[Harvie Branscomb initial (June 7 2017) comments in [bracketed red text], additions in RED CAPITALS, deletions in ~~strikeout~~, concerns highlighted yellow, strong agreement in highlight green.

Preliminary Draft of Proposed Rules

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

May 31, 2017

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.[1]

This is a preliminary draft of the proposed rules that may be revised before the July 11, 2017 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **July 6, 2017**.[2]

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 follow:*

2   *Amendments to Rule 1 concerning definitions and numbering:*

3   *New Rule 1.1.10:*

4   1.1.10   "CAST VOTE RECORD" OR "CVR" MEANS THE ~~AGGREGATED~~ BALLOT-LEVEL DATA ON
5   BALLOTS COUNTED, CONSISTING OF A SINGLE RECORD FOR EACH BALLOT TABULATED,
6   SHOWING THE MANNER IN WHICH THE VOTING SYSTEM INTERPRETED AND TABULATED
7   THE VOTER'S MARKINGS ON THE BALLOT, AS ADJUDICATED AND RESOLVED BY ELECTION
8   JUDGES, IF APPLICABLE.
     [CVR is specifically not aggregated data but disaggregated.]

9   *[Not shown: renumbering Current Rules 1.1.10-1.1.31 as Rules 1.1.11-1.1.32]*

10   *New Rules 1.1.33 and 1.1.34:*

---

[1] Sections 24-4-103(2.5) and (3)(a), C.R.S. (2016). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.
[2] Section 24-4-103(4)(a), C.R.S. (2016). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing…shall be made available to any person at least five days prior to said hearing."

1.1.33 "PROTECTED INFORMATION" IS INFORMATION THAT DESERVES ADDITIONAL TREATMENT TO PRESERVE THE PRIVACY OF THE VOTER AND MEANS FULL SOCIAL SECURITY NUMBER, DRIVER'S LICENSE NUMBER, MONTH AND DATE OF BIRTH, AND FOR A VOTER WHO HAS MADE A REQUEST FOR CONFIDENTIALITY PURSUANT TO SECTION 24-72-204 (3.5), THE ADDRESSES.

1.1.35 "SENSITIVE DEMOGRAPHIC INFORMATION" MEANS INFORMATION ABOUT AN INDIVIDUAL THAT CAN BE USED TO DISCRIMINATE TO THE BENEFIT OR DETRIMENT OF A NAMED ELECTOR DURING ELIGIBILITY DETERMINATION SUCH AS AN ELECTOR'S YEAR OF BIRTH, SEX, AND POLITICAL PARTY.

1.1.36 "NON-EXPORTABLE INFORMATION" IS INFORMATION THAT CAN SAFELY BE SEEN BY ELECTION OFFICIALS AND WATCHERS BUT MUST NOT BE REMOVED FROM THE CUSTODY OF THE COUNTY CLERK AND RECORDER AND INCLUDES SIGNATURE, DRIVERS LICENSE NUMBER AND FULL SOCIAL SECURITY NUMBER.

SENSITIVE

1 1.1.33 "PERSONALLY IDENTIFIABLE INFORMATION" MEANS INFORMATION ABOUT AN
2   INDIVIDUAL THAT CAN BE USED TO DISTINGUISH OR TRACE AN INDIVIDUAL'S IDENTITY,
3   SUCH AS AN ELECTOR'S SOCIAL SECURITY NUMBER, DRIVER'S LICENSE NUMBER, EMAIL
4   ADDRESS, MONTH AND DAY OF BIRTH, AND SIGNATURE.

5 *[Not shown: renumbering Current Rules 1.1.32-1.1.49 as Rules 1.1.34-1.1.51]*

6 *Amendments to Rule 2.3.1 concerning voter registration:*

7 2.3.1 The county must process the Help America Vote Verification file on at least a monthly
8   basis by verifying social security numbers and remove REMOVING the "ID required"
9   FLAG FROM verified records.

10 *New Rule 2.5.4 concerning affiliation in primary elections:*

11 2.5.4 IF AN UNAFFILIATED ELECTOR WHO HAS ALREADY BEEN MAILED A PRIMARY ELECTION
12   BALLOT PACKET SUBMITS AN AFFILIATION DECLARATION, THE COUNTY CLERK MUST
13   DEFER PROCESSING THE AFFILIATION CHANGE UNTIL AFTER THE PRIMARY ELECTION;
14   EXCEPT THAT AN UNAFFILIATED ELECTOR WHO APPEARS IN PERSON TO VOTE MAY
15   AFFILIATE AND VOTE A PARTY BALLOT IF THE COUNTY CLERK HAS NOT RECEIVED THE
16   ELECTOR'S VOTED MAIL BALLOT. PACKET

17 *Amendments to Rule 2.12.1 concerning list maintenance:*

18 2.12 List Maintenance under section 8 of the National Voter Registration Act of 1993

19 2.12.1 The Secretary of State will provide monthly National Change of Address (NCOA) data
20   under section 1-2-302.5, C.R.S., to the county clerk by the fifth BUSINESS DAY of each
21   month.

22 *Amendments to Rule 2.13 concerning voter registration at VSPCs and repeal of Rule 2.13.2:*

23 2.13 Voter registration at a voter service and polling center.

24 2.13.1 A person registering voters or updating voter registration information in a voter service
25   and polling center must:

26 (a) 2.13.1 Be an election judge, a permanent or temporary county employee, state
27   employee, or temporary staff hired by the county clerk; and [All staff operating
as election judges should be credentialed as judges unless at a clerks office and designated.]

28 (b) 2.13.2 Complete a training course provided by or approved by the Secretary of
29   State.

30 2.13.2 For the purpose of providing information to watchers, the person registering voters or
31   updating voter registration information in a voter service and polling center must
32   maintain a log that includes the name and residential address of each elector who
33   registers or updates his or her registration record, or verbally confirm each elector's name
34   and residential address.

35 *New Rules 2.14.4 and 2.14.5 concerning voter registration records and data and renumbering:*

2.14.4   WITHOUT WRITTEN AUTHORIZATION FROM THE SECRETARY OF STATE, THE COUNTY CLERK MAY NOT RUN OR SCHEDULE TO RUN SCORE REPORTS OR EXPORTS THAT INCLUDE VOTER OR ELECTION DETAIL DURING REGULAR BUSINESS HOURS BEGINNING 22 DAYS BEFORE ELECTION DAY AND FROM 7:00 AM TO 7:00 PM ON ELECTION DAY.

2.14.5   THE COUNTY CLERK MUST SUBMIT ANY REQUEST FOR SCORE STATEWIDE REPORTS OR EXPORTS TO THE SECRETARY OF STATE.

[These two restrictions will harm election operations and transparency.]

~~2.14.4~~ 2.14.6   Custodianship of Voter Registration Information

(a)   The Secretary of State is the official custodian of the information contained in the centralized statewide registration system and the computerized statewide voter registration list created and maintained under section 1-2-301, C.R.S.

(b)   Each county clerk is the official custodian of the voter registration information only for electors within his or her county.

~~2.14.5~~ 2.14.7   If a person requests a certificate of registration or other election record that contains personally identifiable information, he or she must provide a copy of identification as defined in section 1-1-104(19.5), C.R.S.

[This rule belongs in CORA. It is inappropriate for elections. This rule should apply

Amendments to Rule 2.15.1 concerning SCORE username and password administration:

[to my definition 1.1.33 "protected information" or 1.1.36 "non-exportable information"]

2.15.1   The state user administrator assigns county user administrator privileges to the individual designated in each county by the county clerk. The county clerk OR ELECTION ADMINISTRATOR must submit a request for county user administrator privilege to the state user administrator in writing. The request must specifically state the full name of the county employee that is being assigned as a county user administrator.

New Rule 2.17 concerning ballot preference for unaffiliated voters:

2.17   IF AN UNAFFILIATED ELECTOR INDICATES A POLITICAL PARTY BALLOT PREFERENCE AT ANY TIME UP TO AND INCLUDING THE TWENTY-NINTH DAY BEFORE A PRIMARY ELECTION, THE COUNTY CLERK MUST RECORD THE SELECTION IN SCORE AND MAIL ONLY THE BALLOT OF THAT POLITICAL PARTY TO THE ELECTOR IN THE NEXT PRIMARY ELECTION. AN ELECTOR'S POLITICAL PARTY BALLOT PREFERENCE IS ONLY EFFECTIVE FOR A SINGLE PRIMARY ELECTION.

Repeal of Rule 4.5.2(d) concerning determination of ballot issues and texts:

4.5.2   Each political subdivision must determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.

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

1 (e) (D) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred,
2   every proposed change to the Colorado Constitution must be called an
3   "amendment" and every proposed change to the Colorado Revised Statutes must
4   be called a "proposition"

5 (f) (E) Ballot issues from the various political subdivisions must be ordered on the ballot
6   as provided in section 1-5-407(5), C.R.S:

7 *Amendments to Rule 4.8.3(a) concerning ballot format and printing:*

8 4.8.3 Printing primary election ballots

9   (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates
10   more than one candidate for any office, the county clerk must conduct the
11   primary election for all major political parties UNLESS THE PARTY CHOOSES TO
12   NOMINATE CANDIDATES IN ACCORDANCE WITH SECTION 1-4-702, C.R.S.

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

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

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

18 *Amendments to Rules 7.2.5, 7.2.7, 7.2.9, and New Rules 7.2.10 through 7.2.12 concerning ballots and*
19 *ballot packets in primary elections:*

20 7.2.5 Effective January 1, 2016, each EACH mail ballot return envelope and mail ballot
21   instruction must include a statement informing voters that it is a violation of law to
22   receive more than ten ballots for mailing or delivery in any election.

23 7.2.7 A county must issue a mail ballot to any eligible elector who requests one in person at the
24   county clerk's office or the office designated in the county's mail ballot plan beginning
25   ==32 days== before an election. [Section 1-7.5-107(2.7), C.R.S.]

[Note that 2.17 specifies 29th day before election day.]

26 7.2.9 On all ballot return envelopes printed after April 1, 2016, the THE county clerk must
27   provide a space on the ballot-return envelope for a witness to the elector's mark to
28   provide his or her full legal name. DURING SIGNATURE VERIFICATION THIS
  WITNESS NAME MUST BE VISIBLE TO VERIFIERS. [Better if also a signature.]

