the voting system provider and used at voter service and polling centers must have the capability to continue all normal voting operations and provide continuous device availability during a 2-hour period of electrical outage without any loss of election data.

(j) (I) The voting system must provide capabilities to protect the anonymity of ballot choices.

    (1) All optical scan devices, associated ballot boxes, and VVPAT storage devices must provide physical locks and procedures during and after the vote casting operation.

    (2) All DRE devices must provide randomization of all voter choices and stored electronic ballot information during and after storage of the voters' ballot selections.

21.5.6 21.4.6 Physical and design characteristics

[Rules 21.4.6 (a) and (b), formerly numbered 21.5.6 (a) and (b), are retained; unaltered]

21.5.7 21.4.7 Ballot Definition Subsystem

[Rules 21.4.7 (a)-(d), formerly numbered 21.5.7 (a)-(d), are retained; unaltered]

21.5.8 21.4.8 Trusted Build. The voting system must allow the operating system administrative account to verify that the software installed is the certified software by comparing it to the trusted build or other reference information.

21.5.9 21.4.9 Audit Capacity

[Rules 21.4.9 (a)-(d), formerly numbered 21.5.9 (a)-(d), are retained; unaltered]

21.5.10 21.4.10 Security requirements. (a) All voting systems must meet the following minimum system security requirements:

(1) (A) The voting system must meet the following requirements to accommodate a general system of access by least privilege and role-based access control:

    (A) (1) Operating system administrative accounts may not have access to read or write data to the database;

    (B) (2) Operating system user/operator accounts must be able to be created that are restricted from the following aspects of the operating system:

        (i) (A) No access to system root directory;

1   (ii) (B) No access to operating system specific folders;

2   (iii) (C)   No access to install or remove programs; and

3   (iv) (D)   No access to modify other user accounts on the
4   system.

5   (C) (3) Application administrative accounts must have full access and
6   rights to the application and database;

7   (D) (4) Application user/operator accounts must have limited rights
8   specifically designed to perform functional operation within the
9   scope of the application. This user/operator must be restricted in
10   the creation or modification of any user/operator accounts.

11   (2) (B) The voting system must meet the following requirements for network
12   security:

13   (A) (1) All network-applicable components of the voting system must
14   have the ability to operate on a closed network dedicated to the
15   voting system;

16   (B) (2) All network-applicable components of the voting system must
17   include the limited use of non-routable IP address configurations
18   for any device connected to the closed network. For the purposes
19   of this requirement, non-routable IP addresses are those defined in
20   the RFC 1918 Address base; and

21   (C) (3) The voting system must include provisions for updating security
22   patches, software and/or service packs without access to the open
23   network.

24   (3) (C) All voting systems that use databases must: Have databases hardened to
25   specifications developed by the voting system provider. Documentation
26   included with the application must provide a detailed procedure for
27   hardening according to current industry standards. Any government or
28   industry guidelines adopted in whole, or in part, are to be identified in the
29   documentation.

30   (4) (D) The voting system must meet the following requirements for operating
31   system security:

32   (A) (1) All voting systems must have all operating systems hardened to
33   specifications developed by the voting system provider according
34   to current industry standards. Documentation included with the
35   application must provide a detailed procedure for hardening. Any
36   government or industry guidelines adopted in whole, or in part, are
37   to be identified in the documentation.

(B) (2) The voting system provider must configure the voting system operating system of the workstation and server used for the election management software to the following requirements:

    (i) (A) The ability for the system to take an action upon inserting a removable media (auto run) must be disabled; and

    (ii) (B) The operating system must only boot from the drive or device identified as the primary drive.

(C) (3) The voting system provider must use a virus protection/prevention application on the election management server(s)/workstations which must be capable of manual updates without the use of direct connection to the internet.