29 7.2.10 MAIL BALLOT RETURN ENVELOPES FOR UNAFFILIATED VOTERS IN A PRIMARY ELECTION
30   MAY PROVIDE A MEANS FOR THE COUNTY TO DETERMINE, BEFORE OPENING THE
31   ENVELOPE, WHICH PARTY'S PRIMARY ELECTION THE ELECTOR VOTED IN. IF THE MAIL
32   BALLOT RETURN ENVELOPE DOES NOT PROVIDE SUCH A MEANS, THE COUNTY MUST
33   FOLLOW THE PROCESS OUTLINED IN RULE 7.5.13.

34 7.2.11 EACH MAIL BALLOT RETURN ENVELOPE AND MAIL BALLOT INSTRUCTION FOR AN
35   UNAFFILIATED VOTER IN A PRIMARY ELECTION MUST INCLUDE A STATEMENT
36   INSTRUCTING THE VOTER TO RETURN ONLY ONE BALLOT.

[This method that is conveniently suitable for automation will not allow determination
of which of two returned (by mistake) ballots is actually voted. For this reason, all
envelopes with two ballots contained must be sorted out and the alternate manual method
used for detecting the choice of party by examination of both returned ballots. While
detecting the party, including through envelope, the style of ballot should also be
recorded for beneficial use.]

7.2.12   THE COUNTY CLERK MUST ISSUE A REPLACEMENT MAIL BALLOT PACKET TO AN UNAFFILIATED ELECTOR IN A PRIMARY ELECTION WHO REQUESTS ONE IF THE ELECTOR HAS NOT ALREADY VOTED. THE REPLACEMENT MAIL BALLOT PACKET MUST CONTAIN THE BALLOTS OF ALL PARTICIPATING MAJOR POLITICAL PARTIES, OR IF THE ELECTOR HAS PROVIDED A BALLOT PREFERENCE, THE BALLOT OF THE ELECTOR'S PREFERRED POLITICAL PARTY. [Clearly an unaffiliated can get access to both ballot packets by requesting twice. What about affiliated voters who return the wrong party ballot?]

New Rule 7.5.5 concerning remote drop off locations and amendments to Current Rules 7.5.5 through 7.5.8 concerning renumbering:

[Video of drop off locations provides inadequate security. We need cameras within drop boxes.] 7.5.5   THE COUNTY CLERK MAY REQUEST A WAIVER FROM THE SECRETARY OF STATE FOR REMOTE DROP OFF LOCATIONS, EXEMPTING THEM FROM THE BALLOT COLLECTION REQUIREMENTS IN RULE 7.5.4. IF THE SECRETARY OF STATE GRANTS THE WAIVER:

(A)   THE COUNTY CLERK MUST ARRANGE FOR THE COLLECTION OF BALLOTS BY BIPARTISAN TEAMS OF ELECTION JUDGES FROM ALL EXEMPT DROP-OFF LOCATIONS AS OFTEN AS NECESSARY, BUT AT LEAST:

(1)   ONCE EACH WEEK AFTER BALLOTS ARE MAILED UNTIL THE FRIDAY BEFORE ELECTION DAY; AND

(2)   ON THE FRIDAY AND MONDAY BEFORE ELECTION DAY AND ON ELECTION DAY AT 7:00 P.M. MT.

(B)   THE COUNTY CLERK MUST POST A NOTICE ON EACH EXEMPT DROP BOX OF THE DATES AND APPROXIMATE TIMES BALLOTS WILL BE COLLECTED.

(C)   IF THE SECRETARY OF STATE DETERMINES THAT THE COUNTY FAILED TO COLLECT BALLOTS FROM A REMOTE DROP-OFF LOCATION AS OFTEN AS NECESSARY, THE SECRETARY OF STATE MAY REVOKE OR MODIFY THE WAIVER.

~~7.5.5~~ 7.5.6   ==Election officials must record the number of ballot packets returned as undeliverable and receive the ballot packets in SCORE upon receipt.==
[The identities of undeliverable electors must be accessible by public on a timely basis.]

~~7.5.6~~ 7.5.7   The designated election official must seal and store ballots and return envelopes in a safe, secure place until the counting of the ballots.

~~7.5.7~~ 7.5.8   After election judges verify the elector's eligibility and signature, the county clerk must dissociate and segregate the mail ballot return envelope from the secrecy sleeve and a voted ballot in a manner that ensures no person is able to determine how an individual voted.

Amendments to Rules 7.5.9, 7.5.10, 7.5.11 and New Rules 7.5.12 and 7.5.13 concerning receipt and processing of ballots:

~~7.5.8~~ 7.5.9   If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S., prohibiting any person from ~~delivering~~ RECEIVING more than 10 ballots in addition to his or her own in any election, the county clerk must refer the information to the District Attorney.

[This important language permits mixing and/or sorting into new batches by style that will protect privacy. "Disassociate" here must imply more than just deleting a batch number.]

1   7.5.9 7.5.10   The BEFORE TABULATING BALLOTS, THE county clerk must dissociate COUNTING
2   BATCHES FROM any SCORE batch number that could trace a ballot back to the specific
3   voter who cast it from the counted ballots or any reports generated by the tabulation
4   software no later than the final certification of the abstract of votes cast.

5   7.5.10 7.5.11 If an elector delivers a ballot to the wrong county, that county must date stamp
6   the ballot envelope AND TIMELY FORWARD IT TO THE CORRECT COUNTY. BEGINNING THE
7   THURSDAY BEFORE ELECTION DAY, THE COUNTY MUST NOTIFY THE CORRECT COUNTY
8   OF RECEIPT BY SECURE ELECTRONIC TRANSMISSION WITH A SCANNED IMAGE OF THE
9   OUTSIDE OF THE MAIL BALLOT ENVELOPE INCLUDING THE SIGNATURE, and forward it to
10   the correct county NO LATER THAN THE NEXT BUSINESS DAY. A COUNTY THAT
11   PHYSICALLY DELIVERS BALLOTS TO ANOTHER COUNTY NO LATER THAN THE NEXT
12   BUSINESS DAY IS NOT REQUIRED TO SCAN THE ENVELOPE. The correct county must treat
13   the ballot as received as of the date and time of the date stamp. THE COUNTY RECEIVING THE IMAGE
                   MAY PERFORM SIGNATURE VERIFICATION UPON RECEIPT OF THE IMAGE.

14 7.5.12 COUNTY CLERKS PICKING UP BALLOTS ON BEHALF OF ANOTHER COUNTY FROM THE U.S.
15   POSTAL SERVICE ON ELECTION NIGHT MUST LOG THE NUMBER OF BALLOTS COLLECTED
16   BY COUNTY AND PROVIDE THE LOG TO THE SECRETARY OF STATE'S OFFICE WITHIN 48
17   HOURS. THE COUNTY CLERK MUST DATE STAMP EACH BALLOT ENVELOPE AND
18   IMMEDIATELY FORWARD IT TO THE CORRECT COUNTY. THE CORRECT COUNTY MUST
19   TREAT THE BALLOT AS RECEIVED AS OF THE DATE AND TIME OF THE DATE STAMP.
                   OR ENVELOPE SCANNER/SORTER IF APPLICABLE

20 7.5.13 UNAFFILIATED VOTERS IN A PRIMARY ELECTION. IF AN ELECTION JUDGE IS UNABLE TO
21   DETERMINE, BEFORE OPENING THE ENVELOPE. WHICH PARTY'S ELECTION THE ELECTOR
22   VOTED IN, THE COUNTY MUST SEPARATE THE ELECTOR'S BALLOT FROM THE ENVELOPE
23   IN THE FOLLOWING MANNER:

24   (A)   AN ELECTION JUDGE MUST REMOVE THE BALLOT, ENCLOSED IN A SECRECY
25   SLEEVE, FROM THE MAIL BALLOT RETURN ENVELOPE AND PASS IT TO A
26   BIPARTISAN TEAM OF JUDGES WITHOUT ALLOWING THE TEAM OF JUDGES TO
27   DETERMINE THE IDENTITY OF THE ELECTOR.

28   (B)   THE BIPARTISAN TEAM OF ELECTION JUDGES MUST REMOVE THE BALLOT FROM
29   THE SECRECY SLEEVE, REVIEW THE BALLOT, AND AUDIBLY REPORT TO THE FIRST
30   ELECTION JUDGE WHICH POLITICAL PARTY'S ELECTION THE ELECTOR VOTED IN.

31   (C)   THE FIRST ELECTION JUDGE MUST RECORD IN SCORE WHICH POLITICAL PARTY'S
32   ELECTION THE ELECTOR VOTED IN, OR MARK THE MAIL BALLOT RETURN
33   ENVELOPE WITH THE PROPER PARTY INFORMATION FOR LATER RECORDING IN
34   SCORE. BALLOT STYLE SHOULD ALSO BE RECORDED IF POSSIBLE.

35 7.5.14 IF AN UNAFFILIATED ELECTOR RETURNS MORE THAN ONE BALLOT IN A PRIMARY
36   ELECTION, A BIPARTISAN TEAM OF ELECTION JUDGES MUST REVIEW THE BALLOTS TO
37   DETERMINE THE ELECTOR'S INTENT IN ACCORDANCE WITH THE SECRETARY OF STATE'S
38   VOTER INTENT GUIDE. AND STATUTE.

39   (A)   IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN ONLY ONE
40   PARTY'S PRIMARY ELECTION, THE FIRST ELECTION JUDGE MUST RECORD THE
41 PARTY CHOSEN ←   DISPOSITION IN SCORE UNDER RULE 7.5.13(C). THE COUNTY MUST RETAIN ANY
42   UNVOTED BALLOT AS AN ELECTION RECORD.   WITH ACCESS TO THE ENVELOPE

1   (B)   IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN MORE THAN ONE
2   PARTY'S PRIMARY ELECTION, OR RETURNED ONLY BLANK BALLOTS, THE
3   COUNTY MUST REJECT THE BALLOTS AND RETAIN THEM IN THE MAIL BALLOT
4   RETURN ENVELOPE AS AN ELECTION RECORD.

5   *Amendments to Rule 7.6.1 concerning ballots returned in unofficial envelope:*

6   7.6.1   If the county timely receives a mail ballot from an eligible elector in an envelope ~~other~~
7   ~~than the official ballot return envelope for that particular election~~ THAT IS MISSING OR
8   LACKS THE CORRECT SELF-AFFIRMATION, the county must contact the elector in writing
9   within three calendar days of receiving the ballot but no later than two calendar days after
10   election day. The county must use the letter and affidavit prescribed by the Secretary of
11   State and keep a copy as part of the official election record. If the county receives the
12   completed affidavit no later than the eighth day after election day, the county must count
13   the ballot. AND REPORT THE NUMBER HANDLED, NUMBER ISSUED AN OPPORTUNITY TO CURE, AND NUMBER CURED.

14   *Amendments to Rule 7.7 concerning mail ballot cure procedures:*

15   7.7   ~~Missing signature.~~ MAIL BALLOT CURE PROCEDURES

16   7.7.3   ~~Nothing in this Rule prohibits the county clerk from calling the elector, but a phone call~~
17   ~~may not substitute for written contact.~~ If the county clerk ~~calls~~ USES ANY MEANS IN
18   ADDITION TO MAIL TO CONTACT any elector REGARDING A MISSING OR DISCREPANT
19   SIGNATURE OR MISSING ID, he or she must attempt to ~~call~~ CONTACT all SIMILARLY
20   SITUATED electors whose ~~affidavits are unsigned~~ REGISTRATION RECORDS HAVE THE
21   SAME TYPE OF CONTACT INFORMATION.

22   *Amendments to Rule 7.8.2 concerning signature verification procedures:*

23   7.8.2   If the elector's signature appears anywhere on ~~the back of~~ the ballot return envelope, the
24   election judge must ~~review the~~ VERIFY THE signature IN ACCORDANCE WITH SECTION 1-
25   7.5-107.3, C.R.S.

26   *Amendments to Rule 7.9.1(c) and 7.9.3 and New Rules 7.9.8, 7.9.9, and 7.9.10 concerning VSPCs:*

27   7.9.1   The county clerk must designate and open the minimum number of voter service and
28   polling centers. The centers must be open during reasonable business hours for the
29   minimum number of days outlined in section 1-5-102.9, C.R.S., for a general election and
30   1-7.5-107(4.5), C.R.S., for all other elections.

31   (c)   The county clerk must provide all services outlined in section ~~1-2-509~~ 1-5-102.9,
32   C.R.S., at every designated voter service and polling center.

33   7.9.3   In order to assist applicants and electors efficiently, a county clerk must configure voter
34   service and polling centers ~~to provide:~~ WITH sufficient election judges, WebSCORE work
35   stations, voting equipment, AND SUFFICIENT NUMBERS OF mail and in-person ballots
36   THAT CAN BE TABULATED BY THE COUNTY'S VOTING SYSTEM WITHOUT FURTHER
37   DUPLICATION, and other supplies. A COUNTY MAY SATISFY THIS RULE BY PROVIDING A
38   SUFFICIENT NUMBER OF BALLOT MARKING DEVICES OR BALLOT ON DEMAND PRINTERS.

7.9.8 AN UNAFFILIATED ELECTOR VOTING IN PERSON AT A VOTER SERVICE AND POLLING CENTER IN A PRIMARY ELECTION MUST STATE WHICH PARTY'S ELECTION HE OR SHE CHOOSES TO VOTE IN, AND THE ELECTION JUDGE MUST INDICATE THE VOTER'S SELECTION IN WEBSCORE AND PROVIDE THE VOTER WITH THAT PARTY'S BALLOT.

[Apparently, "voting in person" here does not include receiving two and voting one mail ballot.]

7.9.9 ON ELECTION DAY DURING EACH GENERAL ELECTION, A COUNTY WITH AT LEAST FIFTY THOUSAND ACTIVE ELECTORS MUST MEASURE AND RECORD THE WAIT TIME AT EACH OF ITS VOTER SERVICE AND POLLING CENTERS, AT LEAST ONCE PER HOUR, FROM THE TIME A PERSON ENTERS THE LOCATION OR THE LINE TO THE TIME THAT THE PERSON BEGINS THE CHECK-IN PROCESS. AND THEN AGAIN TO THE TIME THE PERSON COMPLETES THE PROCESS.

7.9.10 EACH COUNTY REQUIRED TO MEASURE UNDER RULE 7.9.9 MUST REPORT ITS RESULTS TO THE SECRETARY OF STATE NO LATER THAN 30 DAYS AFTER THE ELECTION. WHEREUPON THE SOS SHALL PUBLISH SAME.

New Rule 7.11 concerning cross-jurisdictional voter service and polling center pilot program:

7.11 CROSS-JURISDICTIONAL VOTER SERVICE AND POLLING CENTER PILOT PROGRAM

7.11.1 THE COUNTY CLERK MAY APPLY TO THE SECRETARY OF STATE TO PARTICIPATE IN A PILOT PROGRAM ALLOWING A COUNTY TO AGREE WITH ANOTHER COUNTY OR COUNTIES TO PROVIDE THE COUNTY'S SERVICES AT THE OTHER COUNTY'S VOTER SERVICE AND POLLING CENTERS. THE SECRETARY OF STATE MUST RECEIVE THE APPLICATION NO LATER THAN 110 DAYS BEFORE ELECTION DAY.

7.11.2 IN REVIEWING THE COUNTY CLERK'S APPLICATION, THE SECRETARY OF STATE WILL CONSIDER THE FOLLOWING:

(A) THE COUNTY'S PLAN TO PROVIDE ALL SERVICES OUTLINED IN SECTION 1-5-102.9, C.R.S. FOR EACH PARTICIPATING COUNTY AT EACH VOTER SERVICE AND POLLING CENTER.

(B) WHETHER THE COUNTIES SHARE A COMMON BORDER AND THE GEOGRAPHICAL LOCATION OF PROPOSED MULTI-COUNTY VOTER SERVICE AND POLLING CENTERS.

(C) ANY PUBLIC COMMENT PROVIDED UNDER SECTION 1-5-102.9(1)(C)(II), C.R.S. AND THE INPUT, IF ANY, OF THE GOVERNING BOARD OF THE COUNTY.

7.11.3 WHEN DESIGNATING VOTER SERVICE AND POLLING CENTERS, AT LEAST TWO-THIRDS OF THE VOTER SERVICE AND POLLING CENTERS REQUIRED UNDER SECTIONS 1-5-102.9 AND 1-7.5-107, C.R.S., MUST BE LOCATED WITHIN THE COUNTY BOUNDARIES; EXCEPT THAT EACH PARTICIPATING COUNTY MUST HAVE THE MINIMUM NUMBER OF VOTER SERVICE AND POLLING CENTERS REQUIRED UNDER SECTION 1-5-102.9 AND 1-7.5-107, C.R.S. OPEN WITHIN ITS BOUNDARIES ON THE MONDAY BEFORE ELECTION DAY AND ELECTION DAY.

New Rule 7.16 concerning voter registration post-election scanning:

7.16 FOLLOWING EACH ELECTION, THE COUNTY CLERK MUST SCAN INTO SCORE THE ELECTOR'S SIGNATURE AND DATE ON EACH ACCEPTED MAIL BALLOT RETURN ENVELOPE.

Amendments to Rule 8 concerning watchers:

[When signatures are verified leniently and incorrectly,the reference signature for the next election is made faulty. In case a cure process led to the acceptance, the signature on the cure letter should be scanned into SCORE for use as the reference signature in place of the envelope signature. Improvement of the signature capture and cure process is needed, including a way to capture recent signatures made on paper in the presence of an official and to prefer theSE systematically in SCORE for use as reference signatures.]

	8.1.5	A watcher must complete a training provided by or approved by the Secretary of State before observing election activities where confidential or personally identifiable information may be within view. To verify completion of the training, a watcher must provide his or her training certificate of completion with the Certificate of Appointment. A TRAINING CERTIFICATE OF COMPLETION IS VALID UNTIL DECEMBER 31 OF THE FOLLOWING YEAR. AN APPROVED TRAINING MAY BE USED FOR ONE CALENDAR YEAR FROM THE DATE APPROVED.

8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in Rule ~~1.1.27~~ 1.1.28 applies only to voting.

8.15 A watcher may not:

8.15.8 UNLESS OTHERWISE APPROVED BY THE COUNTY CLERK, HAVE IN HIS OR HER POSSESSION ANY MOBILE PHONE OR OTHER ELECTRONIC DEVICE WHILE WATCHING ELECTION ACTIVITIES WHERE VOTERS' ~~CONFIDENTIAL~~ ~~OR~~ PERSONALLY IDENTIFIABLE INFORMATION MAY BE WITHIN VIEW.

[Here I would use the "non-exportable information" category and definition.]

~~8.15.8~~ 8.15.9 Attempt to determine how any elector voted.

~~8.15.9~~ 8.15.10 Disclose or record any ~~confidential voter information as defined in section 24-72-204(8), C.R.S.,~~ that he or she may observe.

NON-EXPORTABLE INFORMATION DEFINED IN RULE 1.1.36

~~8.15.10~~ 8.15.11 Disclose any results before the polls have closed.

[CORA should not be depended upon by election law- it is not appropriate for election access such as by watchers who must see signatures for eligibility check oversight.]

Amendments to Rule 10.3.2(b) concerning correcting cross-reference:

10.3.2 The canvass board's duties are to:

(b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule ~~11.3.3(k)~~ 25.3.2; AND 25.2.2 AND 25.2.3

New Rule 10.4 concerning the date for conducting canvass:

10.4 NO CANVASS BOARD MAY CERTIFY OFFICIAL RESULTS UNTIL AUTHORIZED TO DO SO BY THE SECRETARY OF STATE. THE SECRETARY OF STATE MAY EXTEND THE CANVASS DEADLINE FOR ONE OR MORE COUNTIES IN ORDER TO COMPLETE THE RISK-LIMITING AUDIT IN ACCORDANCE WITH RULE 25.2. BEFORE CERTIFYING OFFICIAL RESULTS, A COUNTY THAT CONDUCTS A COMPARISON AUDIT AS DEFINED IN RULE 25.1.4 MUST MANUALLY ADJUST THE PRELIMINARY RESULTS TO REFLECT ALL DISCREPANCIES IDENTIFIED IN THE RISK-LIMITING AUDIT.

[This language allows the audit to continue until a delayed certificatioN. That may be needed. The adjustment of results through the audit process will focus attention on the need for accuracy of audit interpretation. Very desirable.]