(5) (E) The voting system must meet the following requirements for password security:

    (A) (1) All passwords must be stored and used in a non-reversible format;

    (B) (2) Passwords to the database must not be stored in the database;

    (C) (3) Password to the database must be owned and only known by the application;

    (D) (4) The application's database management system must require separate passwords for the administrative account and each operator account;

    (E) (5) The system must be designed in such a way to ensure that the use of the administrative account password is not required for normal operating functions;

    (F) (6) The system must allow users to change passwords;

    (G) (7) The use of blank or empty passwords must not be permitted at any time with the exception of a limited one-time use startup password which requires a new password to be assigned before the system can be used; and

    (H) (8) All voting systems must have all components of the voting system capable of supporting passwords of a minimum of eight characters, and must be capable of including numeric, alpha and special characters in upper case or lower case used in any combination.

(6) (F) All modules of the system must meet the 2002 voting system standards requirements for installation of software, including hardware with embedded firmware:

(A) (1) Where the system includes a feature to interpret and control execution using data from a script, code tokens, or other form of control data file separate from the source code, the human-readable source information must be made available as part of a source code review.

(B) (2) Security features and procedures must be defined and implemented to prevent any changes of interpreted data files after the initial election testing of the final election definition Replacement of the interpreted data files with tested and approved files from the trusted build must be by authorized personnel before the election definition is finalized for an election.

(C) (3) The introduction of interpreted data during execution must not be permitted unless defined as a predefined set of commands or actions subject to security review and the interpretation function provides security edits on input to prevent the introduction of other commands or the modification or replacement of existing code.

(D) (4) The application must not allow users to open database tables for direct editing.

(7) (G) All voting systems must meet the following minimum requirements for removable storage media with data controls:

(A) (1) All voting data stored that includes, ballot images, tally data and cast vote records must be authenticated and validated.

(B) (2) All non-voting data stored must be authenticated, encrypted, and validated.

(C) (3) All removable media, upon insertion on server and/or workstations hosting the elections management software, must automatically be scanned by antivirus software.

21.5.11 21.4.11   Telecommunications requirements

[Rules 21.4.11 (a)-(g), formerly numbered 21.5.11 (a)-(g), are retained; unaltered]

21.5.12 21.4.12   Voter-verifiable paper record requirements

[Rules 21.4.12 (a)-(d), formerly numbered 21.5.12 (a)-(d), are retained; unaltered]

21.5.13 21.4.13   Documentation Requirements

3   (d)   For the review of VSTL or other state testing in Rule ~~21.5.12(a)~~
4   21.4.12(A) copies of all VSTL or state qualification reports, test logs and
5   technical data packages must be provided to the Secretary of State.

6   (1)   The voting system provider must execute and submit any
7   necessary releases for the applicable VSTL, state or EAC to
8   discuss any and all procedures and findings relevant to the voting
9   system with the Secretary of State and allow the review by the
10   Secretary of State of any documentation, data, reports, or similar
11   information upon which the VSTL or other state relied in
12   performing its testing. The voting system provider must provide a
13   copy of the documentation to the Secretary of State.

14   (2)   The voting system provider, the VSTL, the state or the EAC will
15   identify to the Secretary of State any specific sections of
16   documents for which they assert a legal requirement for redaction.

19   ~~21.6~~21.5   Testing preparation procedures

20   ~~21.6.1~~21.5.1 Voting system provider demonstration

22   (q)   Functional testing must be completed according to the phases identified in
23   Rule ~~21.3.3~~21.2.3.

26   (t)   The Secretary of State will maintain records of the test procedures in
27   accordance with Rule ~~21.4.7~~21.3.7. The records must identify the system
28   and all components by voting system provider name, make, model, serial
29   number, software version, firmware version, date tested, test number, test
30   plan, requirements matrix, test team notes, and other supplemental
31   information, and results of test. The test environment conditions must be
32   described.

34   ~~21.6.2~~21.5.2 General testing procedures and instructions

21.7 21.6   Temporary use

21.7.1 21.6.1   If a voting system provider has a system that has not yet been approved for certification through the Secretary of State, the voting system provider or the designated election official may apply to the Secretary of State for temporary approval of the system to be used for up to one year.

21.7.2 21.6.2   Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the Secretary of State's office. At no time may a jurisdiction enter into a contract to purchase a voting system that has been approved for temporary use.