Amendments to Rule 10.5 concerning procedures for canvass:

~~10.4~~ 10.5 Procedures for the day of the Canvass

~~10.4.1~~ 10.5.1 The designated election official must provide the following information to the canvass board: SEPARATELY FOR EACH PARTY IN A PRIMARY ELECTION:

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

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

1   (c)   The TOTAL number of ballots cast~~, including the number of accepted and rejected~~
2   ~~mail ballots~~; BY STYLE

3   (d)   The number of provisional ballots cast, including ~~the number accepted and~~
4   ~~rejected;~~ TOTALS FOR:

5   (1)   BALLOTS ACCEPTED BY EACH CODE; AND

6   (2)   BALLOTS REJECTED BY EACH CODE.

7   (e)   The number of mail ballots ~~counted and the number rejected;~~ CAST, INCLDUING
8   TOTALS FOR:

9   (1)   BALLOTS ACCEPTED; AND

10   (2)   BALLOTS REJECTED BY EACH CODE.

11   (f)   The number of in-person ballots counted; SEPARATING BMD-PRINTED FROM "FLAT"

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

14   (G)   THE NUMBER OF EMERGENCY REPLACEMENT BALLOTS, INCLUDING TOTALS FOR:

15   (1)   BALLOTS ACCEPTED; AND

16   (2)   BALLOTS REJECTED BY EACH CODE.
            (3)   EMERGENCY BALLOT APPLICATIONS RECEIVED

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

18   (I)   IF APPLICABLE, THE NUMBER OF BALLOTS CAST IN EACH PARTY'S PRIMARY
19   ELECTION, INCLUDING TOTALS FOR:

20   (1)   BALLOTS ACCEPTED IN EACH PARTY'S PRIMARY ELECTION BY
21   AFFILIATED AND UNAFFILIATED VOTERS; AND

22   (2)   BALLOTS REJECTED BY EACH CODE.
    [Need new codes for rejection due to new primary election errors]

23   ~~10.4.2~~ 10.5.2   Any written documentation regarding official results must be included as part of
24   the canvass.

25   ~~10.4.3~~ 10.5.3   Written Complaints

26   (a)   The designated election official must provide the canvass board with any written
27   complaint submitted by a registered elector ~~about a voting device.~~
    [Statute requires response only for complaint about voting device, but rule can provide
    any complaint to the canvass board.]
28   (b)   If the complaint is resolved, the designated election official must provide the
29   details of the resolution.

30   (c)   If the complaint is pending resolution when the board meets to conduct the
31   canvass, the designated election official must provide a proposal for how the
32   issue will be resolved.

10.11.1 -> 10.12.1 The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S. To the extent feasible, the board must select equipment for testing that was not included in the post-election audit.

[The above rule made little sense before and no sense now with the risk limiting vote tabulation audit and widespread use of central count equipment. Above rule newly numbered 10.12.1 is not needed.]

10.11.2-> 10.12.2 The county clerk must test all optical scanners that will be used in the recount. The purpose of the test is to ensure that the tabulation machines are counting properly.
(a) The test deck must include 50 ballots or 1% of the total number of ballots counted in the election, whichever is greater, except that the total number of ballots tested may not exceed the total number of ballots comprising the county's test deck for the Logic and Accuracy test before the election. The ballots must be marked to test every option for the race or measure that will be recounted.
(1) In a mandatory recount, the canvass board must select the ballots to be tested from the county's test deck for the Public Logic and Accuracy test.
(2) In a requested recount, the person requesting the recount may mark up to 25 ballots. Any other candidate in the race may also mark up to 25 ballots. The canvass board must randomly select ballots from the county's test deck for the Public Logic and Accuracy test to ensure the minimum number of test ballots required by this Rule.
(b) Sworn judges or staff must hand tally the test ballots for comparison to the tabulation results.
(c) The test is limited to the race or measure that is recounted.

[Above newly numbered rule 10.12.2 is very inadequate for accuracy of a recount. One percent is too low to detect an inherent inaccuracy in the device used to count for a machine recount. The number should be more like 5% of the total number of ballots in the recount contest and the ballots used should be voter-marked from the election, not from the LAT and they should include known problematic ballots if any are found. Note that staff are allowed to hand tally the ballots. This isn't appropriate either.]

10.11.2-> 10.12.2 The county clerk must test all optical scanners that will be used in the recount. The purpose of the test is to ensure that the tabulation machines are counting WITH SUFFICIENT ACCURACY TO SUBSTANTIATE THE RECOUNT.

(a) The test deck must include 50 ballots or 5% of the total number of ballots counted in the election, whichever is greater. The ballots must test every option for the race or measure that will be recounted.

(1) In a mandatory recount, the canvass board must select the ballots to be tested from the VOTED BALLOTS CONTAINING THE CONTEST AND INCLUDE BALLOTS DEEMED DIFFICULT TO MACHINE TABULATE.

(2) In a requested recount, the person requesting the recount may CHOOSE up to 25 ballots. Any other candidate in the race may also CHOOSE up to 25 ballots. The canvass board must select ballots from the VOTED BALLOTS to ensure the minimum number of test ballots required by this Rule.

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

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

1   *[Not shown: current Rules 10.5 through 10.13 are renumbered as Rules 10.6 through 10.14]*

2   *Additional cross reference amendments to current Rules 10.13.1 and 10.13.6 (renumbered as 10.13.1 and*
3   *10.13.6) follow:*

4   ~~10.12.1~~ 10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies
5   in the test under Rule ~~10.11~~ 10.12, the recount must be conducted in the same manner as
6   the ballots were counted in the election except as outlined in this Rule. If there are
7   unresolvable discrepancies in the test, the recount must be conducted as a hand count
8   under Rule ~~10.12.5~~ 10.13.5.

9   ~~10.12.6~~ 10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule
10   ~~10.11.3~~ 10.12.3, the county clerk must upload the memory cards.

[The test specified in rule is very inadequate and that almost guarantees an ineffective recount performed exactly as the original count and equally inaccurate. This requires revision. See previous page with comments on these rules.]

11   *Amendments to Rule 11.3 concerning hardware diagnostic testing and LAT:*

12   11.3   The clerk must perform a hardware diagnostic test~~,~~ AND a logic and accuracy test~~, and a post-~~
13   ~~election audit~~.

14   11.3.2   Logic and Accuracy Test

15   (c)   Preparing for the Logic and Accuracy Test

16   (1)   The county must prepare a test deck of ballots that includes every ballot
17   style and, where applicable, precinct. The county test deck must include
18   a sufficient number of ballots to mark every vote position for every
19   contest including write-in candidates, allow for situations where a contest
20   permits an elector to vote for two or more positions, and include
21   overvotes and undervotes for each contest. THE COUNTY TEST DECK
22   MUST INCLUDE AT LEAST ONE WRITE-IN VOTE FOR EACH QUALIFIED
23   WRITE-IN CANDIDATE SO THAT ALL QUALIFIED WRITE-IN CANDIDATE
24   NAMES WILL APPEAR IN THE LAT RESULT UPLOADED TO ENR AS
25   REQUIRED BY RULE 11.10.3. SOME UNDER AND OVER VOTES MUST ALSO BE
                                       INCLUDED.

26   *[Current Rule 11.3.3 is amended and recodified as New Rule 25.3.]*

27   *Amendments to Rule 11.10.1(b)(2) concerning renumbering of cross-reference and 11.10.3 concerning*
28   *election night reporting:*

29   11.10.1 A data entry county must upload a results data file to ENR containing the election results
30   on the dates and times specified in Rules 11.10.3 through 11.10.5. The county must
31   program its election database so that the results file exported from the voting system is
32   formatted in accordance with the following requirements:

33   (b)   Contest order: Except as otherwise provided in subsections (1) – (4) of this Rule,
34   the results file must list the contests in the same order as they are certified for the
35   ballot.

36   (2)   The results file must list ballot measures in the order certified by the
37   Secretary of State, followed by the ballot measures certified by other

participating political subdivisions in the order and using the numbering conventions specified in Rule ~~4.5.2(f)~~ 4.5.2(E).

11.10.3 No later than 14 days before the election, a data entry county must upload the LAT results file to ENR. At a minimum, the LAT results file must contain the results of the complete county test deck required under Rule 11.3.2(c)(1).~~The county must also provide the Secretary of State with a summary results report for the LAT results file.~~

Repeal of Rule 13.1.7 and Amendment of Rule 13.2.9(a) concerning election complaint procedures:

~~13.1.7 The Secretary of State's determination is a final agency action.~~

13.2.9 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 IF THE COMPLAINANT REQUESTS ONE AT THE TIME OF FILING THE COMPLAINT, UNLESS THE COMPLAINANT LATER WITHDRAWS THE REQUEST.

Amendments to Rules 14.1.1(a) and New Rule 14.3.4 concerning voter registration drives:

14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter Registration Drive ("VRD") must file a Statement of Intent and Training Acknowledgment Form with the Secretary of State to conduct a voter registration drive. The Statement of Intent and Training Acknowledgment Form must include the following information:

(a) The name of the group conducting the VRD, and the name ~~and contact information~~ ADDRESS, EMAIL ADDRESS, AND TELEPHONE NUMBER of the individual organizing the VRD;

14.3.4 THE VRD MUST PROVIDE THE SECRETARY OF STATE WITH THE NAME OF THE CIRCULATOR ASSOCIATED WITH A PARTICULAR IDENTIFICATION NUMBER, UPON REQUEST.

Amendments to Rule 16.1.6 concerning military and overseas electors:

16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the Primary Election OR PRESIDENTIAL PRIMARY ELECTION, IF APPLICABLE, 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 RESIDENCE AND mailing information and ~~request a ballot;~~ HOW TO INDICATE A CHOICE OF PARTY and

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

Amendments to Rules 20.13.1(c)(8) and 20.16.3(a) concerning correction of cross-references:

20.13.1 If a seal is broken, or there is another discrepancy, the election official must immediately notify the county, who must remedy the discrepancy as follows:

 (c) If the evidence indicates that the discrepancy occurred after votes were cast on the device:

  (8) Before certifying election results, the county must conduct a full (all ~~races~~CONTESTS) post-election audit on the device and report results to the Secretary of State as required by Rule ~~11.~~25.3. This requirement is in addition to the random selection conducted by the Secretary of State.

25.2 OR

20.16.3 Ballot reconciliation

 (a) The county must reconcile ballots printed on demand in accordance with Rules ~~10.4 and 10.5~~10.1.1 AND 10.1.2.

 (b) The county must maintain damaged, misprinted, or unusable ballots as election records.

Amendments to Rule 20.17.3 concerning voting system conditions for use:

20.17.3 The county must create a backup copy of the election setup records on a read-only, write-once ~~CD~~ELECTRONIC STORAGE MEDIA, immediately after completing the Logic and Accuracy Test.

 (a) The county must identify the master database name and date of election on the label of the backup ~~CD~~.

 (b) The county must store the backup ~~CD~~ in a sealed container. Two election officials of different party affiliations must sign and date entries to the chain-of-custody log for the sealed container. LOGS ARE TO BE KEPT OUTSIDE THE CONTAINER.

[The rule for ballot and other record storage should likewise require the log to be kept outside the container.]

Amendments to Rule 21.4.5(e) and New Rule 21.4.14 concerning voting system standards for certification:

21.4.5 Functional Requirements

 (e) The voting system must include hardware or software to enable the closing of ~~the voting location and disabling the acceptance of ballots on~~ all vote tabulation devices AT POLLING LOCATIONS to allow for the following:

21.4.14 Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary of State for use in Colorado on or after January 1, 2016 must meet the following requirements for ballot-level cast vote records and exports on or before December 31, 2016:

 (a) The voting system must capture a ballot-level cast vote record (CVR) ~~consisting of a single record for each ballot tabulated, showing the manner in which the voting system interpreted and tabulated the voter's markings on the ballot, as adjudicated and resolved by election judges, if applicable~~.

(c)   The CVR export must contain the following fields, with values or data populated by the voting system:

(8)   NUMBER OF VALID CHOICES. THE NUMBER OF VALID CHOICES (E.G., "VOTE FOR 3") FOR EACH CONTEST.

New Rule 24 concerning presidential electors:

RULE 24.   PRESIDENTIAL ELECTORS

24.1   OATH

24.1.1   AS USED IN SECTION 1-4-304 (1), C.R.S., "THE OATH REQUIRED BY LAW FOR PRESIDENTIAL ELECTORS" MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

"I, ………….., DO SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF COLORADO, THAT I WILL FAITHFULLY PERFORM THE DUTIES OF THE OFFICE OF PRESIDENTIAL ELECTOR THAT I AM ABOUT TO ENTER, AND THAT I WILL VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE."

24.1.2   IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO TAKE AND SUBSCRIBE THE OATH IN RULE 24.1.1, THE REFUSAL OR FAILURE CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.2   VOTING

24.2.1   AS SPECIFIED IN SECTION 1-4-304 (5), C.R.S., EACH PRESIDENTIAL ELECTOR MUST VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE.

24.2.2   IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE, THE REFUSAL OR FAILURE CONSTITUTES A "REFUSAL TO ACT" AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3   FILLING VACANCIES

24.3.1   AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S., THE PRESIDENTIAL ELECTORS PRESENT MUST IMMEDIATELY PROCEED TO FILL ANY VACANCY IN THE ELECTORAL COLLEGE. A QUORUM IS NOT REQUIRED TO FILL A VACANCY. IN THE EVENT OF A TIE VOTE, THE VACANCY WILL BE FILLED BY LOT.

1 24.3.2 IF A REMAINING PRESIDENTIAL ELECTOR REFUSES TO FILL A VACANCY IN THE
2   ELECTORAL COLLEGE, THE REFUSAL CONSTITUTES A "REFUSAL TO ACT" AS THAT TERM
3   IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF
4   PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST
5   BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN
6   SECTION 1-4-304 (1), C.R.S.

7 24.3.3 NOMINEES TO FILL VACANCIES MUST BE SELECTED IN ACCORDANCE WITH SECTION 1-4-
8   302 (2), C.R.S. THERE MUST BE MORE VACANCY NOMINEES THAN VACANCIES TO BE
9   FILLED.

[I find these new Electoral College rules highly problematic, objectionable and on the verge

10 *New Rule 25 concerning post-election audit:* of dictatorial and contrary to the principles of a
                                                 democratically elected representative republic.]

11 **RULE 25.**   **POST-ELECTION AUDIT**

12 25.1   DEFINITIONS. AS USED IN THIS RULE, UNLESS STATED OTHERWISE:
        [See proposed additional definitions on next inserted page.]

13 25.1.1 "AUDIT CENTER" MEANS THE PAGE OR PAGES OF THE SECRETARY OF STATE'S WEBSITE
14   DEVOTED TO RISK-LIMITING AUDITS.

15 25.1.2 "AUDITED CONTEST" MEANS A CONTEST SELECTED BY THE SECRETARY OF STATE FOR A
16   RISK-LIMITING AUDIT. THE AUDITED CONTEST DETERMINES THE NUMBER OF BALLOTS
17   THAT MUST BE EXAMINED AND VERIFIED DURING THE RLA.

18 25.1.3 "BALLOT POLLING AUDIT" MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT
19   BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON
20   RANDOMLY SELECTED BALLOTS.   THESE ARE

21 25.1.4 "COMPARISON AUDIT" MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT
22   BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON
23   RANDOMLY SELECTED BALLOTS, AND THEN COMPARED TO THE VOTING SYSTEM'S
24   TABULATION AS REFLECTED IN THE CORRESPONDING CAST VOTE RECORDS.

25 25.1.5 "DILUTED MARGIN" OF AN AUDITED CONTEST MEANS THE SMALLEST REPORTED MARGIN
26   IN VOTES BETWEEN THE REPORTED CONTEST WINNER WITH THE LEAST VOTES IN THE
27   CONTEST, AND THE REPORTED CONTEST LOSER WITH THE MOST VOTES IN THE CONTEST,
28   DIVIDED BY THE NUMBER OF BALLOTS COUNTED IN THAT CONTEST. FOR EXAMPLE, IF
29   THE VOTING SYSTEM TABULATED 10,000 BALLOTS IN AN AUDITED CONTEST, AND THE
30   REPORTED WINNING CANDIDATE WITH THE LEAST NUMBER OF VOTES RECEIVED 4,000
31   VOTES, AND THE REPORTED LOSING CANDIDATE WITH THE MOST NUMBER OF VOTES
32   RECEIVED 3,500 VOTES, THE DILUTED MARGIN OF THE CONTEST IS 5% [(4,000 – 3,500) /
33   10,000]. [The example should mention over,undervotes in the denominator as on
                    the following page where I also provide a definition for Audit Board.]

34 25.1.6 "MARGIN OVERSTATEMENT" MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD'S
35   INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE WINNER WITH THE LEAST
36   NUMBER OF VOTES RECEIVED FEWER VOTES THAN THE VOTING SYSTEM'S
37   INTERPRETATION OF THE SAME MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF
38   THE CVR REFLECTS AN UNDERVOTE IN THE AUDITED CONTEST, AND THE AUDIT BOARD'S
39   INTERPRETATION OF THE CORRESPONDING PAPER BALLOT REFLECTS A VOTE FOR THE
40   LOSER WITH THE MOST VOTES IN THAT CONTEST, THE CVR CONTAINS A ONE-VOTE
41   OVERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR THE WINNER WITH THE LEAST

25.1.0 "AUDIT BOARD" MEANS FOR EACH COUNTY A TEAM OF COUNTY PARTY NOMINATED, CLERK AND RECORDER APPOINTED ELECTION OFFICIALS OF EQUAL NUMBER REPRESENTING EACH MAJOR POLITICAL PARTY WHO PERFORM AUDIT STEPS REQUIRED BY THESE RULES AND INTERPRET THE VOTER INTENT ON BALLOTS SELECTED AT RANDOM AND PLACED ON A LIST BY THE SECRETARY OF STATE. TO THE EXTENT POSSIBLE THE AUDIT BOARD SHALL NOT BE COMPRISED OF COUNTY STAFF OR ELECTION JUDGES WHO HAVE ADJUDICATED THE ELECTION.

25.1.1.b 'AUDIT COORDINATOR" IS A ROLE AT THE SECRETARY OF STATE OFFICE RESPONSIBLE FOR CONDUCTING THE FEDERAL AND STATEWIDE AUDITS REQUIRED BY STATUTE, COORDINATING ANY MULTI-COUNTY AUDITS AND FACILITATING INTRA-COUNTY AUDITS WITH RANDOM SELECTION, DATA COLLECTION AND PUBLICATION. THE ROLE IS REPONSIBLE FOR MANAGING THE AUDIT CENTER AND THE USE OF THE RLA TOOL.

 "DILUTED MARGIN" OF AN AUDITED CONTEST MEANS THE ~~SMALLEST~~ REPORTED MARGIN IN VOTES BETWEEN THE REPORTED CONTEST WINNER WITH THE LEAST VOTES IN THE CONTEST, AND THE REPORTED CONTEST LOSER WITH THE MOST VOTES IN THE CONTEST, DIVIDED BY THE NUMBER OF BALLOTS COUNTED IN THAT CONTEST. FOR EXAMPLE, IF THE VOTING SYSTEM TABULATED 10,000 BALLOTS IN AN AUDITED CONTEST, AND THE REPORTED WINNING CANDIDATE WITH THE LEAST NUMBER OF VOTES RECEIVED 4,000 VOTES, AND THE REPORTED LOSING CANDIDATE WITH THE MOST NUMBER OF VOTES RECEIVED 3,500 VOTES, AND OTHER CANDIDATES PLUS UNDER AND OVERVOTES ADDED TO 2500 VOTES, THE DILUTED MARGIN OF THE CONTEST IS 5% [(4,000 – 3,500) /10,000].

[The problem with the margin overstatement and understatement definitions is that they incorrectly address the multi candidate case by focusing only on the least vote winner and most vote loser, whereas the audit is concerned about any candidate, each of whose votes is tabulated separately and must be considered separately and each of whom might change from winner to loser or vice versa.]

~~25.1.9 "RISK LIMIT" MEANS THE LARGEST STATISTICAL PROBABILITY THAT AN INCORRECT REPORTED OUTCOME IS NOT DETECTED AND CORRECTED IN A RISK-LIMITING AUDIT.~~ [This is incorrect because the audit is not confirming the outcome due to its lack of any knowledge about the eligibility of the ballots being audited. The definition of "risk limiting audit" is correct because it bases its result on a full hand count. This hand count will result in an accurate outcome if it counts all of the cast ballots that are each eligible and if it is done accurately. The RLA as proposed cannot confirm ~~this.]~~ `eligibility accuracy`.