21.7.3 21.6.3   Temporary use does not supersede the certification requirements or process, and may be revoked at any time at the discretion of the Secretary of State.

21.8 21.7   Decertification

21.8.1 21.7.1   If, after any time the Secretary of State has certified a voting system, it is determined that the voting system fails to substantially meet the standards set forth in this Rule 21, the Secretary of State will notify any jurisdictions in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.

21.8.2 21.7.2   Certification of a voting system may be revoked or suspended at the discretion of the Secretary of State based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:

[Rules 21.7.2 (a)-(i), formerly numbered 21.8.2 (a)-(i), are retained; unaltered]

21.8.3 21.7.3   If any voting system provider, provides for use, installs, or causes to be installed an uncertifed or decertifed voting system or component, the Secretary of State may suspend use of the component or the voting system.

21.8.4 21.7.4   In accordance with section 1-5-621, C.R.S., the Secretary of State will hold a public hearing to consider the decision to decertify a voting system.

21.9 21.8   Modifications and reexamination. Any modification, change or other alteration to a certified voting system requires certification or review of the modification under section 1-5-618, C.R.S., unless the voting system provider decides to present the modified system for certification under this Rule.

21.10 21.9   Acceptance Testing by Jurisdictions

21.10.1 21.9.1 Whenever a jurisdiction acquires voting equipment, the jurisdiction must perform acceptance tests of the system before it may be used to cast or count votes at any election. The voting system must be operating correctly, pass all tests as directed by the acquiring jurisdiction's project manager or contract negotiator and must be identical to the voting system certified by the Secretary of State.

21.10.2 21.9.2 The voting system provider must provide all manuals and training necessary for the proper operation of the system to the jurisdiction.

21.10.3 21.9.3 The election jurisdiction must perform functional and programming tests for all functions of the voting system at their discretion.

21.11 21.10 Escrow of voting system software and firmware by voting system provider. The voting system provider must meet the requirement for software escrow per the following:

21.11.1 21.10.1 The voting system provider must place in escrow a copy of the election MANAGEMENT software, firmware, and supporting documentation being certified with either the Secretary of State or an independent escrow agent approved by the Secretary of State. [Section 1-7-511, C.R.S.]

21.11.2 21.10.2 Within ten days of the voting system provider receiving notification of examination of voting equipment as part of the certification process, the voting system provider must arrange for the completion of escrow requirements as indicated by this Rule.

21.11.3 21.10.3 The voting system provider must sign a sworn affidavit that the election MANAGEMENT software in escrow is the same as the election MANAGEMENT software used in its voting systems in this state.

21.11.4 21.10.4 A complete copy of the certified election MANAGEMENT software including any and all subsystems of the certified software will be maintained in escrow.

21.11.5 21.10.5 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.

21.11.6 21.10.6 In addition to the requirements listed below, the voting system provider must include a cover/instructions sheet for any escrow material to include the voting system provider, address and pertinent contact information, software version, hardware version, firmware revision number, and other uniquely identifying numbers of the software submitted for certification.

21.11.7 21.10.7 Election MANAGEMENT software source code, maintained in escrow, must contain internal documentation such that a person reasonably proficient in the use of the programming language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the source code should it be removed from escrow for any reason.

21.11.8 21.10.8   System documentation will include instructions for converting the escrowed source code into object code, organized and configured to produce an executable system, if warranted.

21.11.9 21.10.9   System documentation will include technical architecture design, analysis, detail design, testing and an installation and configuration guide.

21.11.10 21.10.10   A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk must be filed with the Secretary of State.

21.11.11 21.10.11   All parties must treat as confidential the terms of this Rule including all escrow materials and any other related information that comes into their possession, control or custody in accordance with this section.

21.11.12 21.10.12   Copies of electronic media and supporting documentation for escrow within the Secretary of State will be sent to:

Colorado Secretary of State
Attn: Voting Systems Specialist
1700 Broadway – Suite 200
Denver, CO 80290

21.11.13 21.10.13   Any cost of using an alternative third party escrow agent must be borne by the voting system provider.