25.1.9 "RISK LIMIT" MEANS THE LARGEST STATISTICAL PROBABILITY THAT A FULL HAND COUNT WILL NOT BE REQUIRED BY THE AUDIT IN THE CASE THAT THE HAND COUNT WOULD HAVE CHANGED THE REPORTED OUTCOME TO ONE THAT ACCURATELY REPRESENTS THE AUDITED BALLOTS.

[or]
25.1.9 "RISK LIMIT" MEANS THE LARGEST STATISTICAL PROBABILITY THAT AN INCORRECT REPORTED OUTCOME BASED ON INCORRECT TABULATION IS NOT DETECTED AND CORRECTED IN A RISK-LIMITING AUDIT.

1. ~~VOTES, AND THE AUDIT BOARD'S INTERPRETATION OF THE PAPER BALLOT REFLECTS A~~
2. ~~VOTE FOR THE LOSER WITH THE MOST VOTES, THE PRELIMINARY RESULTS CONTAIN A~~
3. ~~TWO-VOTE OVERSTATEMENT.~~

4. ~~25.1.7 "MARGIN UNDERSTATEMENT" MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD'S~~
5. ~~INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE CONTEST WINNER WITH THE~~
6. ~~LEAST NUMBER OF VOTES RECEIVED MORE VOTES THAN THE VOTING SYSTEM'S~~
7. ~~INTERPRETATION OF THE SAME MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF~~
8. ~~THE CVR REFLECTS AN UNDERVOTE IN THE AUDITED CONTEST, AND THE AUDIT BOARD'S~~
9. ~~INTERPRETATION OF THE CORRESPONDING PAPER BALLOT REFLECTS A VOTE FOR THE~~
10. ~~WINNER WITH THE LEAST NUMBER OF VOTES IN THAT CONTEST, THE CVR CONTAINS A~~
11. ~~ONE-VOTE UNDERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR THE LOSER WITH THE~~
12. ~~MOST VOTES, AND THE AUDIT BOARD'S INTERPRETATION OF THE PAPER BALLOT~~
13. ~~REFLECTS A VOTE FOR THE WINNER WITH THE LEAST VOTES, THE CVR CONTAINS A TWO-~~
14. ~~VOTE UNDERSTATEMENT.~~

[These above two definitions are incorrect and do require deletion or improvement.]

15. 25.1.8 "REPORTED OUTCOME" MEANS THE PRESUMED WINNING AND LOSING CANDIDATES OR
16. VOTING CHOICES OF A BALLOT CONTEST AS REFLECTED IN PRELIMINARY RESULTS.

TABULATION

INCORRECT REPORTED OUTCOME BASED ON

17. 25.1.9 "RISK LIMIT" MEANS THE LARGEST STATISTICAL PROBABILITY THAT AN INCORRECT
18. ~~REPORTED OUTCOME~~ IS NOT DETECTED AND CORRECTED IN A RISK-LIMITING AUDIT.

[See previous page where I provide alternative definitions of risk limit.]

19. 25.1.10 "RISK-LIMITING AUDIT" OR "RLA" MEANS A POST-ELECTION AUDIT OF VOTES ON PAPER
20. BALLOTS AND VVPAT RECORDS, CONDUCTED IN ACCORDANCE WITH SECTION 1-7-515,
21. TABULATION C.R.S., AND RULE 25.2, WHICH HAS A PRE-SPECIFIED MINIMUM CHANCE OF REQUIRING A
22. FULL HAND COUNT IF THE OUTCOME OF A FULL HAND COUNT WOULD DIFFER FROM THE
23. REPORTED OUTCOME.

Definition OK, but terminology is still somewhat misleading for CO- please read following page.]

24. 25.1.11 "RLA TOOL" MEANS THE SOFTWARE AND USER INTERFACE PROVIDED BY THE
25. SECRETARY OF STATE ~~IN ORDER FOR COUNTIES TO CONDUCT~~ RLAS. AND ALTERNATIVE METHODS.
   RLTA FOR STATEWIDE COORDINATION OF COUNTY IMPLEMENTED AUDITS.

26. 25.2 RISK-LIMITING AUDIT. THE DESIGNATED ELECTION OFFICIAL MUST ~~CONDUCT~~ A RISK-LIMITING
27. AUDIT IN ACCORDANCE WITH SECTION 1-7-515, C.R.S. AND THIS RULE. IMPLEMENT

28. 25.2.1 RLA METHODS

29. (A) COUNTIES THAT USE A VOTING SYSTEM CAPABLE OF EXPORTING CVRS MUST
30. CONDUCT A COMPARISON AUDIT.

31. (B) COUNTIES THAT USE A VOTING SYSTEM INCAPABLE OF EXPORTING CVRS MUST
32. CONDUCT A BALLOT POLLING AUDIT.

33. 25.2.2 PREPARING FOR THE AUDIT

34. (A) RISK LIMIT. NO LATER THAN 30 DAYS BEFORE ELECTION DAY, THE SECRETARY
35. OF STATE WILL ESTABLISH AND PUBLISH ON THE AUDIT CENTER THE RISK
36. LIMIT(S) THAT WILL APPLY IN RLAS FOR THAT ELECTION. THE SECRETARY OF
37. STATE MAY ESTABLISH DIFFERENT RISK LIMITS FOR COMPARISON AUDITS AND
38. BALLOT POLLING AUDITS, BUT IN NO EVENT WILL THE RISK LIMIT EXCEED FIVE
39. PERCENT.

[Regarding the use of the proposed term Risk Limiting Audit and its acronym RLA:

Because Colorado is the first state to attempt to specify this kind of tabulation audit at this level of detail many states will copy what Colorado has done. I must voice a strong push for using descriptive terms that will not misguide the uninitiated as states copy our process, laws and rules. That is why I am asking once again to name this audit a "risk limiting tabulation audit", or "risk limiting vote tabulation audit." RLVA or as John McCarthy prefers, RLVTA. I'm happy with RLTA.

Risk limitation is a wonderful mathematical construct thanks to Philip Stark et. al. that can be used to implement all kinds of audits, not just vote tabulation audits. No doubt it can be used to implement vote eligibility audits as well, and Colorado actually needs those too – probably more than any other state.

All states' election outcomes depend on the accuracy of their registration lists. Most states legally define their list as accurate as of a particular date before the election. That solves a potentially big problem for them.

Not only does Colorado no longer freeze our registration list 30 days prior to the election, we also do not have our voters show ID, sign a paper poll book and physically cast ballots at precinct polling places into a recording device (called a voting machine) as many states do. That would clarify the eligibility of the person (present) as well as registration of the name.

Instead, in Colorado we allow presumed electors to sign a printed attestation of eligibility on an envelope, drop in a marked ballot and post or drop off the package to an election official. That official or designee somewhat later takes a barcode reader to the envelope and upon detecting the number on the barcode deems the contained ballot as "cast."   In fact our counties then take various steps to attempt to discover if the envelope is empty or contains inappropriate contents - two ballots, etc. and then if necessary reverse the previous process of what is known now officially in rules as "casting" – something done far from the hands of a would be voter.

Also, our registration list is dynamic- always changing. It never could at any moment possibly contain an accurate list of registered voters, but nevertheless we still pretend it does. We cannot obtain a specific list that contains all eligible

Colorado voters and what contests they are eligible to vote in. This varies depending on when each decides to vote. That is the effect of a statewide database reflecting elector status and law that allows "same-day registration" and the combined use of mail ballot for everyone and two weeks of early voting (and registration changing) at "vote centers."

So any definition of "RLTA" for Colorado that talks about correct outcome without a caveat for registration and eligibility confirmation is sadly false.

For reasons of registration inaccuracy and also many potential defects of eligibility determination and resulting inaccuracy, our wonderful risk limiting audit cannot be more than a tabulation audit and we should know it as such.

The simple term "risk limiting audit" and the definitions that talk about confirmation of outcome imply that our CO audit is capable of confirming outcomes. It can't. It does takes us a huge step forward toward being able to do so.

Please then refer to this audit as a tabulation audit or risk limiting tabulation audit. That leaves us room to obtain means to verify the accuracy of the two other major sources of inaccuracy.

Harvie Branscomb]

1   (B)   AUDIT BOARD. NO LATER THAN 15 DAYS BEFORE ELECTION DAY, THE
2   DESIGNATED ELECTION OFFICIAL MUST APPOINT AN AUDIT BOARD TO CONDUCT
3   THE RISK-LIMITING AUDIT. THE AUDIT BOARD MUST CONSIST OF ELECTORS

1	(B)	**AUDIT BOARD.** NO LATER THAN 15 DAYS BEFORE ELECTION DAY, THE
2		DESIGNATED ELECTION OFFICIAL MUST APPOINT AN AUDIT BOARD TO CONDUCT
3		THE RISK-LIMITING AUDIT. THE AUDIT BOARD MUST CONSIST OF ELECTORS
4		NOMINATED BY THE MAJOR POLITICAL PARTY COUNTY CHAIRPERSONS. THE
5		DESIGNATED ELECTION OFFICIAL MUST GIVE WRITTEN NOTICE TO THE COUNTY
6		CHAIRPERSONS OF THEIR OBLIGATION TO NOMINATE AUDIT BOARD MEMBERS
7		AND MAY DESIGNATE APPROPRIATELY AFFILIATED ELECTORS AS AUDIT BOARD
8		MEMBERS IF ONE OR BOTH COUNTY CHAIRPERSONS FAIL TO DO SO IN A TIMELY
9		MANNER. AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE THE RLA,
10		AND MEMBERS OF THE CANVASS BOARD MAY SERVE AS MEMBERS OF THE AUDIT
11		BOARD. THE DESIGNATED ELECTION OFFICIAL, MEMBERS OF HIS OR HER STAFF,
12		AND OTHER DULY APPOINTED ELECTION JUDGES MAY ASSIST THE AUDIT BOARD
13		IN CONDUCTING THE AUDIT, BUT MAY NOT INTERPRET VOTER MARKS.
		TO THE EXTENT POSSIBLE, THE AUDIT BOARD SHALL NOT INCLUDE ORIGINAL ADJUDICATORS.
14	(C)	**BALLOT MANIFEST.** WHILE TABULATING BALLOTS, THE COUNTY MUST
15		MAINTAIN AN ACCURATE BALLOT MANIFEST IN A FORM APPROVED BY THE
16		SECRETARY OF STATE. AT A MINIMUM, THE BALLOT MANIFEST MUST UNIQUELY
17		IDENTIFY FOR EACH TABULATED BALLOT THE SCANNER ON WHICH THE BALLOT
18		IS SCANNED, THE BALLOT BATCH OF WHICH THE BALLOT IS A PART, THE NUMBER
19		OF BALLOTS IN THE BATCH, AND THE STORAGE CONTAINER IN WHICH THE
20		BALLOT BATCH IS STORED AFTER TABULATION. THE COUNTY MUST SECURE AND
21		MAINTAIN IN SEALED BALLOT CONTAINERS ALL TABULATED BALLOTS IN THE
22		BATCHES AND ORDER THEY ARE SCANNED. THE COUNTY MUST MAINTAIN AND
23		DOCUMENT UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH BALLOT STORAGE
24		CONTAINER. IF POSSIBLE THE MANIFEST SHALL INDICATE THE BALLOT STYLE.
25	(D)	**RLA TABULATION.** ON THE NINTH DAY AFTER ELECTION DAY, THE COUNTY
26		MUST FINISH TABULATING ALL BALLOTS OTHER THAN PROVISIONAL BALLOTS
27		AND PROPERTY OWNER BALLOTS. IMMEDIATELY AFTER COMPLETING THE RLA
28		TABULATION, AND TO THE EXTENT PERMITTED BY ITS VOTING SYSTEM, THE
29		COUNTY MUST ALSO GENERATE AND PRESERVE:
30	(1)	A SUMMARY RESULTS REPORT, SHOWING OVERVOTES, UNDERVOTES,
31		BLANK-VOTED CONTESTS, AND VALID WRITE-IN VOTES;
32	(2)	A RESULTS FILE EXPORT SUITABLE FOR UPLOADING TO THE SECRETARY
33		OF STATE'S ELECTION NIGHT REPORTING SYSTEM; AND
34	(3)	A CVR EXPORT.
35	(E)	**CVR EXPORT VERIFICATION.** COUNTIES CONDUCTING A COMPARISON AUDIT
36		MUST ~~VERIFY THAT~~: DISCOVER IF, AND IF NOT, INVESTIGATE AND REPORT:
37	(1)	THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE
38		AGGREGATE NUMBER OF BALLOTS REFLECTED IN THE COUNTY'S BALLOT
39		MANIFEST AS OF THE NINTH DAY AFTER ELECTION DAY;
40	(2)	THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE
41		NUMBER OF BALLOTS TABULATED AS REFLECTED IN THE SUMMARY
42		RESULTS REPORT FOR THE RLA TABULATION;

(3)　THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE NUMBER OF IN-PERSON BALLOTS ISSUED PLUS THE NUMBER OF MAIL BALLOTS IN VERIFIED-ACCEPTED STAGE IN SCORE, PLUS THE NUMBER OF PROVISIONAL BALLOTS AND PROPERTY OWNER BALLOTS INCLUDED IN THE RLA TABULATION, IF ANY; AND

[Preferably all these comparisons will be done by style, where available.]

(4)　THE VOTE TOTALS FOR ALL CHOICES IN ALL BALLOT CONTESTS IN THE CVR EXPORT EQUALS THE VOTE TOTALS IN THE SUMMARY RESULTS REPORT FOR THE RLA TABULATION.

DETERMINING THE INTEGRITY

(5)　AFTER ~~VERIFYING THE ACCURACY~~ OF THE CVR EXPORT, THE COUNTY MUST APPLY A HASH VALUE TO THE CVR EXPORT FILE USING THE HASH VALUE UTILITY PROVIDED BY THE SECRETARY OF STATE.

(F)　COMPARISON AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A COMPARISON AUDIT MUST UPLOAD:

(1)　ITS BALLOT MANIFEST TO THE RLA TOOL;

(2)　ITS VERIFIED AND HASHED CVR EXPORT TO THE RLA TOOL; AND

(3)　ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM.

(G)　BALLOT POLLING AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A BALLOT POLLING AUDIT MUST UPLOAD:

(1)　ITS BALLOT MANIFEST TO THE RLA TOOL; AND

(2)　ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM.

(H)　RANDOM SEED. THE SECRETARY OF STATE WILL CONVENE A PUBLIC MEETING ON THE TENTH DAY AFTER ELECTION DAY TO ESTABLISH A RANDOM SEED FOR USE WITH THE SECRETARY OF STATE'S RLA TOOL'S PSEUDO-RANDOM NUMBER GENERATOR BASED ON PHILIP STARK'S ONLINE TOOL, *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256*. THIS MATERIAL IS INCORPORATED BY REFERENCE IN THE ELECTION RULES AND DOES NOT INCLUDE LATER AMENDMENTS OR EDITIONS. THE FOLLOWING MATERIAL INCORPORATED BY REFERENCE IS POSTED ON THE SECRETARY OF STATE WEBSITE AND AVAILABLE FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT THE COLORADO SECRETARY OF STATE'S OFFICE: *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256* AVAILABLE AT HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/SHA256RAND.HTM. THE SECRETARY OF STATE WILL GIVE PUBLIC NOTICE OF THE MEETING AT LEAST SEVEN CALENDAR DAYS IN ADVANCE. THE SEED IS A NUMBER CONSISTING OF AT LEAST 20 DIGITS, AND EACH DIGIT WILL BE SELECTED IN ORDER BY SEQUENTIAL ROLLS OF A 10-SIDED DIE. THE SECRETARY OF STATE WILL RANDOMLY SELECT MEMBERS OF THE PUBLIC WHO ATTEND THE MEETING TO TAKE TURNS ROLLING

THE DIE, AND DESIGNATE ONE OR MORE STAFF MEMBERS TO TAKE TURNS
ROLLING THE DIE IN THE EVENT THAT NO MEMBERS OF THE PUBLIC ATTEND THE
MEETING. THE SECRETARY OF STATE WILL PUBLISH THE SEED ON THE AUDIT
CENTER IMMEDIATELY AFTER IT IS ESTABLISHED. AND VIDEO EVIDENCE OF ITS CREATION.

ALL FEDERAL CONTESTS, AND IF APPLICABLE   [All federal contests, always, as minimum]

(I)   SELECTION OF AUDITED CONTESTS. NO LATER THAN 5:00 P.M. MT ON THE
FRIDAY AFTER ELECTION DAY, THE SECRETARY OF STATE WILL SELECT FOR
AUDIT AT LEAST ONE STATEWIDE CONTEST, AND FOR EACH COUNTY AT LEAST
ONE COUNTYWIDE CONTEST. THE SECRETARY OF STATE WILL SELECT OTHER
BALLOT CONTESTS FOR AUDIT IF IN ANY PARTICULAR ELECTION THERE IS NO
STATEWIDE CONTEST OR A COUNTYWIDE CONTEST IN ANY COUNTY. THE
SECRETARY OF STATE WILL PUBLISH A COMPLETE LIST OF ALL AUDITED
CONTESTS ON THE AUDIT CENTER. THE SECRETARY OF STATE WILL CONSIDER
THE FOLLOWING FACTORS IN DETERMINING WHICH CONTESTS TO AUDIT:

SUBJECT TO ITS DISCRETION, AND

(1)   THE CLOSENESS OF THE REPORTED OUTCOME OF THE CONTESTS;
[Election audit community prefers the minimum margin contest among those auditable.]

(2)   THE GEOGRAPHICAL SCOPE OF THE CONTESTS;
[Leaving the choice of auditable contests to the SOS is only acceptable as a startup rule.]

(3)   ANY CAUSE FOR CONCERN REGARDING THE ACCURACY OF THE
REPORTED OUTCOME OF THE CONTESTS;

(4)   ANY BENEFITS THAT MAY RESULT FROM OPPORTUNISTICALLY AUDITING
CERTAIN CONTESTS; AND

DURING 2017,   INCLUDING THOSE NOT REQUIRED TO BE AUDITED

(5)   THE ABILITY OF THE COUNTY CLERKS TO COMPLETE THE AUDIT BEFORE
THE CANVASS DEADLINE.
[This criterion is of concern and must not become part of a permanent rule.]

(J)   NUMBER OF BALLOTS TO AUDIT. THE SECRETARY OF STATE WILL DETERMINE
THE NUMBER OF BALLOTS TO AUDIT TO SATISFY THE RISK LIMIT FOR THE

INITIAL MINIMUM   AUDITED CONTESTS BASED ON THE BALLOT MANIFESTS SUBMITTED BY THE
COUNTIES. THE NUMBER OF BALLOTS TO AUDIT WILL BE DETERMINED
ACCORDING TO THE FORMULAS AND PROTOCOLS PUBLISHED BY MARK

AND SUBSEQUENTLY ANY   LINDEMAN AND PHILIP B. STARK IN *A GENTLE INTRODUCTION TO RISK-LIMITING*
NUMBER NEEDED FOR   *AUDITS*, AS APPLIED IN PHILIP STARK'S *TOOLS FOR COMPARISON RISK-LIMITING*   DATA
ESCALATION   *ELECTION AUDITS*, AND *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION
AUDITS*. THESE MATERIALS ARE INCORPORATED BY REFERENCE IN THE ELECTION
RULES AND DO NOT INCLUDE LATER AMENDMENTS OR EDITIONS OF THE
INCORPORATED MATERIAL. THE FOLLOWING MATERIALS INCORPORATED BY
REFERENCE ARE POSTED ON THE SECRETARY OF STATE WEBSITE AND
AVAILABLE FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT
THE COLORADO SECRETARY OF STATE'S OFFICE:

(1)   MARK LINDEMAN AND PHILIP B. STARK, *A GENTLE INTRODUCTION TO
RISK-LIMITING AUDITS,* IEEE SECURITY AND PRIVACY, SPECIAL ISSUE ON
ELECTRONIC VOTING, (MAR. 16, 2012), *AT*
HTTP://WWW.STAT.BERKELEY.EDU/~STARK/PREPRINTS/GENTLE12.PDF.

(2)   PHILIP B. STARK, *TOOLS FOR COMPARISON RISK-LIMITING ELECTION
AUDITS,* (FEB. 26, 2017), *AT*
HTTP://WWW.STAT.BERKELEY.EDU/~STARK/VOTE/AUDITTOOLS.HTM.

IN NO INSTANCE SHALL A COUNTY BE DIRECTED TO AUDIT LESS THAN 16 BALLOTS.
[It is important to be able to prepare for staffing for a reasonable minimum. A heuristic can be developed that is smarter than this fixed number.]

1 (3) PHILIP B. STARK, *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION*
2   *AUDITS*, (FEB. 16, 2017), *AT*
3   HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/BALLOTPOLLT
4   OOLS.HTM.

SELECTED   FOR POSSIBLE   CREATE A
                                                LIST OF

5 (K) RANDOM SELECTION OF BALLOTS FOR AUDIT. THE SECRETARY OF STATE WILL
6   RANDOMLY ~~SELECT THE~~ INDIVIDUAL BALLOTS ~~TO~~ AUDIT. THE SECRETARY OF
7   STATE WILL USE A PSEUDO-RANDOM NUMBER GENERATOR WITH THE SEED
8   ESTABLISHED UNDER SUBSECTION (H) OF THIS RULE TO IDENTIFY INDIVIDUAL
9   BALLOTS AS REFLECTED IN THE COUNTY BALLOT MANIFESTS. THE SECRETARY
10   OF STATE WILL NOTIFY EACH COUNTY OF, AND PUBLISH ON THE AUDIT CENTER,   MAY BE
11   THE RANDOMLY SELECTED BALLOTS THAT EACH COUNTY ~~MUST~~ AUDIT NO LATER   REQUIRED
12   THAN 11:59 P.M. MT ON THE TENTH DAY AFTER ELECTION DAY. [THE SECRETARY   TO
       SHALL ALSO PUBLISH FOR EACH COUNTY THE NUMBER TO AUDIT.

LIST OF

13 25.2.3 CONDUCTING THE AUDIT [The SOS ideally produces a long list of potentially audited ballots, and separately for each county the sequence from the list required to audit.]

14 (A) THE AUDIT BOARD MUST LOCATE AND RETRIEVE FROM THE APPROPRIATE
15   STORAGE CONTAINER EACH RANDOMLY SELECTED BALLOT. THE AUDIT BOARD
16   MUST VERIFY THAT THE SEALS ON THE APPROPRIATE STORAGE CONTAINERS ARE
17   THOSE RECORDED ON THE APPLICABLE CHAIN-OF-CUSTODY LOGS. KEPT OUTSIDE EACH
                                                                 CONTAINER.

18 (B) WITHOUT EXAMINING THE CVR, THE AUDIT BOARD MUST EXAMINE EACH   ALL [at
19   RANDOMLY SELECTED BALLOT OR VVPAT AND REPORT THE VOTER MARKINGS   least
20   OR CHOICES USING THE RLA TOOL OR OTHER MEANS SPECIFIED BY THE   during the
21   SECRETARY OF STATE. IF SUPPORTED BY THE COUNTY'S VOTING SYSTEM, THE   2017
22   AUDIT BOARD MAY REFER TO THE DIGITAL IMAGE OF THE AUDITED BALLOT   audit]
23   CAPTURED BY THE VOTING SYSTEM IN ORDER TO CONFIRM IT HAD RETRIEVED
24   THE CORRECT BALLOT RANDOMLY SELECTED FOR AUDIT. IF THE SCANNED
25   BALLOT WAS DUPLICATED PRIOR TO TABULATION, THE AUDIT BOARD MUST ALSO
26   RETRIEVE AND COMPARE THE MARKINGS ON THE ORIGINAL BALLOT. THE AUDIT
27   BOARD MUST COMPLETE ITS REPORTS OF ALL BALLOTS RANDOMLY SELECTED
28   FOR AUDIT NO LATER THAN 5:00 P.M. MT ONE BUSINESS DAY BEFORE THE
29   CANVASS DEADLINE. THE COUNTY SHALL UPLOAD A COLOR DIGITAL PHOTOGRAPH AND
                          THE VOTING SYSTEM'S DIGITAL SCAN OF EACH AUDITED BALLOT.
30 (C) THE AUDIT BOARD MUST INTERPRET VOTER MARKINGS ON BALLOTS SELECTED
31   FOR AUDIT IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT
32   GUIDE. AND STATUTE.

[The photo plus scan will help with public confidence building and exception handling.]

33 (D) TO THE EXTENT APPLICABLE, THE SECRETARY OF STATE WILL COMPARE THE
34   AUDIT BOARD'S REPORTS OF THE AUDITED BALLOTS TO THE CORRESPONDING
35   CVRS AND POST THE RESULTS OF THE COMPARISON AND ANY MARGIN
36   OVERSTATEMENTS OR UNDERSTATEMENTS ON THE AUDIT CENTER. THE RLA
37   WILL CONTINUE UNTIL THE RISK LIMIT FOR THE AUDITED CONTESTS IS MET OR
38   UNTIL A FULL HAND COUNT RESULTS. IF THE COUNTY AUDIT REPORTS REFLECT
39   THAT THE RISK LIMIT HAS NOT BEEN SATISFIED IN AN AUDITED CONTEST, THE
40   SECRETARY OF STATE WILL RANDOMLY ~~SELECT~~ ADDITIONAL BALLOTS FOR
41   AUDIT.
        SPECIFY A NUMBER OF   SELECTED   FROM THE LIST

42 25.2.4 FOR THE 2017 COORDINATED ELECTION, THE SECRETARY OF STATE MAY, BY ORDER,
43   ALTER ANY OF THE REQUIREMENTS OUTLINED IN RULE 25.2.

E) WITH THE CANVASS REPORT, THE COUNTY SHALL SUBMIT A REPORT BY THE AUDIT BOARD OF ACTIONS TAKEN AND EXCEPTIONS ENCOUNTERED, ANY DIVERGENCE FROM EXPECTED OR STANDARD PRACTICE, AND A DETAILED QUANTITATIVE ACCOUNTING OF WORKLOAD INCLUDING NUMBERS AND HOURS OF ANY AUDIT PERSONNEL.

11.3.3 25.3 ~~Post-Election~~ RANDOM Audit. ~~The~~ IF THE SECRETARY OF STATE WAIVES THE REQUIREMENT TO CONDUCT AN RLA UNDER SECTION 1-7-515(2)(B), C.R.S., THE designated election official must conduct the ~~post election~~RANDOM audit mandated by sections 1-7-509(1)(b) and 1-7-514, C.R.S., in accordance with this rule.

(a) 25.3.1   Selected voting devices

(1) (A)   No later than 48 hours after the close of polls on election night, the Secretary of State must notify the designated election official of the voting devices randomly selected for audit, based on the submitted hardware inventory list referred to in Rule 11.2.

(2) (B)   The Secretary of State will randomly select, from the voting devices used in the election, at least five percent of the central count ballot scanners; at least one ballot scanner used at a polling location; and five percent of DREs.

(b) 25.3.2   The designated election official must appoint an audit board to conduct the post-election audit in accordance with section 1-7-509(1)(c), C.R.S. At least two canvass board members must observe the random audit. The designated election official, members of his or her staff, and other duly appointed election judges, may assist with the audit.

(c) 25.3.3   Number of ballots to audit

(1) (A)   Paper ballots tabulated on ballot scanners. The board must audit at least 500 ballots or 20 percent of the ballots tabulated on each selected ballot scanner, whichever is less. The board may audit more than the minimum number of ballots required.

(2) (B)   Electronic ballots tabulated on DREs. The board must audit all ballots tabulated on the selected DREs.

(d) 25.3.4   Conducting the audit

(1) (A)   Paper ballots tabulated on ballot scanners

(A) (1)   If the voting system is capable of generating batch-level tabulation reports for a selected ballot scanner, the board must randomly select a number of ballot batches tabulated on the ballot scanner that, in the aggregate, contain the minimum number of ballots to be audited. The board must manually verify that the votes on the ballots contained in each randomly selected batch match the voting system's tabulation of votes for that batch.

(B) (2)   If the voting system is not capable of generating batch-level tabulation reports for a selected ballot scanner, the board can choose to audit all of the ballots that were tabulated on the selected scanner, or randomly select and rescan the minimum number of ballots to be audited. If the board chooses to rescan the minimum number of ballots, the board also must:

1	(i) (A)	Reset the selected ballot scanner's results to zero and generate a
2		zero report;
3	(ii) (B)	Rescan the randomly selected ballots for audit and generate a
4		tabulation report from the selected ballot scanner; and
5	(iii) (C)	Manually verify that the votes on the randomly selected ballots
6		match the tabulation report for those ballots generated from the
7		selected ballot scanner.

8   (2) (B) Ballots tabulated on DREs. The board must examine the VVPAT record of each
9   selected DRE and manually verify that the votes reflected on the VVPAT match
10   the tabulation report.

11 (e) 25.3.5   If the board discovers discrepancies during the audit, the board must:

12 (1) (A) Confirm that the manual count of the votes contained in the audited ballots is
13   correct;

14 (2) (B) Confirm that the manual count of the votes contained in the audited ballots
15   properly reflects overvotes, stray marks on the ballot, and other indications of
16   voter intent;

17 (3) (C) Determine whether any discrepancy is attributable to a damaged ballot; and

18 (4) (D) Take any other action necessary in accordance with the canvass board's powers
19   as described in Part 1, Article 10 of Title 1, C.R.S.

20 (f) 25.3.6   The designated election official must report the results of the audit in writing to
21   the Secretary of State by 5:00 p.m. on the last day to canvass. The audit report may be
22   submitted by mail, fax, or email. The audit report must contain:

23 (1) (A) The make, model, and serial number of the voting devices audited;

24 (2) (B) The number of ballots originally counted on each device or the number of ballots
25   audited;

26 (3) (C) The count of the specific races CONTESTS on the summary report printed at the
27   close of polls or AND the report generated for the audit;

28 (4) (D) The count of the specific races CONTESTS as manually verified;

29 (5) (E) Any other information required by section 1-7-514, C.R.S.; and

30 (6) (F) The signatures of the audit board, the canvass board members who observed the
31   audit, and the designated election official.

32 (g) 25.3.7   The designated election official must segregate and seal the materials used during
33   the post-election audit, including all tabulation reports, the audited ballots, and the audit
34   report.